

Queensland Competition Authority

File Ref: 1413846

5 May 2020

Mr Rod Duke
Chief Executive Officer
Energy Queensland Limited
PO Box 1090
Townsville Qld 4810

Dear Mr Duke

Warning notices for suspected breaches of Electricity Distribution Network Code

I refer to Energy Queensland's letters of 16 April and 1 May 2020 regarding Energex and Ergon Energy (the distributors) using the 'turn off main switch and sticker process' (MSS process) to disconnect vacant properties during the coronavirus disaster. The Queensland Competition Authority appreciates that the decision to use the MSS process is intended to support the commitment of the Queensland Government, and the distributors, to not disconnect customers facing difficulty paying their bills during the disaster, and the distributors' commitment to manage disconnections and reconnections in vacant properties during the disaster.

The QCA is, however, concerned by the potential risks associated with any use by the distributors of the MSS process to disconnect vacant premises. We consider that, by using the MSS process in this situation, material safety risks will arise because customers (or potentially other members of the general public) could "reconnect" by removing stickers rather than reconnection being undertaken in accordance with the *Electrical Safety Regulation 2013* (Qld). Using the MSS process also exposes electricity retailers to adverse financial impacts through unidentified customers removing stickers and taking supply.

The QCA welcomes EQ's advice that it is conducting a comprehensive safety risk assessment for the various disconnection scenarios (including the use of the MSS process), and is working to transition the business back to its pre-coronavirus operating state. However, we note the possibility that Energex and Ergon Energy may use the MSS process for vacant premises disconnections in response to any new or altered circumstances associated with the coronavirus disaster. The QCA considers that such a decision would be premature and should only be made after EQ has completed the risk assessment, and when the use of the MSS process for vacant property disconnections is endorsed by the Electrical Safety Office.

I also draw your attention to our CEO's letter of 23 April 2020, which asked EQ to provide information on the total number of vacant property disconnections performed since 20 April 2020, disaggregated by those done physically and those done using the MSS process, as well as any financial implications of using the MSS process instead of the physical disconnection process. I note that EQ's letter of 1 May does not provide this information, indicating only that Energex and Ergon Energy will be able to recommence physical disconnections earlier than originally anticipated. This implies that vacant property disconnections have been conducted by the MSS process, and does not give any clarity on the extent to which they are, or may be, continuing to be done via the MSS process.

The QCA considers that Energex and Ergon Energy may, as a consequence of using the MSS process to disconnect vacant properties, be in breach of two requirements of the Electricity Distribution Network Code (the code) by:

- not carrying out standard service orders for disconnection in accordance with chapter 3 of the code, the 'B2B Procedures (service order process)' (issued by the Australian Energy Market Operator) and the various pieces of electricity legislation (particularly the *Electrical Safety Regulation 2013* (Qld)) (clause 3.7.2(b)); and
- not meeting the timeframes for completion of disconnection service order requests (clause 3.7.3).

Accordingly, the QCA is issuing the distributors with the attached warning notices under section 120S of the *Electricity Act 1994* (Qld). In making the decision to issue the warning notices, the QCA has had regard to the objective of the code (as required by section 120R of the Electricity Act).

In your letter of 16 April 2020, you indicated that the distributors ceased all disconnections on 18 March 2020 and that the distributors would use the MSS process to disconnect vacant properties from 20 April 2020. The QCA considers that where the MSS process is used in circumstances other than provided for in clause 3.7.4 of the code, clause 3.7.2(b) will have been breached because the service order has not been carried out in accordance with chapter 3 of the code, the relevant B2B procedures and the electricity legislation. Therefore, the QCA's warning notices to Energex and Ergon Energy require the distributors to provide information on the total number of vacant property disconnections performed between 20 April 2020 and the end of the *warning period* (19 May 2020 (inclusive)), disaggregated by those done physically and those done using the MSS process.

Regarding timeframes for completing disconnection service order requests, the QCA considers that any non-compliance with clause 3.7.3 would be, at least in part, likely to be connected to the distributors ceasing disconnections during the coronavirus disaster to protect the interests of customers who may be facing difficulty paying their bills. Therefore, having regard to the code objective and the factors the QCA may take into account in making enforcement decisions—including the interests of customers—the QCA is not issuing warning notices in respect of suspected breaches of completion timeframes for disconnection service order requests where these relate to disconnection for non-payment due to customer hardship during the coronavirus disaster.

However, to the extent that the distributors may not have completed disconnections within specified timeframes due to using the MSS process, we suspect disconnection service order timeframes in clause 3.7.3 may not have been complied with. Accordingly, the QCA's warning notices to Energex and Ergon Energy require the distributors to provide information on the number of standard service orders for disconnection that, between 20 April 2020 and 19 May 2020 (inclusive) were completed on time and not on time.

The QCA considers that the warning notices are of a type that require urgent action by the distributors. Accordingly, the warning period in the notices—being the period after which a code contravention notice(s) may be given unless the warning notices are complied with—is 10 business days from the date of the notices. Energex and Ergon Energy may, within the warning period, provide written submissions to the QCA showing why a subsequent contravention notice should not be given. The notices also outline the steps that are necessary for the distributors to take, within the warning period, to remedy the contraventions of the code or avoid their future recurrence.

