

“MINISTERS’ DECISION NOTICE”

under section 57 (3) of the *Queensland Competition Authority Act 1997* on a competitive neutrality complaint lodged by Robin Russell and Associates Pty Ltd against the Wide Bay-Burnett Electricity Corporation.

The complaint

Pursuant to s.46 of *Queensland Competition Authority Act 1997* (the Act), the Queensland Competition Authority (QCA) investigated a complaint lodged by Robin Russell and Associates (the complainant). The complaint related to the costing practices of the Wide Bay-Burnett Electricity Corporation (WBSEC).

The WBSEC is a declared significant business activity for the purposes of the application of competitive neutrality principles pursuant to Part 4 of the Act. The concept of competitive neutrality requires that a government significant business activity should not be the subject of any net advantage or disadvantage by reason its ownership by government. The complainant alleged that the WBSEC did not act in a competitively neutral manner when costing, for reimbursement purposes, the design and construction of electricity reticulation and street lighting by private sector developers.

The decision

As the Ministers responsible under the Act, pursuant to ss.57(1)(a) and 57(1)(b):

- (1) we accept the QCA’s view that the complaint is substantiated; and
- (2) having accepted that the complaint is substantiated, we accept the QCA’s recommendations on how failure to comply with the principle of competitive neutrality can be remedied, namely that the WBSEC should:
 - a) be required to include provisions for the items identified in section 6.3 of the QCA’s report in any future estimates of the cost of design and construction provided to private sector developers;
 - (b) refine its estimating process so that more reliable estimates are produced in respect of individual projects;
 - (c) apply a public benefit test before any consideration is given to reversing the current policy of allowing private sector developers to undertake the design and construction of electricity reticulation and street lighting; and
 - (d) clearly distinguish the general approach to the developer security arrangements from the approach to costing infrastructure and present the details in a simple form available to developers. In particular, the method of costing to be applied when services are to be provided by the Corporation or the private sector needs to be detailed.

Reasons for decision

After considering the report of the QCA, we believe the complaint to be substantiated, in that the WBBEC has breached the principle of competitive neutrality for the reasons stated in the report. This has impacted adversely on the ability of private sector developers to compete in the market for the design and supervision of the construction of electrical reticulation and street lighting.

Because the WBBEC has not included in its estimates costs such as profit, sales tax, debt guarantee fees or an allowance for corporate overheads, we consider that the WBBEC has not acted in a competitively neutral manner. These costs would be incurred by the private sector, therefore, the WBBEC should also include them in calculating its estimates of the costs of the design and construction of electricity reticulation and street lighting by the private sector.

In order to achieve competitive neutrality, the WBBEC should refine its estimating process and provide private sector developers with more reliable estimates in respect of individual projects. (The WBECC does not provide detailed estimates of its costs on an individual project basis.) This would allow developers to better determine whether to employ the services of the WBBEC or a private contractor, thus promoting competition. Whilst the Queensland Government's *Full Cost Pricing Policy* does not require a profit to be made on each and every project, it is considered that as a general rule a profit margin should be incorporated in each project as part of the WBBEC's aim at achieving a commercial rate of return.

Any attempt to withdraw the availability of the design and construction of electricity reticulation and street lighting from the private sector would not promote competitive neutrality within the WBBEC itself, but rather restrict the activities from competition from private providers. Therefore, prior to any consideration to reverse the practice of allowing the private sector to undertake this activity, a public benefit assessment should be submitted to the shareholding Ministers for their consideration.

In order to avoid confusion, the WBBEC should make as transparent as possible, the process of requiring a guarantee that revenue generated by the new development will be sufficient to cover the cost of augmentation of the network. The WBBEC should, therefore, keep the developer security arrangements for augmentation separate from the costing for the provision of infrastructure.

Rob Borbidge
Premier

Joan Sheldon
**Deputy Premier, Treasurer and
Minister for the Arts**

Dated: 13/3/98

Dated: 18/3/98