



***Submission
to the
Queensland Competition Authority
(QCA)***

Prescribed Services

Submission by ENERGEX Limited

17 July 2000

Prescribed Services

1. INTRODUCTION

This paper is a submission made to the Queensland Competition Authority (QCA) in response to its Issues Paper *Electricity Distribution - Prescribed Services* dated May 2000. The paper calls for public submissions on certain issues to be made as part of a consultative process for the regulation of the electricity industry as required under the National Electricity Code.

This submission is a joint submission made by ENERGEX Limited and ENERGEX Retail Pty Ltd. The name ENERGEX will be used throughout this paper as a reference to this group.

The approach used in this submission is to address in turn each of the issues raised by the Issues Paper.

Comments made in this paper may be made public as part of the normal consultation process by QCA.

2. PROPOSED APPROACH

ENERGEX supports the recommendation to initially have all network services deemed as prescribed distribution services and to retain the flexibility to deliver these services in what it believes is the most efficient and cost effective way. This may involve competitive tendering for the work. The asset, however, would still be regulated and earn a regulated rate of return.

ENERGEX supports the general approach proposed by QCA, namely that services are prescribed unless QCA determines otherwise.

ENERGEX acknowledges that parties other than DNSP's may have an interest in whether services are prescribed or excluded. The paper states that *"all services performed by each DNSP that are associated with, or ancillary to, access to that DNSP's network for the supply of electricity within that DNSP's service area will be prescribed. DNSP's may then apply on a case by case basis to have specific activities treated as excluded services."* ENERGEX believes that this principle could be modified to state that interested parties have the opportunity to apply on a case by case basis to have specific services declared by the QCA as excluded services, therefore not subject to economic regulation and open to competition. However, the party making the application should be responsible for making the case. Also, the QCA should have the power to reject applications that are not in the public interest.

ENERGEX submits that interested parties, such as retailers, may apply on a case by case basis to have services excluded.

2.1 Competition

QCA's proposed approach to determining whether services will be classified as prescribed or excluded is:

- *“determine whether competition exists and if so, the extent of competition in the provision of the distribution service;*
- *if competition is found to exist and to be effective, the service will be defined as an excluded distribution service, and will not be subject to economic regulation;*
- *if competition is found to exist but is not deemed to be effective, the service will be defined as a prescribed distribution service, but will be examined to determine if it should be subject to a more light-handed form of economic regulation than CPI – X; and*
- *if competition is not found to exist, the service will be defined as a prescribed distribution service and will be subject to economic regulation by the Authority under the provisions of the Code.”*

ENERGEX notes that there is insufficient detail contained within Section 5 as to how the QCA will in practice define effective competition and how they will judge that there is sufficient competition to decide whether services will be classified as prescribed or excluded.

With regard to the third dot point of the proposed approach shown above, it is unclear what situations would allow the adoption of some form of hybrid regulation where competition exists but is ineffective. ENERGEX cannot see any value in the introduction of more complex arrangements in the current regulatory environment that has already been subjected to enormous change. Services should either be classified as prescribed or excluded with no in-between arrangement. Ineffective competition should only be a transient problem until competition in that particular activity develops and matures. If not, the service should remain as a prescribed distribution service.

2.2 Legislative Influences

In developing this submission, ENERGEX has sought to consider the requirements of and implications arising from the application of the Electricity Act 1994.

Section 40 of the Electricity Act 1994, for example, places a positive obligation on the distribution entity to provide customer connection services, which are defined in the Act as:

- “ **“customer connection services”**, for premises, means—
- (a) the connection of the premises to a supply network to allow the supply of electricity from the supply network to the premises; and
 - (b) the supply of electricity from the supply network to the premises.”

Should the QCA seek to make connection services an excluded service, then there would likely be a commercial conflict between the operation of a market for services and the legislative obligations of ENERGEX.

It is our interpretation of the hierarchy of legislation that the Electricity Act 1994 and the Electricity-National Scheme (Queensland) Act 1997 are both primary legislation and that the Code is a “code of conduct” approved by the Ministers of the participating Jurisdictions.

ENERGEX therefore proposes that the QCA take account of the relevant hierarchy of legislation and not make a determination requiring ENERGEX to comply with a requirement under the Code which conflicts either legally or commercially with an obligation under legislation such as the Electricity Act 1994.

2.3 **Attachment A**

ENERGEX submits that, in respect of (h), the levels of service that are required by “general practice” must be clearly defined. While additional quality and reliability standards should be an excluded service, great care must be taken to adequately define what “general practice” standards are, particularly for different customer categories.

ENERGEX notes that charges such as for reactive power may be introduced as standard charges, providing incentives for customers to improve their power factors.

3. **CONTESTABILITY OF WORKS VERSUS EXCLUDED SERVICES**

The Code states:

- prescribed distribution services are “*distribution services provided by distribution network assets or associated connection assets which are determined by the jurisdictional regulator as those which should be subject to economic regulation*”; and that
- excluded distribution services are “*distribution services, the costs of and revenue for which are excluded from the revenue cap or price cap which applies to prescribed distribution services*”.

These definitions are generally taken to mean that prescribed distribution services are those that fall completely within the regulated business activities and that excluded distribution services are those totally ring fenced and open to external competition. A good example of this is the establishment of the Metering Provider (MP) and Metering Data Agent (MDA) roles within the electricity market where costs and revenues come under the control of separate organisations or ring fenced business units (costs, revenues, and profits individually identified and subjected to competitive pressures). The businesses thus operate as unregulated businesses with no link to the regulated assets. This is reinforced in QCA’s paper with the following comments:

- “*it is reasonable to expect that regulated entities that also provide services in competitive markets would seek to earn above regulated rates of return on those activities*”; and that
- “*this then provides the regulated entity with an incentive to seek to have such services excluded from the organisation’s prescribed services base*”.

However, many of the services listed in Section 5 of Schedule 6.6 of the Code and mirrored in the list of excluded distribution services adopted by ORG can be opened up to competitive tendering for service provision but remain regulated as prescribed distribution services. Some examples are:

- new connections and augmentations of existing connections to the distribution networks;
- capital contributions for new works and augmentations;
- charges for reserve and duplicate supply;
- charges for supplies with high quality and reliability standards; and
- charges for multiple connection points to a single property not recovered through prescribed distribution services prices.

For many years ENERGEX Limited has contracted out most of its estate design and construction works under subdivider supply agreements as well as contracting out many of its operational and maintenance service delivery activities eg customer services, meter reading, tree trimming, street light patrols and repairs. Competitive tendering for the provision of such services has reduced the cost of service provision and allowed the organisation to manage its work peaks yet the assets providing the revenue stream for these activities are still prescribed distribution assets.

In summary, ENERGEX Limited supports the approach that:

- all services (except existing excluded services eg MP, MDA activities) performed by each Queensland DNSP that are associated with, or ancillary to, access to that DNSP's network for the supply of electricity within that DNSP's service area will be prescribed;
- submissions be made by interested parties to the QCA to have specific activities classified as excluded distribution services on a case by case basis as per the methodology outlined in Section 6 of the discussion paper; and that
- the party making the submission be responsible for making the case to the QCA for exclusion.