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ELECTRICITY ACT
(CHAPTER 89A)

ELECTRICITY (APPEALS TO MINISTER)
REGULATIONS 2019

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In exercise of the powers conferred by section 98(6) of the Electricity Act, the Minister for Trade and Industry makes the following Regulations:

PART 1
GENERAL

Citation and commencement

1. These Regulations are the Electricity (Appeals to Minister) Regulations 2019 and come into operation on 3 May 2019.

Definitions

2. In these Regulations, unless the context otherwise requires —
“appeal” means an appeal under section 98(1) of the Act;

“appealable decision” means any of the following:

- (a) any decision or direction of, or notice issued by, the Authority mentioned in section 98(1) of the Act;
- (b) anything contained in any code of practice or standard of performance issued or approved by the Authority under section 16 of the Act;

“Appeals Secretary” means the Appeals Secretary appointed under regulation 3;

“appellant” means any person who brings an appeal;

“legal representative”, in relation to a party to any appeal, means any advocate and solicitor named in the register of practitioners and having in force a practising certificate issued under the Legal Profession Act (Cap. 161), retained by the party to represent the party in the appeal;

“parties”, in relation to an appeal, means the appellant in the appeal and the Authority, and “party” means either one of them;

“working day” means any day except a Saturday, Sunday or public holiday.

Appeals Secretary

3.—(1) The Minister may appoint any public officer to be the Appeals Secretary for the purposes of these Regulations.

(2) The Appeals Secretary must —

- (a) provide administrative and secretarial support to the Minister in relation to every appeal under section 98 of the Act; and
- (b) if the Minister determines that any hearing is necessary for the purpose of determining an appeal, attend at every such hearing.

Address for filing and submission in relation to Minister

4. Any document to be filed with the Minister under these Regulations must be addressed to the “Appeals Secretary” and sent to 100 High Street, #09-01, The Treasury, Singapore 179434.

PART 2**MAKING APPEAL AND DOCUMENTS OF APPEAL***Division 1 — Notice of Appeal***Making appeal: Notice of Appeal**

5.—(1) An appeal to the Minister is made by filing with the Minister, within the time mentioned in paragraph (2) —

- (a) a duly signed original of a Notice of Appeal; and
- (b) 3 copies of the Notice, each certified to be in conformity with the original by the person who signed the original.

(2) The time for the purpose of paragraph (1) is as follows:

- (a) for an appeal against a decision or direction of the Authority mentioned in section 98(1) of the Act brought by a person aggrieved by the decision or direction, within 14 days after the person is notified of the decision or direction;
- (b) for an appeal in respect of anything contained in a code of practice or standard of performance issued or approved by the Authority under section 16 of the Act, within 14 days after the thing contained in the code of practice or standard of performance is issued or approved;
- (c) for an appeal against a notice issued by the Authority under section 5(2)(b) of the Act, within 7 days of the date of the giving of the notice.

(3) Subject to regulation 7(2), upon receipt of the Notice of Appeal, the Appeals Secretary must send a copy of the Notice to the Authority.

Contents of Notice of Appeal

6. A Notice of Appeal must —

(a) state —

- (i) the name and address of the appellant;
- (ii) the name, phone number and e-mail address of the appellant's authorised representative for the appeal or the appellant's legal representative; and
- (iii) an address in Singapore to which documents in connection with the appeal may be sent;

(b) contain —

- (i) a concise statement of the circumstances under which the appeal arise, the facts and the issues in the appeal;
- (ii) a summary of the grounds for appealing against the appealable decision of the Authority, identifying in particular —
 - (A) the statutory provision under which the appealable decision was made;
 - (B) the extent (if any) to which the appellant contends that the appealable decision was based on an error of fact or was wrong in law; and
 - (C) the extent (if any) to which the appellant is appealing against the Authority's exercise of discretion in making the appealable decision;
- (iii) a succinct presentation of the arguments of fact or law supporting each ground of appeal; and
- (iv) the relief or directions (if any) sought by the appellant;

(c) be signed and dated by —

- (i) the appellant's authorised representative; or

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- (ii) the appellant's legal representative, if the details provided under paragraph (a)(ii) relate to the appellant's legal representative; and
- (d) include —
- (i) a copy of the appealable decision (including the code of practice or standard of performance, where applicable); and
 - (ii) any documents supporting those arguments of fact or law.

Defective Notice of Appeal

7.—(1) If the Minister considers that a Notice of Appeal —

- (a) does not comply with regulation 6;
- (b) is materially incomplete;
- (c) is unduly prolix; or
- (d) is lacking in clarity,

the Minister may give such directions to the appellant as may be necessary to remedy the Notice.

