



Queensland Government
Treasury

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DATE: 28 September 2001

PAGES: 4 (INCLUDING THIS ONE)

MESSAGE:

Mr Rawstron

Please see attached - original correspondence in mail.

Regards

Jeff Pollock

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**Queensland
Government**

**Treasury
Office of Energy**

28 SEP 2001

**Mr M Rawstron
General Manager
Regulatory Affairs Division - Electricity
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602**

Dear Mr Rawstron

I refer to your letter of 20 August 2001 enclosing a copy of the Commission's draft determination in respect to changes to the National Electricity Code (the Code) concerning network and distributed resources.

As a government, we are concerned that the arrangements in the National Electricity Market are sufficiently robust to ensure that the reliability of the power system is maintained at levels which meet the needs and expectations of all segments of the community. Those reliability requirements are embodied in the Code, the Queensland Electricity Act and its regulations, and in the licence conditions for network service providers.

The proposed Code changes include, inter alia, the process which a Transmission Network Service Provider (TNSP) needs to undertake to deliver network augmentations which are required to meet these various reliability requirements. Our concerns generally relate to the provisions which enable any party to delay those necessary reliability augmentations by triggering protracted dispute arrangements which these proposed Code changes introduce.

Queensland has two specific concerns with the ACCC's draft determination:

1. The recommended Code changes allow Code participants and any interested party to dispute "the contents, assumptions, findings or recommendations" of the final report on whether an augmentation meets the ACCC's regulatory test, which the Transmission Network Service Provider (TNSP) is required to prepare under the Code.

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By allowing any party to dispute an augmentation report, potential competitors (or any party with a grievance for that matter) could use the dispute resolution process to delay augmentation projects. As such, the length of the dispute resolution process would act as a significant impediment to the timely development of regulated augmentations.

The proposed Code changes do mitigate to a limited extent these problems by only allowing "valid" submission and disputes to be considered. However, to be considered a "valid" submission, the party need only meet the time limits set out in the Code. The Code also allows the Dispute Resolution Panel (DRP) to disregard any "frivolous" disputes raised by any party, but does not provide a definition for "frivolous".

It is clear that the dispute resolution process could be further streamlined, and the right to challenge further limited in order to prevent vested interests delaying the process. For example, the right to raise a dispute could be limited to parties which can satisfy threshold requirements as is already provided by the existing arrangements.

Gaming of the dispute resolution process, is of particular concern with regard to reliability augmentations, as such behaviour has a direct impact on system security. Security of supply concerns could be alleviated by restricting disputes able to be considered by the DRP in relation to reliability augmentations. For example, the DRP could be limited to consider only those disputes relating to whether or not the augmentation was a reliability augmentation. If the DRP determines that the augmentation is a reliability augmentation then no further dispute matters should be considered. The potential for the removal of assets from a TNSP's regulatory asset base would seem provide sufficient discipline in regards to other matters raised by interested parties. Further, restricting the parties able to dispute a reliability augmentation, as is currently the case, is supported by Queensland.

- 2. The recommended Code changes require the Inter-regional Planning Committee (IRPC) to develop guidelines for determining whether an augmentation is a reliability augmentation or has a material inter-network impact.

Queensland is concerned that the IRPC will be required to interpret the Queensland Electricity Regulation when developing the guidelines for the definition of a-reliability augmentation.

As the ACCC itself notes the Code consultation process would only reduce the possibility of legal misinterpretation if all parties remain vigilant and have sufficient resources to validate IRPC recommendations.

It should be noted that, without an additional requirement on the IRPC to periodically review these guidelines, the Code consultation process does not ensure the guidelines remain up to date.

Further, some participants continue to have concerns that the IRPC is not accountable for the performance of its functions, nor has sufficient resources to complete the necessary tasks in a timely manner.

In summary, the Queensland Government is concerned with the proposed dispute resolution process with regard to reliability augmentations and supports a continuation of the current arrangements, where the only parties who can dispute a reliability augmentation are those whose TUoS is materially increased as a consequence.

Should you have any queries in relation to these comments, please contact Mr Jeff Pollock of the Queensland Energy, Office of Energy on (07) 3224 6372.

Yours sincerely



Jeff Pollock
Director - Energy Markets
Office of Energy