



**INDEPENDENT PRICING AND REGULATORY TRIBUNAL  
OF NEW SOUTH WALES**

**Rule 2001/3**

**Unders and Overs Account**

## Rule 2001/3

### Unders and Overs Account

#### Clause 6.10.1(f) National Electricity Code

## Part 1. Definitions and Interpretation

### 1.1 Definitions

In this Rule:

**AARR** means the aggregate annual revenue requirement, (as that expression is defined in the Code), of a DNSP for the 12 months up to and including 30 June in each year during the Regulatory Control Period, calculated in accordance with the Determination;

**Business Day** means a day, other than Saturday, Sunday or a public holiday in New South Wales;

**Closing Balance** is the balance defined in and calculated under clause 4.1.4;

**Code** has the same meaning as in section 3 of the *National Electricity (NSW) Law*;

**Commencement Date** means the date on which this Rule commences, namely 15 June 2001;

**Correction Path** means the required reduction to Network Tariffs that a DNSP must make under:

- (a) clause 3.2;
- (b) collectively paragraphs (a) and (b), Row 3 of the Schedule; or
- (c) collectively paragraphs (a) and (b), Row 4 of the Schedule.

**Determination** means the document identified as National Electricity Code Determination 99-1 titled "*Regulation of New South Wales Electricity Distribution Networks: Determination and Rules Under the National Electricity Code*" published in hard copy by the Tribunal in December 1999 as Jurisdictional Regulator under the Code and the published errata to that document dated December 1999;

**DNSP** (an abbreviation for distribution network service provider) has the same meaning as in the Code;

**Interest Rate** means the latest 10 year indicator rate index for Commonwealth bonds (expressed as an annual rate and as a percentage) published in the Australian Financial Review on the first Business Day immediately after 30 June, or if not so published, then an interest rate determined by the Tribunal which in its view most closely approximates the 10 year indicator rate index for Commonwealth bonds at 30 June;

**Network Revenue** means the revenue collected by a DNSP for the provision of prescribed distribution services, including charges for monopoly services described in Rule 2000/1 and charges for miscellaneous services described in Rule 2001/2;

**Network Tariffs** means the tariffs or prices charged by a DNSP for the provision of prescribed distribution services, excluding charges for monopoly services described in Rule 2000/1 and charges for miscellaneous services described in Rule 2001/2;

**Notification Date** means 31 October immediately following each Recording Date;

**PPM Document** means that part titled “Pricing Principles and Methodologies for Prescribed Distribution Services developed pursuant to clause 6.11(e), Chapter 6 of the Code” in the document published by the Tribunal in March 2001 titled “*Regulation of New South Wales Electricity Distribution Networks: Pricing Principles and Methodologies for Prescribed Distribution Services developed pursuant to clause 6.11(e), Chapter 6 of the Code*”

**Recording Date** means the date at which a DNSP is required by this Rule to record matters in its Unders and Overs Account, namely on 30 June 2001 and 30 June in each subsequent year;

**Regulatory Control Period** has the meaning set out in the Code and in the case of the Determination is the period from 1 February 2000 to 30 June 2004 inclusive;

**Rule** means this Rule 2001/3;

**Rule 99/1** means “Unders and Overs Account Rule 99/1” made by the Tribunal in December 1999 under clause 6.10.1(f) of the Code;

**Rule 2000/1** means “Charges for Monopoly Services Rule 2000/1” made by the Tribunal in July 2000 under clause 6.10.1(f) of the Code;

**Rule 2001/2** means “Charges for Miscellaneous Services provided by Distribution Network Service Providers Rule 2001/2” made by the Tribunal on 1 February 2001 under clause 6.10.1(f) of the Code;

**Schedule** means the schedule to this Rule;

**Tariff Amendment Date** means the date on which a DNSP, required to amend its Network Tariffs, must make the amendment, namely on 1 July or no later than 1 August, immediately following each Notification Date or such earlier date agreed with the Tribunal;

**Tariff Class** means a group for which a DNSP has published a common Network Tariff;

**Tribunal** means the Independent Pricing and Regulatory Tribunal established under section 5(1) of the *Independent Pricing and Regulatory Tribunal Act 1992*;

**Unders and Overs Account** means the account described in and required to be maintained in accordance with clause 4.1 of this Rule.