(2) The Minister may, if the Minister considers that the efficient conduct of the appeal proceedings so requires, instruct the Appeals Secretary to defer sending a copy of the Notice of Appeal to the Authority until after the directions given under paragraph (1) have been complied with.

Minister to consider whether appeal to be determined by Appeal Panel

8.—(1) Without affecting regulation 15 or 23, the Minister must consider whether an appeal made to the Minister ought to be considered and determined by an Appeal Panel under section 98(2) of the Act —

- (a) upon receiving the Notice of Appeal for the appeal; or

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- (b) where regulation 7 applies, upon the appellant complying with the directions given by the Minister to remedy the defective Notice of Appeal.

(2) Where the Minister considers that the appeal need not be considered and determined by an Appeal Panel, the Minister must instruct the Appeals Secretary to send a copy of the Notice of Appeal to the Authority.

(3) Where the Minister considers that the appeal ought to be considered and determined by an Appeal Panel, the Minister must —

- (a) instruct the Appeals Secretary to notify the appellant accordingly; and
- (b) establish an Appeal Panel under section 65 of the Act to consider and determine the appeal,

and nothing further in these Regulations applies to the appeal.

Division 2 — Response

Response

9.—(1) Within 21 days after receiving a copy of a Notice of Appeal from the Appeals Secretary, or such shorter time as the Minister may require, the Authority must file with the Minister —

- (a) a duly signed original of a Response; and
- (b) unless the Minister otherwise directs, 3 copies of the Response, each certified to be in conformity with the original by the person who signed the original.

(2) Subject to regulation 11(2), upon receipt of the Response, the Appeals Secretary must send a copy of the Response to the appellant.

Contents of Response

10. A Response must —

- (a) state —
- (i) the name, phone number and e-mail address of the Authority's authorised officer for the appeal or the Authority's legal representative; and

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- (ii) an address in Singapore to which documents in connection with the appeal may be sent;
- (b) contain —
- (i) a succinct presentation of the arguments of fact or law upon which the Authority relies in responding to each ground of appeal; and
 - (ii) the relief or directions (if any) sought by the Authority;
- (c) be signed and dated by —
- (i) the authorised officer of the Authority; or
 - (ii) the Authority’s legal representative, if the details provided under paragraph (a)(i) relate to the Authority’s legal representative; and
- (d) include any documents supporting those arguments of fact or law.

Defective Response

11.—(1) If the Minister considers that a Response —

- (a) does not comply with regulation 10;
- (b) is materially incomplete;
- (c) is unduly prolix; or
- (d) is lacking in clarity,

the Minister may give such directions to the Authority as may be necessary to remedy the Response.

(2) The Minister may, if the Minister considers that the efficient conduct of the appeal proceedings so requires, instruct the Appeals Secretary to defer sending a copy of the Response to the appellant until after the directions given under paragraph (1) have been complied with.

*Division 3 — Reply***Reply**

12.—(1) An appellant may reply to a Response of the Authority by filing with the Minister, within 21 days after receiving a copy of the Response, or such shorter time as the Minister may require —

- (a) a duly signed original of a Reply; and
- (b) unless the Minister otherwise directs, 3 copies of the Reply, each certified to be in conformity with the original by the person who signed the original.

(2) Subject to regulation 14(2), upon receipt of the Reply, the Appeals Secretary must send a copy of the Reply to the Authority.

Contents of Reply

13. A Reply must —

- (a) contain a succinct presentation of the arguments of fact or law in reply to a Response;
- (b) be signed and dated by —
 - (i) the authorised representative of the appellant; or
 - (ii) the appellant’s legal representative; and
- (c) include any documents supporting those arguments of fact or law.

Defective Reply

14.—(1) If the Minister considers that a Reply —

- (a) does not comply with regulation 13;
- (b) is materially incomplete;
- (c) is unduly prolix; or
- (d) is lacking in clarity,

the Minister may give such directions to the appellant as may be necessary to remedy the Reply.

(2) The Minister may, if the Minister considers that the efficient conduct of the appeal proceedings so requires, instruct the Appeals Secretary to defer sending a copy of the Reply to the Authority until after the directions given under paragraph (1) have been complied with.

PART 3

DETERMINING APPEAL

Summary disposal of appeal

15.—(1) The Minister may, at any stage in the appeal proceedings, summarily dismiss the appeal and confirm the appealable decision of the Authority if —

- (a) the Minister considers that the appeal is frivolous, vexatious, misconceived or lacking in substance; or
- (b) the appellant has, without reasonable excuse, failed to comply with —
 - (i) any requirement under these Regulations for the appellant to file or submit any document or information within the time specified for the filing or submission; or
 - (ii) any direction given by the Minister to the appellant under these Regulations.

