

Australian Capital Territory

# Utilities (Electricity Network Use of System Code) Revocation 2012

Disallowable instrument DI2012–165

made under the

**Utilities Act 2000, s 59 (Determined codes) and s 63 (Public access)**

## EXPLANATORY STATEMENT

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### *Purpose of Electricity Network Use of System Code*

The Electricity Network Use of System Code imposes an obligation on an electricity distributor and an electricity supplier (unless they are the same person) to use best endeavours to enter into a Negotiated Use of System Agreement and deems a default Use of System Agreement to apply between that Electricity Distributor and Electricity Supplier in the absence of a Negotiated Use of System Agreement between an Electricity Distributor and an Electricity Supplier. The introduction of the National Energy Customer Framework, and in particular the Retail Support Rules, will give effect to the policy goals currently being achieved by the operation of the Code and the Code will be revoked.

### *Legislative provisions — industry codes*

The Utilities Act provides a regulatory framework for utilities in the ACT. Section 21 of the Act provides that a person must not provide a utility service except in accordance with a licence. Licences are subject to a number of conditions with which utilities are required to comply. For example, section 25 of the Act requires all licensees to comply with any relevant industry or technical codes.

Provisions relating to industry codes are set out in Part 4 of the Utilities Act. An industry code ‘may set out practices, standards and other matters about the provision of a utility service’.

Section 59 of the Utilities Act provides for industry codes to be determined by the Commission. The Commission may determine an industry code if it has consulted with the Minister and the Minister responsible for technical regulation and is satisfied that the code is not inconsistent in material respects with another industry code or a technical code; and it is necessary or convenient to determine the code.

Section 60 of the Utilities Act sets out the public consultation requirements for industry codes to be followed unless the Commission satisfied that “the variation is unlikely to adversely affect anyone and would not materially alter the code”.

Under section 62 of the Utilities Act, an industry code determined under section 59 of the Act is a disallowable instrument.

Section 46 of the *Legislation Act 2001* provides that the power to make a statutory instrument includes power to amend or repeal the instrument and is exercisable in the same way, and subject to the same conditions, as the power to make the instrument.

### *Revocation of Code*

This Disallowable Instrument revokes the *Utilities (Electricity Network Use of System Code) Determination 2010 (No 1)*, DI2010-300.

### *Consultation on revocation of the Code*

In accordance with the Utilities Act, the Commission has consulted with relevant parties on the revocation of this Code. A notice was also published in the Canberra Times and on the Commission’s website inviting comments. The submissions received and the outcome of consultation is detailed on the Commission’s website.

In accordance with the requirements of the Utilities Act, the Commission consulted with the Minister and the Minister responsible for technical regulation.