

SUBMISSION TO THE AUSTRALIAN ENERGY REGULATOR


QUEENSLAND DISTRIBUTION DETERMINATION FOR THE PERIOD 2010 - 2015

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1 INTRODUCTION

SPA Consulting Engineers (QLD) Pty Ltd's (SPA) primary field of practice is the design, documentation and contract administration of electrical distribution and roadway lighting for contestable subdivision developments in regional Queensland (the area served by Ergon Energy).

We have participated in earlier forums and made submissions to the AER regarding the classification of services and control measures.

SPA's position regarding all elements of regulation of DNSP's in Queensland is based on the following perspective:

1. The distribution network should be constructed to standards that reflect the demands of the community for a reliable power system.
2. The distribution network should be constructed in most economical way whilst still achieving the requirement of a reliable power system.
3. Where customers are required to fund the cost of construction of network connection assets, the customer should have the ability to go to a market for the design and construction of the asset and should not be forced to use the DNSP to carry out the design and construction of the connection asset.
4. Where works are required to be constructed by DNSP's on live assets to permit connection of a customer's connection asset, the DNSP should operate transparently with respect to the scope of the works required and the costs of design and construction.
5. Where DNSPs receive payments associated with the capital cost of connection assets, the assessment of the value of the asset should not be based on the cost expended by the DNSP in construction the asset, rather it should be the value of the asset once constructed. The assumption that DNSPs construct assets in the most economic way can only be effectively tested by the market, with all elements of the management of the project, design and construction being the subject of real market conditions.

As SPA has significant experience in dealing with Ergon Energy, this submission relates to the regulation of Ergon Energy in particular.

1.1 INHERENT POWER IMBALANCE

In making this submission SPA acknowledges the substantial power imbalance that exists between Distribution Network Service Providers (DNSPs) and their customers, and also with those required to interact with DNSPs. The commercial "upper hand" held by the DNSPs extends further than the simple commercial position of being a monopoly and also includes greater power due to the DNSP's:

- control of information,
- ability to present a position of power, particularly through the historical position of DNSPs previously being "power authorities" with limited regulation and extraordinary power,
- controlling the timing of network activities such as provision of design parameters, determining timing for commissioning and connection of new network assets (funded externally to the DNSP),
- determining (with little or no external review) head works contributions for network extensions,
- taking the roles of legislator, police and judiciary with respect to accreditation and management of external entities who, funded by customers requiring network

extensions, carry out the design and construct network assets, even though these assets are not funded by the DNSP, and

- having the resources (due to size alone) to dedicate to the provision of substantial submissions, which in themselves can lead to favourable regulation of the DNSPs.

This power imbalance produces a public perception that DNSPs will inevitably behave as monopolies, with little, no or ineffectual external regulation. This public perception in turn creates a situation where the public are unwilling to make submissions to regulators, because of the inevitability that their submissions will be fruitless.

We request that the AER gives additional weighting to this SPA submission due to the reality that the AER is unlikely to receive submissions from organizations other than DNSPs, because of the power imbalance detailed above.

Finally in making this submission SPA is aware of the paradox that the AER itself has greater similarity to the DNSPs that it regulates than to those who it regulates for. Because of the similarities, the AER is likely to take a passive approach to regulation rather than an active adversarial type approach to regulating DNSPs. An adversarial and enquiring approach is more likely to yield economic benefits to customers than a passive “hands off” approach and will lead to benefits for the entire community.

To date Queensland DNSPs have been regulated by a passive regulator and we note the huge increases in the cost of electricity which has occurred under the existing regulatory framework. The proposals by both DNSPs appear to be continuing the grab for cash and unless the AER takes a strong approach to regulation, Queenslanders will have electricity costs which make the state uncompetitive.

2 ERGON ENERGY CLAIM FOR CONFIDENTIALITY (RULES 6.19.2)

SPA are concerned that Ergon Energy have used rule 6.19.2 to avoid publicising price information that would allow external analysis and review of their submissions in an effective manner. The outcome of this constraint is that it is impossible to provide contrary perspective which may be in the interest of regional Queenslanders.

As a monopoly with no competitors being permitted to operate, we cannot see why all price information is not in the public domain.

3 CLASSIFICATION OF SERVICES (NER 6.1)

Presently the approach for the regulatory period 2010 – 2015 is proceeding on the basis that the design and construction of network connection assets initiated by customers is a standard control service. SPA contend that in this instance the classification is incorrect and request that the AER reclassifies the design construction of customer initiated capital works as an alternative control service. We have detailed in section 3.1 below the scope of services that we are requesting to be reclassified.

The justification for our request is that the AER have not adequately investigated the extent of the competitive market in Queensland, nor have they considered the ability of the market to grow significantly. The NER section 6.2.2 (c) details

“The AER must, in classifying a direct control service as a standard control service or alternative control service, have regard to:

- (1) the potential for development of competition in the relevant market and how the classification might influence that potential; and
- (2) the possible effects of the classification on administration costs of the AER, the Distribution Network Service Provider and users and potential users; and

- (3) the regulatory approach (if any) applicable to the relevant services immediately before the commencement of the distribution determination; and
- (4) the desirability of a consistent regulatory approach to similar services (both within and beyond the relevant jurisdiction); and
- (5) the extend the costs of providing the relevant service are directly attributable to the customer to whom the service is provided; and” ...

