

5 August 2011

Mr Chris Pattas  
General Manager  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

[aerinquiry@aer.gov.au](mailto:aerinquiry@aer.gov.au)

Thank you for the opportunity to comment on the AER Consultation Paper:  
*Connection Charges Guidelines for accessing the electricity distribution network.*

The Energy & Water Ombudsman NSW investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers.

### *EWON's Jurisdiction*

EWON's Constitution<sup>1</sup> gives the ombudsman jurisdiction to investigate complaints from customers about decisions of a Distribution Network Service Provider (DNSP) in relation to the provision or supply of electricity to their property. The current Standard Form Customer Connection Contracts of the three DNSPs operating in NSW also refer to the rights of customers to take their complaint to the ombudsman.

In addition, the 2002 *IPART Determination*<sup>2</sup> provides for dispute resolution firstly by an internal review by the DNSP, making reference to the procedures for this under both sections 47-49 of the *Electricity Supply (General) Regulation 2001* and s 96 of the *Electricity Supply Act 1995*. Section 96A of the *Electricity Supply Act 1995* gives a small retail customer the right to apply to the ombudsman for a review of a decision made as part of an internal review under section 96.

---

<sup>1</sup> Available at <http://www.ewon.com.au/index.cfm/about-us/>

<sup>2</sup> *Capital contributions and repayments for connections to electricity distribution networks in NSW, April 2002- Schedule 3*

In the course of EWON's investigations into capital contribution complaints, we refer to the 2002 *IPART Determination* to establish whether the DNSP has complied with the guidelines set out for both the original capital contribution, and for applying the reimbursement scheme if other properties later connect.

However EWON's jurisdiction does not extend to commercial arrangements with private contractors. Therefore if the complaint only refers to the cost quoted for connection, EWON will advise the customer that this is contestable work, and that they can seek other competitive quotations from suitably qualified service providers.

We note that Part G of the new chapter 5A relating to Dispute Resolution refers to the AER determining 'relevant disputes' as access determinations, and that these 'relevant disputes' are access disputes under section 2A of the National Electricity Law. Section 5A.G.3, however provides that:

(a) If the *AER* considers that a relevant dispute could be effectively resolved by some means other than an access determination, the *AER* may give the parties to the dispute notice of the alternative means of resolving the dispute.

*The AER might give such a notice if of the opinion that a particular dispute could be dealt with more efficiently, and with less expense, by a jurisdictional ombudsman.*

We would appreciate some clarification as to what role the AER anticipates for the jurisdictional ombudsmen in dispute resolution of these complaints, particularly having regard to the existing jurisdiction of EWON in this area.

### *EWON's Response to the Consultation Paper*

Rather than respond to all the questions posed in relation to the calculations for determining incremental cost and revenue, we have confined our comments to those issues which have given rise to a number of customer complaints to EWON. For ease of reference we have adopted the same question numbering in this response.

#### **8.4.3 Shared network augmentation charges to embedded generators**

---

**The AER seeks comments on its proposal that embedded generators should fund**

---

---

specific network shared network augmentation to remove constraints on their outputs due to limits of the existing network.

---

EWON is aware of situations where the existing network does not have the capacity to accept the entire proposed output of a new embedded generator, as the following case study illustrates.

#### **Case study 1**

Mrs M lives in a sparsely populated rural area. Before she installed a 10kW solar panel, her installer had submitted the Application to Connect form to the DNSP, and permission to connect to the grid was given. However, after her system was installed, she encountered problems. Each time she tried to feed into the grid the network inverter would become overloaded as the voltage would increase to an unstable level, and it would then shut down. She is now concerned that she will not be able to get the expected return on her considerable investment.

It appears that where there is no local load (eg a neighbour) to take up the output of the generator, it has to feed back through the local transformer into the high voltage network. There can be a substantial voltage drop in the low voltage mains between the customer and the transformer, so when trying to feed current back the other way from the customer's premises to the transformer, this voltage drop has to be overcome. This requires at least 260 volts at the generator in order to overcome the 250 volts at the transformer.

The DNSP has informed Mrs M that the load needs to be increased if her generator is to be able to operate as anticipated, and this expense could not be justified for only one customer. EWON arranged for a senior officer from the DNSP to meet on-site with Mrs M and her installer, to discuss possible technical solutions to her problem.

Ms M's solar installer believes that the DNSP should have informed him about the potential load issue when the Application to Connect was approved, prior to Mrs M going ahead with the installation. The issue relating to the installer was referred to NSW Office of Fair Trading.

