

Australian Capital Territory

Utilities (Gas Network Capital Contribution Code) Determination 2012

Disallowable instrument DI2012–169

made under the

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

EXPLANATORY STATEMENT

Purpose of Gas Network Capital Contribution Code

The Gas Network Capital Contribution Code (the Code) is an industry code determined by the Independent Competition and Regulatory Commission (the Commission) under the *Utilities Act 2000* (the Utilities Code). This Code outlines the principles and procedures by which a gas distributor may impose a capital contribution charge, payable by a customer, for the costs incurred by the distributor in developing or augmenting its gas network.

The Code applies to Gas Distributors.

The Code is enforceable under the Utilities Act. The Commission is responsible for monitoring the compliance of utilities with this and other industry codes.

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 is satisfied under section 61 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 63 of the Utilities Act sets out a number of requirements relating to public access to industry codes.

Under section 101 of the Utilities Act a utility may impose capital contribution charges on customers to extend the utility's network to undeveloped land or to vary the capacity of connections to its network. The charge must be in accordance with the relevant industry code of practice.

Revocation and remaking of Code

This Disallowable Instrument revokes the Gas Network Capital Contribution Code, which was determined on 14 August 2007, under the *Utilities (Gas Network Capital Contributions Code) Approval 2007*, DI2007-203 and determines a new Code as set out in the Attachment to the Disallowable Instrument.

This revocation and remaking process ensures that an authorised version of the Code is available through the Legislation Register.

Outline of the Code

The Code has been revoked and remade in essentially the same terms as the previous Code. The application of the Code was amended so that the Code now only applies to Gas Distributors and not to Gas Suppliers in view of the introduction of the National Energy Customer Framework in the ACT.

The Code applies to Gas Distributors and outlines the principles and procedures by which a gas distributor may impose capital contribution charges on customers to develop or augment its gas network. It clarifies that the payment of the capital contribution charge does not confer any ownership in the asset.

The Code defines what basic infrastructure a Gas Distributor must install free of charge. It then describes the situations where a Gas Distributor may charge, and a Customer must pay, a Capital Contribution Charge for the development or augmentation of its Gas Network undertaken at the request of that Customer. It also outlines how that charge should be calculated.

Consultation on variations to Code

In accordance with the Utilities Act, the Commission has consulted with relevant parties on the variation to the 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 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.

The Commission has had due regard to the submissions received in response to the consultation process.

Public access to the Code

Copies of the Gas Network Capital Contribution Code are available for inspection by members of the public between 9:00 am and 5:00 pm, Monday to Friday, at the Commission's offices at Level 8, 221 London Circuit, Canberra City ACT and on the Commission's website (www.icrc.act.gov.au). Copies of these documents can be made at the Commission's offices. Electronic copies are available on request. No charge will apply.