

**Draft Rule**

**Unders and Overs Account**

**May 2001**



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

## Introduction

In December 1999, the Independent Pricing and Regulatory Tribunal (the Tribunal) issued a Determination under the National Electricity Code (the Code) for distribution network services.<sup>1</sup> This determination established the annual revenue requirements for the six distribution network service providers (DNSPs) for the period from 1 February 2000 until 30 June 2004.

The Tribunal also established four rules, under clause 6.10.1(f) of the Code, that relate to:

1. unders and overs accounts (Rule 99/1)
2. pricing notification and information disclosure (Rule 99/2)
3. charges for miscellaneous services (Rule 99/3)
4. charges for monopoly services to support contestable works (Rule 99/4).

The Tribunal has previously amended Rules 99/3 and 99/4.

Although the Tribunal wishes to provide as much regulatory certainty as possible, it has become apparent that Rule 99/1 as currently drafted will not work as expected. The Tribunal has therefore decided to revise the rule. This note explains the changes proposed and the basis for the Tribunal's decision.

The Tribunal seeks comments on the proposed changes to the rule. Comments should be sent to reach the address below by 1 June 2001.

Comments on Draft Rule 2001/3  
Independent Pricing and Regulatory Tribunal  
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## Rule 99/1

'Unders and Overs Account Rule, 99/1' sets out the provisions and requirements for unders and overs accounts. The Unders and Overs Account is cumulative from year to year.

The purpose of an unders and overs account is to cater for variances between allowable regulated revenue for a year and the actual revenue earned in that year. In this way it is possible to cater for differences between forecast and actual demand.

The intention of the Unders and Overs Account is that the balance should be kept within acceptable limits. In Rule 99/1 the Tribunal set bands (referred to as tolerance margins) to allow for deviations from the AARR. As shown in the table below, the DNSP must take action depending on which band the Unders and Overs Account balance falls. Any remedies to address outstanding balances in the unders and overs account must be taken within the price limits set in the determination.

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<sup>1</sup> IPART, *Regulation of New South Wales Electricity Distribution Networks – National Electricity Code Determination 99-1*. December 1999.

**Table 1 Tolerance margins and actions that the Tribunal will require for unders and overs account balances**

<b>Tolerance</b>	<b>DNSP action required</b>
less than +/- 2 per cent	Must notify the Tribunal within 30 days of year end with action plan <sup>2</sup> to resolve balance within the term of the price path.
between +/-2 per cent and +/- 5 per cent	Must notify the Tribunal within 30 days of year end with action plan <sup>3</sup> for rectifying the balance at the first subsequent changes to network tariffs.
over recovery of more than 5 per cent	Must provide a rebate to retailers on the first bill of the subsequent year to reduce the unders and overs account balance to zero. <sup>4</sup>
(under) recovery of more than 5 per cent	Unders and overs account balance will be reduced to under recovery of 5 per cent. <sup>5</sup>

### **Proposed Rule 2001/3**

Rule 99/1 requires that where the DNSP over recovers by more than 5 per cent rebates must be given to retailers to return the over recovery to a satisfactory level.

The Tribunal considers that any over recovery should be returned to customers. However, rebates are not the best mechanism to achieve this. Rebates are difficult to enforce. Further, the rebate goes to retailers and there is no guarantee that final users (ie customers) would receive the benefits. The Tribunal considers that it would be better to require DNSP to make specific reductions in prices than to maintain a rebate mechanism. Customers are more likely to receive the benefits of action taken to address over recovery that takes the form of price reductions.

The Tribunal has noticed that there is greater volatility in demand growth than anticipated at the time of making the determination. This means that the bands included in the rule may be too narrow. The Tribunal accepts that it should recognise greater volatility in growth through change in tolerances (now referred to as bands).

Other aspects of Rule 99/1 have been retained but the rule has been rewritten to improve clarity.

Thomas G Parry  
Chairman  
18 May 2001

<sup>2</sup> An action plan must include the calculation of network prices (for each tariff class) based on maximum allowable revenues, demand forecasts and unders and overs balance rectification.

<sup>3</sup> An action plan must include the calculation of network prices (for each tariff class) based on maximum allowable revenues, demand forecasts and unders and overs balance rectification.

<sup>4</sup> The Tribunal intends to exercise its powers under state legislation to require retailers to pass on rebates to end-use customers.

The Tribunal recognises that issues may arise when customers disconnect from the system in the time between the period of over-collection and the payment of the rebate. The refund should be made to customers connected to the distribution network system on 30 June on the year that over recovery breaches the 5 per cent tolerance.

<sup>5</sup> If, for example, at 30 June 2002 a DNSP has an under recovery of 8 per cent, the Tribunal will reduce the account balance to 5 per cent under recovered for the 2001/2002 financial year. The DNSP will lose the 3 per cent difference.



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

**DRAFT ONLY [at 18 May 2001]**

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

**Rule XX/XX**

**Unders and Overs Account**

**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), determined by the Tribunal for the 12 months up to and including 30 June in each year during the regulatory control period.

