

Our Ref: Gary Henry  
Direct Line: (07) 3222 0504  
File Ref: 342863

16 November 2010

Mr Ian McLeod  
Chief Executive Officer  
Ergon Energy Corporation Limited  
PO Box 15107  
City East Qld 4002

Dear Mr McLeod

Ergon Energy has failed to meet five of the six minimum service standards (MSS) that it is required to meet under clause 2.4.2 of the Electricity Industry Code (the Code) in both 2008-09 and 2009-10. While the Authority considers that this unsatisfactory performance may constitute a breach of the Code, there appears to be little that Ergon Energy can do at this stage to mitigate its past performance.

However, the Authority is concerned that Ergon Energy customers are not receiving the quality of distribution service envisaged under the Code and for which they are being charged in accordance with the latest determination by the Australian Energy Regulator and that Ergon Energy may have taken insufficient steps to address its unsatisfactory performance. In this regard, on the basis of Ergon Energy's past performance and the information currently available to the Authority, the Authority reasonably suspects that Ergon Energy will again fail to meet its MSS in 2010-11.

The *Electricity Act 1994* (the Act) allows the Queensland Competition Authority to issue an entity with a warning notice in situations where:

- (a) the Authority is of the view that there has been, is or is likely to be, a material contravention of the Code; and
- (b) the Authority proposes to issue a contravention notice (as provided in section 120V) if the entity fails to adequately meet the requirements of the warning notice.

While section 120R of the Act does not define "material", it outlines the criteria for determining whether a contravention is material. One of the criteria is to have regard to the Authority code objective in section 120G which essentially mirrors the Code objective outlined in clause 1.1.1 of the Code which is as follows:

*The objective of this Code is to promote efficient investment in, and efficient use of, electricity services for the long-term interests of Queensland customers about:*

- (a) *price, quality, reliability and security of supply of electricity; and*
- (b) *the reliability, safety and security of the Queensland electricity system.*

The Authority is of the view that a failure by Ergon Energy to meet its MSS in 2010-11 would likely constitute a material breach of the Code.

Therefore, the Authority is issuing Ergon Energy with the attached warning notice pursuant to section 120S of the Act, placing it on notice that, should it again fail to meet its MSS in 2010-11, the Authority will consider issuing a Code Contravention Notice and, potentially, take further action as allowed under the *Electricity Act 1994*.

The warning notice places some additional quarterly reporting requirements on Ergon Energy, as we have discussed previously.

Should you have any queries on this matter, please contact Gary Henry on (07) 3222 0504.

Yours sincerely



EJ Hall  
Chief Executive

**Warning Notice issued under section 120S of the *Electricity Act 1994* (the Act)  
Issued to Ergon Energy Corporation Limited  
16 November 2010**

***Particulars of contravention***

Ergon Energy Corporation Limited (Ergon Energy) is required to use its best endeavours to satisfy in 2010-11 the following six Minimum Service Standards (MSS) as set out in clause 2.4.2 of the Electricity Industry Code (the Code):

- (a) SAIDI Limits
  - Urban 149 minutes
  - Short rural 424 minutes
  - Long rural 964 minutes
  
- (b) SAIFI Limits
  - Urban 1.98 events
  - Short rural 3.95 events
  - Long rural 7.40 events

Ergon Energy failed to satisfy five out of six of its MSS in 2008-09 and again in 2009-10.

Based on Ergon Energy's past performance, Ergon Energy's quarterly MSS reports (in particular its June quarter 2010 report), discussions with Ergon Energy and its latest network management plan for 2010-11, the Queensland Competition Authority (the Authority) reasonably suspects that Ergon Energy will again fail to satisfy its MSS for the 2010-11 year.

The Authority considers that a failure to meet its MSS again in 2010-11 is likely to constitute a contravention of the Code by Ergon Energy.

***Required action***

The Authority proposes to issue Ergon Energy with a Code Contravention Notice under section 120V of the Act unless Ergon Energy:

- (a) takes steps reasonably necessary to ensure that it meets, or exceeds, the MSS applicable to its feeder types as required by clause 2.4.2 of the Code in 2010-11;
- (b) takes steps reasonably necessary to avoid future occurrences of the contravention; and
- (c) as part of its quarterly service quality reporting to the Authority under clause 2.6.2 of the Code, provides:
  - (i) year-to-date and forecast (seasonally adjusted) 2010-11 financial year estimates for each of the measures provided in Schedule 1 of the Code;
  - (ii) a detailed explanation for any actual or estimated shortfalls against its 2010-11 MSS for each of the measures provided in Schedule 1 of the Code;
  - (iii) the measures or actions that Ergon Energy has implemented (including expenditure levels) in the preceding quarter in order to ensure that it meets its 2010-11 MSS;
  - (iv) the measures or actions that Ergon Energy proposes to implement (including relevant expenditure) in the following quarter in order to ensure that it meets its 2010-11 MSS; and

- (v) with the exception of the first quarter's reporting, a detailed explanation for any measures or actions (and/or expenditure) proposed under (c)(iv) that Ergon Energy did not implement in the relevant quarter.

***Warning period***

The warning period commences from the date of this notice and continues to 31 August 2011, or such later date as Ergon Energy provides its final report to the Authority on its MSS for 2010-11.

***Right to make submissions***

Ergon Energy may, within the warning period, provide written submissions to the Authority showing why the proposed Code Contravention Notice should not be given.



EJ Hall  
Chief Executive