

Issues and AER's preliminary positions – Connections charge guidelines: for accessing the electricity distribution network

Overview

This submission sets out Essential Energy's response to the Australian Energy Regulator's (AER's) consultation paper for establishing a national connection charge guideline ("the paper").

Essential Energy acknowledges the AER's need to consult on its proposed connection charge guideline under the new chapter 5A of the National Electricity Rules (NER). However, Essential Energy found the consultation paper ambiguous in its application to NSW, particularly in relation to the contestability framework in force in NSW.

Connection services have been subject to competition in NSW for many years. The *Electricity Supply Act 1995* (ESA) and *Electricity Supply (General) Regulation 2001* establish and detail the framework for electricity customers to contract accredited service providers (ASPs) to carry out connection works. The *Code of Practice for Contestable Works* outlines principles that underpin contestability, the type of work that is contestable, and responsibilities of all parties. The contestability framework applies to customer connections, including the extension or increase in capacity of the distribution network.

A NSW multi departmental review of contestable services on the NSW electricity network was recently completed. The final report¹ on this review made several recommendations to improve and expand the framework's operation, and was endorsed by the NSW Government, who are now in the process of implementing the findings. Recommendations included the expansion of the accreditation process through the addition of individual competencies and more work categories. The review also found that all connection services and planned recoverable works should be contestable, and where Essential Energy considers a service that is paid for by the customer is non-contestable, this decision must be justified on request.

Customers have the right to choose to have any electrical work necessary for connecting them to the distribution network carried out by either Essential Energy or an ASP. This contestability framework is unique to NSW, and is designed to ensure greater customer choice and efficiency in the market for contestable services due to increased competition. The framework has been operating successfully in NSW for many years and is well understood by all participants, including distribution network service providers (DNSPs), ASPs and customers. Essential Energy's major concern is that this framework is preserved and is not undermined by the AER's proposed connection charge guideline.

The higher level of contestability in NSW allows greater customer choice and fosters efficiency in the market for contestable services. Implementation of the approach outlined in the paper would reduce the level of contestability by allowing DNSPs to seek tenders from a limited number of service providers, which would significantly impact on competition and efficiency in the NSW market. Essential Energy believes that should the current connection policy in NSW have to be changed to be consistent with that proposed in the paper, then the business will ultimately incur larger costs, which in turn increases costs to all customers.

¹ NSW Government, *Review of contestable services on the New South Wales electricity network – Final report*, July 2010

Upon examination it appears that the text in Chapter 5A caters for the protection of the contestability scheme under the ESA. However, it may be the case that the cost-revenue-test currently proposed by the AER does not achieve the optimum outcome that is intended by the legislation, and therefore may lead to an inconsistency at the policy level.

Essential Energy's preliminary view is that the AER's suggestion of removing the costs incurred by a third party from the cost-revenue-test calculation does not go far enough to resolve the potential issue of undermining the neutrality of competition between ASP's and distributors when using a cost-revenue-test in relation to contestable services. The issue that remains is that by only excluding the costs paid by a customer when they are paid to an ASP, but including them when they are incurred by the DNSP, may still leave the ASPs at a competitive disadvantage.

Therefore, although the principles of Chapter 5A itself provide for the protection of neutrality in relation to the competitive positions of ASPs and DNSPs, there is a risk that the AER's proposed cost-revenue-test in relation to contestable services in the paper is inconsistent with the outcomes sought through the contestability provisions of the ESA.

At the AER's public forum on the paper, the AER stated that NSW is to be treated as an exception, and that they largely see that the paper does not apply to NSW in a lot of ways. However, on Essential Energy's reading of the paper, this position is not explicit and has not been clearly articulated.

For the reasons described above, Essential Energy believes that NSW (and any other jurisdictions that may introduce contestability to connection services in future) should be fully exempted from the provisions of the connection charge guideline. The paper does not appear to go far enough in addressing the issues and complications associated with its interaction with the contestable framework in NSW. If the AER's intention is that the guideline should apply in whole or in part to NSW, then Essential Energy requests that further discussions be held with NSW DNSPs to develop appropriate provisions and thresholds that support the contestability regime already in place in NSW.