## 1.2 Interpretation

- 1.2.1 The Tribunal makes this Rule as Jurisdictional Regulator under clause 6.10.1(f) of the Code.
- 1.2.2 Subject to this Rule, with effect from the Commencement Date, this Rule revokes:
- (a) only the following provisions of the Determination:
    - (i) so much of section 3.7 that appears on page 17;
    - (ii) so much of section 3.7 that appears on page 18 (including Table 3.4) but excluding the paragraph immediately following Table 3.4; and
    - (iii) Table 3.7 on page 21; and
  - (b) Rule 99/1.
- 1.2.3 This Rule applies to all DNSPs in New South Wales
- 1.2.4 This Rule commences on the Commencement Date and will remain in force until revoked by the Tribunal.
- 1.2.5 This Rule may be amended or supplemented by the Tribunal from time to time.
- 1.2.6 Expressions used in this Rule that are not defined in clause 1.1 have the same meaning as in the Code and the Determination.
- 1.2.7 The notes following the Schedule form part of this Rule. Other notes used do not form part of this Rule but in the event of uncertainty, may be used for interpretation purposes.
- 1.2.8 An obligation on a DNSP under this Rule survives as against the DNSP and may continue to be enforced against the DNSP even though the time by which the obligation is required to be complied with has elapsed.
- 1.2.9 Where an action on the part of a DNSP under this Rule is dependent on a decision, direction or determination of the Tribunal, the DNSP must:
- (a) co-operate and liaise with the Tribunal;
  - (b) provide information and documents required by the Tribunal; and
  - (c) do all other things required by the Tribunal, not inconsistent with the Code and this Rule,
- in order to ensure that the decision, direction or determination is made in sufficient time to enable the DNSP to take the action by the required time.
- 1.2.10 The singular includes the plural and vice versa.

## **Part 2. Transitional Provisions**

### **2.1 Balance of the Unders and Overs Account**

- 2.1.1 The balance of the Unders and Overs Account of a DNSP on 30 June 2001 will be taken to be the balance at that date calculated under the Determination and Rule 99/1, as if they had not been revoked in the manner described in clause 1.2.2 (the “**Transitional Closing Balance**”)
- 2.1.2 For the avoidance of doubt, the Transitional Closing Balance will be taken to include (in addition to anything required to be included under clause 2.1.1) the balance approved or to be approved by the Tribunal under section 3.7 of the Determination.
- 2.1.3 Subject to any applicable law, in the event of a dispute as to the Transitional Closing Balance or other balances of the Unders and Overs Account, the decision of the Tribunal will be final.

[**Note:** The NSW Government has announced its intention to establish a single DNSP in rural NSW to be known as Country Energy. Country Energy will be formed by the merger of North Power, Great Southern Energy and Advance Energy. It is understood that on the establishment of Country Energy, the balance of its Unders and Overs Account will be the net balance of the accounts of North Power, Great Southern Energy and Advance Energy. It is anticipated that Country Energy will commence operation on 1 July 2001.]

### **2.2 Recording and notification of the Transitional Closing Balance**

By not later than the Notification Date immediately following the Recording Date of 30 June 2001, a DNSP must record its Transitional Closing Balance in the Unders and Overs Account and must provide the Tribunal with details of the manner in which that Transitional Closing Balance was calculated or determined.

### **2.3 Notice of changes to Network Tariffs**

The requirements in clause 4.2(a) on page 15 of the PPM Document (to provide 60 days notice of a change to Network Tariffs) and the requirement in Rule 99/2 (to provide 30 days notice of a change to Network Tariffs) do not apply to an action required under clause 3.2 of this Rule on 1 July 2001, or within 30 days of that date.

## **Part 3. Actions relating to balances at 30 June 2000**

- 3.1 For the purpose of this Part and so much of the Schedule that relates to this Part:
- (a) the reference to the Unders and Overs Account will be taken to be the unders and overs account of a DNSP described in the Determination and Rule 99/1, as if they had not been revoked in the manner described in clause 1.2.2.; and
  - (b) the reference to the Closing Balance will be taken to be the balance of the Unders and Overs Account at 30 June 2000 calculated under the Determination and Rule 99/1, as if they had not been revoked in the manner described in clause 1.2.2.