(2) Where the Minister dismisses an appeal under paragraph (1), the Minister may make such consequential order as the Minister considers appropriate.

Hearing of appeals, etc.

16.—(1) The Minister may, as the Minister considers appropriate, determine and decide an appeal based on written or documentary evidence provided or produced to the Minister without holding any hearing of the appeal.

(2) In any hearing of an appeal before the Minister, a party may be represented by any person allowed by the Minister to appear on behalf of that party, including any legal representative of the party.

Adjournment

17.—(1) The Minister may adjourn any hearing of an appeal on any ground and may fix a date for a further hearing.

(2) The Minister may, on the conclusion of a hearing of an appeal, adjourn for any period of time to consider the Minister's decision.

Non-attendance of parties

18. If, at the time appointed for the hearing of an appeal, any party to the proceedings does not appear, the Minister may, if the Minister is satisfied that the party has been duly notified of the hearing, proceed with the hearing and make such order as the Minister thinks fit.

Withdrawal of appeal

19. An appellant may at any time, with the permission of the Minister, withdraw the appellant's appeal.

Decision of Minister to be notified, etc.

20. The Appeals Secretary must notify the appellant, the Authority and any other party in the appeal of the Minister's decision in respect of the appeal, and the reasons for the Minister's decision.

Irregularities

21.—(1) Any irregularity resulting from a failure to comply with any provision of these Regulations before the Minister has reached a decision does not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the Minister, the Minister may give such directions as the Minister thinks just to cure or waive the irregularity before reaching a decision if the Minister considers that any person may have been prejudiced by the irregularity.

PART 4
CASE MANAGEMENT

Time limits

22. Where a person is required by or under these Regulations to file with or submit to the Minister any document, the Minister may, upon the application of the person, extend the time specified by or under these Regulations for such filing or submission.

Failure to comply with time limits or directions

23.—(1) Without affecting regulation 15(1)(b)(i) or 22, the Minister may disregard any document or information filed with or submitted to the Minister after the expiry of the time delimited for the filing or submission of the document or information by or under these Regulations.

(2) Without affecting regulation 15(1)(b)(ii) or 22, if a party to any appeal proceedings fails to comply with any direction given by the Minister under these Regulations, the Minister may, if the Minister considers that the justice of the case so requires, debar the party from taking any further part in the proceedings without the permission of the Minister.

No new ground of appeal or response

24.—(1) An appellant may not raise or rely on any ground of appeal that is not stated in its Notice of Appeal, except with the permission of the Minister.

(2) No permission may be granted under paragraph (1) unless the Minister is satisfied that —

- (a) the new ground of appeal is based on any matter of fact or law which came to light after the Notice of Appeal was filed;
- (b) it was not practicable to include such ground in the Notice of Appeal at the time the Notice was filed; or
- (c) there are exceptional circumstances to do so.

(3) The Authority may not raise or rely on any response that is not stated in its Response, except with the permission of the Minister.

(4) No permission under paragraph (3) may be granted unless the Minister is satisfied that —

- (a) there exists any matter of fact or law which came to light after the Response was filed with the Minister;
- (b) it was not practicable to include in or omit from the Response (as the case may be) the subject matter of the proposed amendment at the time the Response was filed with the Minister; or
- (c) there are exceptional circumstances to do so.

(5) Where the Minister grants permission under paragraph (1) or (3) (as the case may be), the Minister may do so on such terms or conditions as the Minister thinks fit to impose, and with such further or consequential directions as the Minister considers necessary.

(6) Where any new ground of appeal or response is raised without the permission of the Minister, the Minister may disregard it in the Minister's consideration of the appeal.

Consolidation

25.—(1) Where 2 or more appeal proceedings are pending in relation to the same decision of the Authority, or involve the same or similar issues, the Minister may at any time, on the request of a party or of the Minister's own initiative, direct that the proceedings or any particular issue or matter raised in the proceedings be consolidated and heard or determined together.

(2) All the parties to the relevant proceedings are entitled to make their submissions on the proposed consolidation before a direction under paragraph (1) is made.

Directions

26.—(1) The Minister may at any time give one or more directions to secure the just, expeditious and economical conduct of any appeal proceedings or the determination of any appeal.

