



11 July 2003

Mr Sebastian Roberts
Acting General Manager
Regulatory Affairs - Electricity
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

Our ref: BN008/0005/0071

Dear Mr Roberts,

DRAFT SERVICE STANDARDS GUIDELINES

We refer to the request for submissions on Draft Service Standards Guidelines ("Guidelines"), due by 4 July 2003 and ask that you accept this submission on behalf of Ergon Energy Pty Ltd ("Ergon Energy"). Ergon Energy actively participates as a Retailer in the National Electricity Market and holds retail licences in Queensland, New South Wales, Victoria and the Australian Capital Territory.

Please be advised that Ergon Energy is also a joint signatory to the Energy Retailers Association of Australia's ("ERAA") submission to the ACCC on this matter. Ergon Energy will also be attending the public forum to be held with respect to this consultation on 15 July 2003.

Ergon Energy would be pleased to discuss our submission with the ACCC and to be involved in any further consultation process. In the interim, should you require clarification on any point in our submission please do not hesitate to contact me on (07) 3228 8134 or Michael Callow on (07) 3228 8259.

Yours faithfully,

Rebecca Myers
Energy Regulation Manager

ERGON ENERGY



SUBMISSION TO THE ACCC:
DRAFT DECISION – STATEMENT OF
PRINCIPLES FOR THE REGULATION
OF TRANSMISSION REVENUES –
SERVICE STANDARD GUIDELINES

1. Introduction

We refer to the ACCC's request for comments on the "*Statement of Principles for the Regulation of Transmission Revenues – Service Standard Guidelines*" ("Guidelines") and ask that you accept this as Ergon Energy Pty Ltd's ("Ergon Energy") submission on the issues raised therein.

As a general comment, Ergon Energy strongly supports the adoption and implementation of a service standards regime for Transmission Network Service Providers ("TNSPs"). We are of the view however that the Guidelines in their current form will not deliver the desired improvements as they are too prescriptive and do not provide sufficient incentive to TNSPs. We consider that an effective regime should incentivise/penalise TNSPs on the basis of the market impact that a TNSPs performance has on the effective operation of the market as a whole.

Please be advised that Ergon Energy is also a joint signatory to the Energy Retailer's Association of Australia's ("ERAA") submission to the ACCC on this matter and this submission provides comment in addition to that of the ERAA.

2. Characteristics of an Effective Service Level Regime

Ergon Energy considers that for service levels to be effective they must focus on the *market impact* of transmission failures. That is, an effective service level regime should not just focus on the occurrence of service related events, it should also focus on the materiality that those events have on the effective performance of the market. We are however of the firm belief that the Guidelines apply a narrow, prescriptive approach to determining the performance of TNSPs which focuses on the occurrence of events without reference to their wider impact.

The proposed service levels fail to take into account that both:

- the timing of a transmission failure; and
- the relative importance of the particular transmission asset to the wider effective operation of the market, are of critical importance.

The impact of a particular transmission failure will depend to a great extent on when the failure occurs (eg at peak or off-peak times) and whether or not the transmission asset is critical to the interconnection of the network (ie whether or not there are other alternatives). The proposed service levels do not adequately take these factors into account. Accordingly they do not adequately incentivise TNSPs to take control of the factors that impact on market outcomes.

Linking the performance measures to factors such as demand levels and/or temperature will enhance any incentive to ensure delivery of the required service levels at critical times. It is our view that measuring availability alone irrespective of whether the network is in fact required to transport energy is not an effective performance measure.

Ergon Energy considers that effective service levels must focus on the delivery of critical transmission services. We are of the view that the proposed performance measures fail to achieve this as they are focused on specific criteria that are not directly referable to the market impact caused by the TNSP.

3. Consistency of Performance Measures and Availability of Data

Whilst it is acknowledged that the ad hoc collection of performance data to date has led to difficulties in formulating standard performance measures across TNSPs at this point in time, we note that there is no clear requirement in the Guidelines requiring TNSPs to implement clear and consistent standard performance measures going forward.

We foresee that it is likely, due to the fact that there is limited historical performance information available for the majority of TNSPs, that there may be insufficient information available at the next revenue determination period start to implement the service standard regime. This will mean a delay in implementation of between five to seven years in the case of some TNSPs dependent upon the timing of the revenue determination process. Accordingly we think that it is imperative for the Guidelines to require TNSPs to collect sufficient performance data from which effective service levels can be determined at the time of the next revenue determination.

The Guidelines do not propose any escalation in the targets during the revenue determination period. We suggest that a staged process should be implemented whereby the performance measures could be “ramped up” over the period of the next revenue determination. We are not aware of any reason why this could not be implemented over the life of the determination.

4. Adequacy of Incentive Cap

We query whether a 1% performance target/penalty is an adequate incentive for TNSPs to meet the service levels. In any event, if it is determined that this is a reasonable cap at this early stage of development of the regime, we consider that there is scope to increase the cap, perhaps on an annual basis, over the life of the revenue determination. On the basis that the level of money “at risk” is relatively low, we consider that this further supports the argument to set more challenging/market based performance criteria such that the determination doesn’t simply deliver a 1% windfall to TNSPs.

In the medium term, debate will need to occur upon who should bear the risk of transmission service events that cause financial impacts upon the electricity market. Whilst Ergon Energy recognises that this may be a leap too far in the short term, the immediate introduction of market impact measurements and reporting needs to occur if TNSPs are to truly understand their influence upon market outcomes. In the long term a service standard regime must continue to transition towards causers bearing market based risk.

We also seek confirmation that there will be no adjustment in the Weighted Average Cost of Capital Calculation (“WACC”) as part of TNSPs revenue determination to take account of the additional risk that is to be taken on by TNSPs as a part of the service standards regime.

5. Force Majeure

The definition of Force Majeure is extremely broad. In particular the definition includes both "fire" and "lightening". In light of the fact that these events are relatively common occurrences in the vicinity of powerlines we consider that it is inappropriate that they be included in the definition of Force Majeure. Whilst the occurrence of these events is not reasonably within the control of a TNSP, a TNSP has the ability to manage and control their effect through a variety of technical means. By defining these events as Force Majeure events the Guidelines effectively remove any incentive for TNSPs to manage the effect of these events.

In light of the fact that such events are common causes of transmission system failure we consider that service standards should include such failures, thereby creating an incentive for TNSPs to adopt measures to protect against such failures.

6. Conclusions

Ergon Energy supports the adoption of a service standard guidelines for TNSPs. We are however of the firm view that the Guidelines do not go far enough to ensure the delivery of improved transmission services. We are also concerned that the Guidelines do not provide sufficient scope to adopt more rigorous service standards in the short to medium term.

Further the service standards do not sufficiently consider the market impact of transmission failure. In summary we are of the view that this can be best achieved by:

- Utilising performance measures that reflect the time varying nature of the TNSP services; and
- Ensuring that performance measures reflect the fact that transmission failures have a varying impact on the market depending on how critical they are to the performance of the network as a whole.

We thank you for the opportunity to comment on this submission and we would appreciate the opportunity to participating in the ongoing consultation process. We also look forward to participating in the public forum to be held on 15 July 2003.