- 3.2 If the Closing Balance of the Unders and Overs Account of a DNSP at 30 June 2000 is within either the band in row 3 or row 4 of the Schedule, the DNSP must adjust average Network Tariffs on 1 July 2001 (or no later than 1 August 2001) and on 1 July (or no later than 1 August) of each subsequent year by the percentage determined by the Tribunal:
- (a) based on the energy sales (actual or forecast) expressed in gigawatthours as agreed with the Tribunal following consultation with the DNSP or failing agreement as determined by the Tribunal; and
  - (b) in accordance with the reductions across each Tariff Class approved by the Tribunal.

## **Part 4. Actions relating to balances calculated under this Rule**

### **4.1 DNSP to maintain an Unders and Overs Account**

- 4.1.1 Each DNSP must maintain an account to be known as the Unders and Overs Account. The purpose of the Unders and Overs Account is to record variances between the AARR of a DNSP in a year and the DNSP's Network Revenue for that year.
- 4.1.2 The Unders and Overs Account must be maintained in accordance with this Rule, the Determination (as amended by clause 1.2.2), any relevant decision of the Tribunal and any applicable law.
- 4.1.3 The Unders and Overs Account must cumulatively record during the Regulatory Control Period the difference between, the DNSP's AARR in the 12 months to 30 June each year and the Network Revenue collected by the DNSP during those 12 months in the manner required by clause 4.1.4.
- 4.1.4 By not later than the Notification Date, a DNSP must record in the Unders and Overs Account, the following:
- (a) the opening balance of the Unders and Overs Account at the Recording Date which will be,
    - (i) in the case of the Recording Date on 30 June 2002- -the Transitional Closing Balance; and
    - (ii) in the case of each subsequent Recording Date after 30 June 2002 - the Closing Balance of the Unders and Overs Account (as defined in and calculated under clause 4.1.4(e)), at the immediately preceding Recording Date;
  - (b) the difference between the AARR and the Network Revenue for the DNSP for the 12 months up to and including the Recording Date;
  - (c) the sum of the following:
    - (i) the amount in (a) multiplied by the Interest Rate then prevailing; and
    - (ii) the amount in (b) multiplied by half the Interest Rate then prevailing;

- (d) any adjustments (and any applicable interest charges applying to those adjustments) required by the Tribunal under the Determination as at the Recording Date ; and
- (e) the closing balance of the Unders and Overs account which will comprise the sum of (a), (b), (c) and (d), (“**Closing Balance**”).

## 4.2 Provision of information to the Tribunal

A DNSP must provide to the Tribunal on each Notification Date details of each of the items required to be recorded under clause 4.1.4 and the manner in which they were calculated or determined.

## 4.3 Actions required of a DNSP

4.3.1 In this clause “**Alternative Action**” means such action (whether similar to or different to an action otherwise required of a DNSP under the Schedule or clause 3.2) determined by the Tribunal (and that must be taken by a DNSP) which, in the Tribunal’s opinion:

- (a) is more likely than an action otherwise required under the Schedule or clause 3.2 to result in the Unders and Overs Account being zero (or close as possible to zero) by the end of the Regulatory Control Period; or
- (b) provides a greater benefit to customers of a DNSP than the action otherwise required of a DNSP under the Schedule or clause 3.2;

4.3.2 If on a Recording date, the Closing Balance of the Unders and Overs Account of a DNSP is within a band in the Schedule, the DNSP must take the action set out in the Schedule corresponding to that band, consistent with the accompanying Notes. A DNSP need not take the action required under the relevant band of the Schedule or clause 3.2 if:

- (a) the DNSP is directed by the Tribunal to take an Alternative Action by a time specified by the Tribunal; or
- (b) either:
  - (i) prior to the Tariff Amendment Date or the date in clause 3.2 (when it would have been required to take the action) it took action which the Tribunal determines is, in its view, equivalent to the action that it would otherwise have been required to take under the Schedule or clause 3.2 to ensure that the balance of the Unders and Overs Account is zero (or close as possible to zero) by the end of the Regulatory Control Period; or
  - (ii) where it was required to comply with a Correction Path - it satisfies the Tribunal that its actions are consistent with the Correction Path,

and in the case of either (i) or (ii):

- (c) the DNSP is able to demonstrate to the satisfaction of the Tribunal that the action taken under paragraph (i) or (ii) has resulted or is resulting in the balance of the Unders and Overs Account progressing towards a zero balance and will, if continued, result in the balance of the Unders and Overs Account being as close as possible to zero by the end of the Regulatory Control Period.