**Business Day** means a day, other than Saturday, Sunday or a public holiday.

**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 [anticipated 30 June 2001].

**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 by the Tribunal in December 1999 as Jurisdictional Regulator under the Code.

**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 prior to 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.

**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 30 October immediately following each Recording Date.

**Recording Date** means the date on 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.

**Rule** means this Rule XX/XX.

**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.

**Tariff Amendment Date** means the date on which a DNSP is required to amend its Network Tariffs, namely 1 July following each Notification Date, or such earlier date agreed with the Tribunal.

**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 clause 3.1 of this Rule, having the attributes and complying with the requirements 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 For the avoidance of doubt, with effect from the Commencement Date, this Rule replaces:

- (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) only 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 to the table after clause 3.3.3 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.

## **2. Transitional Provision**

- (a) The balance of the Unders and Overs Account of a DNSP on the Commencement Date will be taken to be the balance at that date calculated under the Determination and Rule 99/1, as if they had not been replaced in the manner described in clause 1.2.2.
- (b) For the avoidance of doubt, the balance of the Unders and Overs Account of a DNSP under paragraph (a) will be taken to include the balance approved by the Tribunal after 31 January 2000 in accordance with section 3.7 of the Determination.
- (c) Subject to any applicable law, in the event of any uncertainty as to the balance of the Unders and Overs Account of a DNSP at the Commencement Date, the decision of the Tribunal will prevail.

**[Note:** The NSW Government has announced its intention to establish a single electricity distributor in rural NSW to be known as Country Energy. Country Energy will be formed by the merger of NorthPower, 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 NorthPower, Great Southern Energy and Advance Energy. It is anticipated that Country Energy will commence operation on 1 July 2001.]

## **3. Rule Provisions**

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

- 3.1.1 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 cater for variances between the AARR of a DNSP in a year and the DNSP's Network Revenue for that year.
- 3.1.2 The Unders and Overs Account must be maintained in accordance with this Rule, the Determination, any relevant decision of the Tribunal and any applicable law.
- 3.1.3 The Unders and Overs Account must:
- (a) record in each year 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; and
- (b) accumulate from one year to the next the balances calculated under (a) during the regulatory control period,

in the manner required by this clause 3.

3.1.4 On or about each Recording Date (but no 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 2001- the balance calculated or decided under clause 2, and;
  - (ii) in the case of each subsequent Recording Date after 30 June 2001 - the Closing Balance of the Unders and Overs Account (as defined in clause 3.1.4(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”)

### **3.2 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 3.1.4 and the manner in which they were calculated or determined.

### **3.3 Actions required of a DNSP**

3.3.1 If on a Recording date, the Closing Balance of the Unders and Overs Account of a DNSP is within a band in the following table, the DNSP must take the action set out in the table corresponding to that band, consistent with the accompanying Notes.

3.3.2 Despite clause 3.3.1, a DNSP need not take the action required in the table if, since the relevant Recording Date it took action which the Tribunal determines is equivalent to the action that it would otherwise have been required to take under the table.

3.3.3 Despite clause 3.3.1, a DNSP need not take the action required in the table if it satisfies the Tribunal that its actions are consistent with the Correction Path established by the Tribunal, as defined in the table.

**Table: Bands and actions that the DNSP must take**

<b>PART A</b>	
<b>Where the Closing balance of the Unders and Overs account shows a positive balance</b>	
<b>Bands</b>	<b>DNSP action required</b>
Closing Balance is greater than 0% of AARR but less than or equal to 2% of AARR	No action required.
Closing Balance is greater than 2% of AARR but less than or equal to 5% of AARR	The DNSP must, by not later than the Notification Date, agree on an action plan with the Tribunal to reduce its Network Tariffs at the Tariff Amendment Date by that amount necessary to ensure that the Closing Balance of the Unders and Overs Account is reduced to zero by the end of the regulatory control period.
Closing Balance is greater than 5% of AARR but less than or equal to 10% of AARR	The DNSP must : (a) at the Tariff Amendment Date, reduce average Network Tariffs to at least 2% below the average Network tariff that would recover the AARR (excluding the amount of the over recovery) and in accordance with demand forecasts determined by the Tribunal following consultation with the DNSP; and (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 and in accordance with demand forecasts determined by the Tribunal following consultation with the DNSP, collectively, the "Correction Path".
Closing Balance is greater than 10% of AARR	The DNSP must : (a) at the Tariff Amendment Date, reduce average Network tariffs to at least 5% below the Network Tariff that would recover the AARR (excluding the amount of the over recovery) and in accordance with demand forecasts determined by the Tribunal following consultation with the DNSP; and (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 and in accordance with demand forecasts determined by the Tribunal following consultation with the DNSP, collectively, the "Correction Path".

<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>
Closing Balance is greater than 0% of AARR but less than or equal to 2% of AARR	No action required.
Closing Balance is greater than 2% of AARR but less than or equal to 10% of AARR	The DNSP must, by not later than the Notification Date provide the Tribunal with an action plan to increase its Network tariffs to ensure that the Closing balance of the Unders and Overs Account is reduced to zero or as close as possible to zero (as permitted by the price limits in the Determination) by the end of the regulatory control period.
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.

**Notes**

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.