(2) Without affecting paragraph (1), the Minister may give directions relating to any one or more of the following:

- (a) the manner in which the appeal proceedings are to be conducted and the holding of any case management conference with the parties;
- (b) the issues on which the Minister requires evidence, the nature of the evidence required, and the manner in which the evidence is to be placed before the Minister;
- (c) the appointment and instruction of experts by the parties, and the manner in which expert evidence is to be given;
- (d) the submission of witness statements or expert reports;
- (e) the submission of any document or information by any person (whether or not a party) to the Minister, including the attendance of the person before the Minister to produce the document or provide the information;
- (f) the submission by the appellant or the Authority of one or more core bundles comprising a copy of every document on which the appellant or the Authority (as the case may be) relies, including the written statements of all witnesses of fact and expert witnesses, if any;
- (g) the disclosure of documents between the parties;
- (h) the examination or cross-examination of witnesses;
- (i) the preparation and exchange of skeletal arguments;
- (j) the written or oral submissions by parties on any aspect of the appeal proceedings;
- (k) the abridgement or extension of any time limit;
- (l) to enable the decision which is the subject of the appeal to be referred back in whole or in part to the Authority;
- (m) for hearing any person (whether or not a party) on any proposal for a direction concerning any matter in sub-paragraphs (a) to (j).

(3) Subject to regulation 28, the Minister must provide any document or information obtained under paragraph (2)(e) —

- (a) where a party to the appeal proceedings provided the document or information, to the other party to the appeal proceedings; and
- (b) where a person other than a party to the appeal proceedings provided the document or information, to parties to the appeal proceedings,

and invite the other party or parties (as the case may be) to make submissions on the document or information.

Evidence

27.—(1) The Minister may receive new evidence on any matter relating to an appeal if the Minister is satisfied that —

- (a) the evidence could not have been obtained with reasonable diligence at the time of the Authority’s appealable decision;
- (b) the evidence, if given, would have had an important influence on the result of the case, though it need not be decisive; and
- (c) the evidence is credible.

(2) The Minister may put questions to the parties and the witnesses, whether orally at any hearing in the appeal proceedings or in writing.

Requests for confidential treatment

28.—(1) A request for the confidential treatment of a document, or part of a document, or information filed or submitted in connection with any appeal proceedings before the Minister must —

- (a) be made in writing by the person who filed or submitted the document or information, when filing or submitting the document or information;
- (b) where the request relates to part of a document, state the relevant words, figures or passages for which confidentiality is claimed; and

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- (c) contain the reasons for the request for withholding the document or information from any party to the appeals proceedings and, where the request relates to part of a document, the reasons specific to each such part.
- (2) The person making the request must also file with the Minister, if the person considers it possible to summarise or redact the material in the document, or part of the document, or information, a non-confidential version of the document, part of the document or information (as the case may be) in a form that can be given to any party to the appeal proceedings.
- (3) A request for confidential treatment must not be considered if the request does not comply with paragraph (1), unless the Minister considers that the circumstances are exceptional.
- (4) The Minister may grant the confidential treatment requested on such terms and conditions as the Minister thinks fit (including changes to the summary or redacting of material in any non-confidential version under paragraph (2)), if the Minister is satisfied that the document, or part of the document, or information contains or is, in the Minister's opinion —
- (a) information the disclosure of which would be contrary to the public interest;
 - (b) commercial information the disclosure of which may significantly harm the legitimate business interests of the undertaking to which it relates; or
 - (c) information relating to the private affairs of an individual the disclosure of which would or may significantly harm the interests of that individual.
- (5) In the event of a dispute as to whether the confidential treatment should be granted, the Minister must decide the matter after considering oral or written submissions from the parties to the appeal proceedings, taking into account the matters referred to in paragraph (4).
- (6) If the Minister grants the confidential treatment, the person making the request for the confidential treatment must, no later than 5 days after the Minister's decision —

(a) in the case where the grant is subject to changes to the summary or redacting of material in any non-confidential version filed under paragraph (2) —

- (i) make the necessary changes or redactions;
- (ii) file the revised non-confidential version with the Minister; and
- (iii) send the revised non-confidential version to the other party or parties to the appeals proceedings, as the case may be; and

(b) in any other case, send to the other party or parties the non-confidential version filed under paragraph (2) (if any),

and notifying the other party or parties that the document, or part of the document, or information has been summarised or redacted.

(7) The Minister must not, for the purposes of considering the appeal and making a determination for resolving it, rely on any document, or part of a document, or information to which confidential treatment is granted, but may rely on the non-confidential version filed (if any) under paragraph (2) or (6)(a), as the case may be.

Made on 29 April 2019.

LEE CHUAN TECK
Permanent Secretary
(Development),
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Singapore.

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