Finally, I also draw your attention to clause 1.1.6 of the code which provides that, if a distributor breaches the code, it must remedy that breach as soon as practicable. In addition to requiring the distributors to provide the information outlined above, the notices require the distributors to provide a remedial plan to the QCA setting out the actions they will take, and the timeframes in which they will take the actions, to remedy any breaches of the code, and to undertake to comply with the plan once it is approved by the QCA.

The QCA will publish this letter and the notices on its website on 20 May 2020. Should you require more information from the QCA on this matter, please contact Mr Charles Millsteed, CEO, on (07) 3222 0555.

Yours sincerely

A handwritten signature in black ink, appearing to read "Flavio M. Menezes".

Professor Flavio Menezes
Chair

5 May 2020

Warning notice under section 120S of the Electricity Act 1994 (Qld)

Issued to Energex Limited

Particulars of contravention

The Queensland Competition Authority (QCA) suspects that Energex Limited (Energex) has been and continues to be in material breach of clauses 3.7.2(b) and 3.7.3 of the Electricity Distribution Network Code (the Code) by:

- not carrying out standard service orders for disconnection (where the 'main switch and sticker' process has been invalidly used) in accordance with chapter 3 of the Code, the 'B2B Procedures (service order process)' (issued by the Australian Energy Market Operator) and the various pieces of electricity legislation (particularly the Electrical Safety Regulation 2013 (Qld))
- not completing service order requests for disconnections with specified timeframes due to using the MSS process.

Required action

The QCA proposes to issue Energex with a code contravention notice under section 120V of the *Electricity Act 1994* (Qld) unless Energex:

- takes steps reasonably necessary to remedy the contraventions; and
- gives the QCA a written assurance that it will avoid any similar future contravention, and take steps reasonably necessary to avoid a future recurrence of the contravention.

Warning period

The QCA considers that the contravention or likely contravention requires urgent action by Energex. Accordingly, the warning period is 10 business days from the date of this notice.

Right to make submissions

Energex may, within the warning period, provide written submissions to the QCA showing why the proposed contravention notice should not be given.

The steps Energex should take to remedy the contravention

The QCA believes the steps that are necessary for Energex to take, within the warning period, to remedy the contraventions of the Code or avoid their future recurrence are to provide:

- information on the total number of vacant property disconnections performed between 20 April 2020 and 19 May 2020 (inclusive), disaggregated by those done physically and those done using the MSS process;
- information on the number of standard service orders for disconnection that, between 20 April 2020 and 19 May 2020 (inclusive) were completed on time and not on time; and
- a remedial plan to the QCA setting out the actions Energex will take, and the timeframes in which Energex will take the actions, to remedy any breaches of the code, and to undertake to comply with the plan once it is approved by the QCA.

5 May 2020

Warning notice under section 120S of the Electricity Act 1994 (Qld)

Issued to Ergon Energy Corporation Limited

Particulars of contravention

The Queensland Competition Authority (the QCA) suspects that Ergon Energy Corporation Limited (Ergon) has been and continues to be in material breach of clauses 3.7.2(b) and 3.7.3 of the Electricity Distribution Network Code (the Code) by:

- not carrying out standard service orders for disconnection (where the 'main switch and sticker' process has been invalidly used) in accordance with chapter 3 of the Code, the 'B2B Procedures (service order process)' (issued by the Australian Energy Market Operator) and the various pieces of electricity legislation (particularly the Electrical Safety Regulation 2013 (Qld))
- not completing service order requests for disconnections with specified timeframes due to using the MSS process.

Required action

The QCA proposes to issue Ergon with a code contravention notice under section 120V of the *Electricity Act 1994* (Qld) unless Ergon:

- takes steps reasonably necessary to remedy the contraventions; and
- gives the QCA a written assurance that it will avoid any similar future contravention, and take steps reasonably necessary to avoid a future recurrence of the contravention.

Warning period

The QCA considers that the contravention or likely contravention requires urgent action by Ergon. Accordingly, the warning period is 10 business days from the date of this notice.

Right to make submissions

Ergon may, within the warning period, provide written submissions to the QCA showing why the proposed contravention notice should not be given.

The steps Ergon should take to remedy the contravention

The QCA believes the steps that are necessary for Ergon to take, within the warning period, to remedy the contraventions of the Code or avoid their future recurrence are to provide:

- information on the total number of vacant property disconnections performed between 20 April 2020 and 19 May 2020 (inclusive), disaggregated by those done physically and those done using the MSS process;
- information on the number of standard service orders for disconnection that, between 20 April 2020 and 19 May 2020 (inclusive) were completed on time and not on time; and
- a remedial plan to the QCA setting out the actions Ergon will take, and the timeframes in which Ergon will take the actions, to remedy any breaches of the code, and to undertake to comply with the plan once it is approved by the QCA.