EWON acknowledges that the issue of embedded generation in these circumstances needs clarifying. The Consultation Paper states at p 35 that the AER considers that:

*‘embedded generators should pay for this user specific cost for removing output constraints, unless there is a demonstrable net benefit to other network users.’*

From this statement, it is not clear:

- what is intended by ‘*demonstrable net benefit*’ to other users
- if net benefit was demonstrated, whether this would mean the DNSP should fund costs of removing the output constraints, or whether a refund scheme along the lines of the one for the funding of connection assets is contemplated.

It would be of assistance if some further guidance could be provided here by the AER.

When investigating cases involving embedded generation and load issues, EWON is particularly concerned that communication between the DNSP and the customer should occur at the earliest possible opportunity. It would seem fair and reasonable that the DNSP should have an obligation to alert the customer to any potential network constraints at the time the original Application to Connect is submitted, as this can influence whether or not the customer proceeds with their investment in the embedded generator.

#### **9.4 Refunds**

EWON receives complaints from both the original customer who funded the connection, and the later customer who wants to connect to this connection. Our investigation will review whether the DNSP has complied with the provisions relating to the Reimbursement Scheme under the *IPART Determination 2002*, as in the following case.

##### **Case Study 2**

Mr J’s company was building 18 townhouses, with a load requirement of more than 150A per phase. He submitted a development application to the DNSP for power connection.

The DNSP advised Mr J that for this load requirement, their policy required him to install a new padmount substation on his site. However there was a new substation on the development next door, consisting of 23 townhouses, as that developer had been

required to install this to augment the power supply.

The DNSP recommended Mr J approach the owners of the neighbouring development for their agreement, noting he may need to pay them compensation. The DNSP was of the view that the reimbursement provisions of the *IPART Determination* did not apply as the development was not in a rural area. Mr J came to EWON to clarify his rights and obligations with respect to getting the electricity connected.

Following investigation by EWON, the DNSP agreed that there was no requirement for Mr J to negotiate directly with the neighbouring developer in order to 'gain permission' to connect to their substation. The DNSP owns the asset, and the first customer has no power to prevent other customers connecting to it. The reimbursement scheme in the *IPART Determination* was not confined to rural customers, but applied equally to large load customers. The first developer would be entitled to reimbursement according to the formulas set out in that Determination.

One of the 'connection charge principles' under Part E of the new Part 5A is that the original customer is entitled to a refund if the connection assets they funded cease to be for their exclusive use within 7 years of their construction. This is similar to the current NSW arrangements under the *IPART Determination 2002*.

We note that DNSPs will be required to develop their connection policies for approval by the AER based on the proposed guideline, and that the AER's preferred position (at p 40) is that "*the DNSPs should have a high degree of flexibility in developing their own rebate schemes*".

EWON would like to see the provisions in any DNSP's connection policies relating to refunds made as specific as possible. This is particularly important in rural areas where disputes can involve neighbours in small communities, so a clear exposition of entitlements can help prevent disputes. This also enables transparent resolution of disputes when there are potential misinterpretations of the scheme as in Mr J's case above.

EWON would also like to see the proposed Guidelines contain a specific 'obligation to notify' as in the current *IPART Determination*<sup>3</sup>. This requires the DNSP to notify both the original customer who paid the connection costs that they may be entitled to receive a refund if other customers connect to the asset, and the

---

<sup>3</sup> *Capital contributions and repayments for connections to electricity distribution networks in NSW, April 2002- Schedule 2, clause 6.*

subsequent customers that they may be obliged to contribute towards the reimbursement.

---

The AER seeks comments on its preliminary view that a \$500 refund threshold strikes an appropriate balance between a DNSPs' administrative costs and the materiality of a refund.

---

EWON queries the justification for this approach, as it appears to be unreasonably penalising the first customer who paid for the original extension. It would appear more equitable if any administrative costs could be passed on to the new customer wishing to connect to the network, and that the original customer should be able to receive the full refund to which they are entitled.

---

The AER seeks comments and alternative approaches to deal with the costs allocation issues where a DNSP provides a network extension on request of a single customer, to a standard greater than that customer requires due to the DNSP's network planning process.

---

If a DNSP commits to building an extension to the network on the basis of forecast growth as part of their overall network planning process, then it appears unreasonable to require the customer who may have originally requested the extension to make any capital contribution to the new assets. The customer should be able to connect their own installation to the nearest point on the new network, in the same way and at the standard connection charges as if they were connecting to an existing network.

If you would like to discuss this matter further, please contact me or Prue McLennan, Investigations Policy Officer on 02 82185261.

Yours sincerely



Clare Petre  
Energy & Water Ombudsman NSW