The intent of the rules is to prevent the removal of active markets and to encourage the development of markets where they are economical and in doing so to ensure that the administrative costs of the markets does not outweigh the benefits that the market brings to the economy.

Across the whole of Australia, only Ergon Energy have such a restrictive approach to constraining the development of markets which may in part compete with it. By the AER permitting the design and construction of network connection assets initiated by customers to be a standard control service, the AER is permitting Ergon Energy to decide if such works should be contestable or not and also how they are administered.

One of the few ways that effective benchmarking comparisons can be carried out is by having DNSPs compete against other market participants on an equitable basis such that the AER can then obtain detailed pricing information which either justifies or rebukes the pricing data provided by the DNSP.

If the AER were to classify the design and construction of network connection assets initiated by customers as an Alternative control service or even a negotiated distribution service it would be possible for effective benchmarking to be carried out at the same time as customers receiving the benefits that come with the operation of an effective market.

3.1 WORKS WHICH ARE TO BE INCLUDED AS DESIGN AND CONSTRUCTION OF NETWORK CONNECTION ASSETS INITIATED BY CUSTOMERS

SPA recommend that the following works be included as either an alternative control service or a negotiated distribution service.

- (1) Design and construction of underground electrical reticulation within and also headworks associated with underground urban residential, rural residential, industrial and commercial subdivisions, up to the point of connection to existing live high voltage assets. Connection to existing live low voltage assets can also be included as an alternative control service or a negotiated distribution service.
- (2) Design and construction of overhead electrical reticulation within and also headworks associated with underground urban residential, rural residential, industrial and commercial subdivisions, up to the point of connection to existing live high voltage assets. Connection to existing live low voltage assets can also be included as an alternative control service or a negotiated distribution service.
- (3) Design and construction of electrical reticulation within and also headworks associated with the relocation or expansion of a small or large customers network, as a customer requirement up to the point of connection to existing live high voltage assets. Connection to existing live low voltage assets can also be included as an alternative control service or a negotiated distribution service.

4 CUSTOMER CHOICE OF PROVIDERS

Ergon Energy in their introduction (N)5.3 detail that the contestable process will be expanded in the next regulatory control period to include commercial and industrial subdivision and rural subdivisions.

We request that the AER coordinate with Ergon Energy and that an exact roll out date be documented by Ergon Energy for this change. The regulatory period is until 2015 which means that Ergon Energy could roll out the increased contestability on 30-6-2015.

We also request that the AER exhibit some level of rigour in coordination with Ergon Energy with respect to the extent and administration of customer initiated capital works. Presently there are a range of commercial, administrative, technical and standards issues with the process that are permitting Ergon Energy to use their monopoly powers to prevent contestable participants from carrying out works on an equal basis to Ergon Energy themselves and this causes a manipulation of a market, which benefits Ergon Energy at the detriment of competitors (contestable participants).

SPA can provide specific details of the anti-competitive practices being carried out by Ergon Energy if requested by the AER.

5 CAPITAL CONTRIBUTIONS (RULES 6.21)

The rules 6.21.2 detail the arrangements for capital contributions, prepayments and financial guarantees. Ergon Energy in their submission (table 125 page 420) have detailed, under gifted assets, information which is incorrect and which is less than the actual amount of the gifted assets received by Ergon Energy.

For the period 2007-2008 Ergon Energy have nominated that they received gifted assets of 0.5\$M and in 2008-2009 Ergon have nominated that they received gifted assets of 11.2\$M. For both periods the information detailed in the Ergon Energy submission is incorrect. SPA, as one part of the contestable market, carried out the design and documentation of assets which were gifted to Ergon Energy during the periods nominated which exceed the amount detailed by Ergon Energy. Across all participants the amount of gifted assets would greatly exceed the amount detailed by Ergon Energy.

As gifted assets and capital contributions are excluded from the regulated asset base for the purposes of permissible revenue, then under reporting gifted assets have the effect of “double dipping” as detailed in section 47.6 of Ergon Energy’s submission.

As the amounts detailed by Ergon Energy are under reported, we request that the AER investigates further the reporting of gifted assets so that an accurate value can be included into the regulatory arrangements for the 2010 – 2015 period.

Of greater concern is that the approach highlighted in this one small element could be repeated in other more significant elements of the submission.

6 ROADWAY LIGHTING MAINTENANCE

Whilst the rules do not specifically address this issue, Ergon Energy has detailed in their submission their proposal for “Bulk Lamp Replacement” (table 151) and “Street Lighting Patrol Program” (table 152).

6.1 BULK LAMP REPLACEMENT PERIODS

The intervals listed for bulk lamp replacement are reasonable for High Pressure Sodium Vapour and High Pressure Mercury Vapour lamps, however for Metal Halide lamps a bulk lamp replacement period of 2 years or in some instances 18 months is appropriate. Failure to replace metal halide lamps in the shorter periods will lead to lamps being in service for a greater period than their manufacturers nominated lamp life, which would then lead to lamp failures and increased risk of accident and injury. SPA commend Ergon Energy for introducing bulk lamp replacements periods, but express concern that by having excessive replacement periods for



metal halide lamps will lead to a public safety issue, which is not in the interest of Ergon Energy of the public of Queensland.