**Schedule      Actions required by a DNSP**  
**(clause 4)**

|            | <b>PART A</b>  | <b>Where the Closing balance of the Unders and Overs account shows a positive balance</b>  |
|------------|--|--|
| <b>Row</b> | <b>Bands</b>   | <b>DNSP action required</b>  |
| 1          | Closing Balance is greater than 0% of AARR but less than or equal to 2% of AARR  | No action required.  |
| 2          | Closing Balance is greater than 2% of AARR but less than or equal to 5% of AARR  | The DNSP must, by not later than 30 days of the Notification Date in the relevant year, agree on an action plan with the Tribunal designed to reduce its Network Tariffs at the Tariff Amendment Date by that amount necessary to ensure that, by the end of the Regulatory Control Period, the Closing Balance of the Unders and Overs Account is reduced to zero or as close as possible to zero.  |
| 3          | Closing Balance is greater than 5% of AARR but less than or equal to 10% of AARR | <p>The DNSP must :</p> <ul style="list-style-type: none"> <li>(a) at the Tariff Amendment Date, reduce average Network Tariffs to at least 2% below the average Network Tariff that would comply with the AARR (as calculated under the Determination): <ul style="list-style-type: none"> <li>(i) based on the energy sales (actual or forecast) expressed in gigawatthours agreed with the Tribunal following consultation with the DNSP or failing agreement as determined by the Tribunal; and</li> <li>(ii) in accordance with the reductions across each Tariff Class approved by the Tribunal; and</li> </ul> </li> <li>(b) on 1 July in each year subsequent to the year in paragraph (a), reduce average Network Tariffs by a percentage to be determined by the Tribunal:</li> </ul> |



|   |   |   |
|---|---|---|
|   |   | <ul style="list-style-type: none"> <li>(i) based on the energy sales (actual or forecast) expressed in gigawatthours agreed with the Tribunal following consultation with the DNSP or failing agreement as determined by the Tribunal; and</li> <li>(ii) in accordance with the reductions across each Tariff Class approved by the Tribunal.</li> </ul>  |
| 4 | Closing Balance is greater than 10% of AARR | <p>The DNSP must :</p> <ul style="list-style-type: none"> <li>(a) at the Tariff Amendment Date, reduce average Network Tariffs to at least 5% below the Network Tariff that would comply with the AARR (as calculated under the Determination: <ul style="list-style-type: none"> <li>(i) based on the energy sales (actual or forecast) expressed in gigawatthours agreed with the Tribunal following consultation with the DNSP or failing agreement as determined by the Tribunal; and</li> <li>(ii) in accordance with the reductions across each Tariff Class approved by the Tribunal; and</li> </ul> </li> <li>(b) on 1 July in each year subsequent to the year in paragraph (a), reduce average Network Tariffs by a percentage to be determined by the Tribunal: <ul style="list-style-type: none"> <li>(i) based on the energy sales (actual or forecast) expressed in gigawatthours agreed with the Tribunal following consultation with the DNSP or failing agreement as determined by the Tribunal; and</li> <li>(ii) in accordance with the reductions across each Tariff Class approved by the Tribunal.</li> </ul> </li> </ul> |

|   | <b>PART B</b>  | <b>Where the Closing Balance of the Unders and Overs Account at the Recording date shows a negative balance</b>  |
|---|--|--|
|   | <b>Bands</b>   | <b>DNSP action required</b>  |
| 5 | Closing Balance is greater than 0% of AARR but less than or equal to 2% of AARR  | No action required.  |
| 6 | Closing Balance is greater than 2% of AARR but less than or equal to 10% of AARR | The DNSP must, by not later than 30 days of the Notification Date in the relevant year, provide the Tribunal with an action plan designed to adjust its Network Tariffs to ensure that, by the end of the Regulatory Control Period, the Closing Balance of the Unders and Overs Account is zero or as close as possible to zero (as permitted by the price limits in the Determination) |
| 7 | Closing balance is greater than 10% of AARR                                      | The DNSP must, by not later than the Notification Date amend the Unders and Overs account to record an under recovery Closing Balance of not more than 10% of AARR <sup>1</sup>  |

### Notes to Schedule

1. If, for example, at 30 June 2002 a DNSP has an under recovery of 12 per cent, it must reduce the account balance of the Unders and Overs account to show 10% under recovered for the 2001/2002 financial year. The DNSP will "forfeit" the 2 % difference.