

Mr Philippe Laspeyres
Senior Regulatory Analyst
NT Utilities Commission
Sent by email

Dear Philippe

Re: Consultation Version of “Draft Guaranteed Service Level Code”

Introduction

I refer to your email dated 28 November 2011 in which you provided the Draft Code and the Consultation Paper. I understand that submissions are due by Friday 9 December 2011.

QEnergy supports the introduction of the Guaranteed Service Level Code and the direction being taken by the NT Utilities Commission (‘the Commission’) to improve service quality outcomes in the Northern Territory.

That said, QEnergy has several comments which, if adopted, may strengthen the Code and better meet the Commission’s objectives in this regard. These can be grouped under (a) general comments about GSL schemes and competition; and (b) the extension of the scheme to customers using between 100MWh per annum and 750MWh per annum.

Service Quality and Competition

Service quality is about empowering customers, engaging them in understanding the service they currently receive from networks as distinct from retail, and establishing a legal relationship between network companies and customers. There are numerous competition benefits from establishing arrangements and Codes that clarify the different services provided by network companies and retail companies, and these are accentuated in the Northern Territory because of the long-standing bundled service delivery that preceded QEnergy’s entry into the market. The GSL Code is extremely important in this regard.

Power and Water has not taken any proactive steps since QEnergy’s entry into the market, or indeed since the announcement of FRC, to make clear to customers that connection, metering, service quality and overall reliability are network issues. To this end, many of the discussions relating to potential churn have centred on matters which are essentially network issues, such as “will I still receive the same standard service under QEnergy” or “will I be disconnected if I churn”. These responses are not uncommon and for this reason, network companies have traditionally been required to make customers aware of these issues in preparing for FRC. In the NT, this has not occurred.

It is critical that the GSL Code contain provisions requiring Power and Water to make clear that service quality is a network issue – at present this is not clear enough. This issue is dealt with in the detailed comments that follow this introduction.

Customers Covered by the GSL Scheme

Chapter 3, paragraph 3.6 of the Consultation Paper makes clear that the Scheme is intended to apply to customers using less than 100MWh per annum. The Paper correctly identifies that this approach has national precedent, with schemes across the country subject to similar limitations.

In entering the Northern Territory, numerous representations have been made to QEnergy by the Commission, Power and Water and Government that the “Territory is different” to the NEM, and that alternative arrangements are required to best fit the environment, the market and the precedent over the last ten years. This is one example where the NEM approach would not be suitable.

The market segment from 100MWh to 750MWh is considerably different to that in the NEM, where in most States the 0-100MWh threshold was essentially the last customer tier released to competition, where multiple retailers operated in the above 100MWh market and consequently where “standard form customer contracts” existed for the below 100MWh customer segment and “market contracts” for the most part operated above this threshold. For this reason, the decision that customers above 100MWh were well equipped to deal with negotiated service quality outcomes, and below 100MWh were not, was the right decision based on the depth of the retailer market supplying the customers and the time spent by those above 100MWh customers in the market.

The 100-750MWh customer segment in the Northern Territory has never been subject to competition, has always been provided with a bundled service, and has never been informed to QEnergy’s knowledge through a press release or direct notification that it is contestable and able to negotiate with alternative retailers. To put it simply, to assume that these customers could negotiate with Power and Water, retail or networks, in relation to service quality, is inaccurate and inappropriate.

List of Suggested Amendments

QEnergy submits that:

1. The scope of the Code be extended to customers using less than 750MWh per annum until there is sufficient competition in the retail market, and sufficient counter-veiling market power held by the customers, to enable the customers (or their retailers) to negotiate service quality outcomes through contract;
2. That the Code be strengthened beyond best endeavours as it applies to Power and Water. The term “best endeavours” has no status in law, and does not provide customers or retailers with any certainty that Power and Water will make the necessary notifications or payments. QEnergy’s experience with Power and Water is that it has every intention of using the maximum provisions in every Code and instrument to its advantage. This is not good enough for QEnergy’s customers. The exclusions are already broad enough, and the GSL amounts low enough, for Power and Water to remove all of the risk of inaccurate process. To allow “best endeavours” renders the Code ineffective.

3. The dispute procedures be streamlined to allow retailers and customers, through their retailers, to have timely access to the Commission for the dispute procedures. The Commission is aware of Power and Water's past positions in relation to the use of maximums in each instrument as they relate to customers and retailers and disputes under any instrument are almost inevitable. Unless dispute procedures are clear, simple, and costless for participants, they will be a hindrance to competition.
4. QEnergy does not consider that the funding for the GSL payments should be levied onto customers. A GSL payment is a penalty for inadequate service and should be funded from efficiencies in Power and Water's operations. Customers, whether supplied by Power and Water or QEnergy should not have to pay twice.

Overall, the Draft Code is well considered and a step in the right direction. The only failing in the current drafting is that it does not have regard to the feedback given to the Commission by large customers and QEnergy about past and ongoing negotiations with Power and Water in relation to service quality and procedures. The fact that small customers are not engaged in this process merely reflects that they are not currently represented in the market.

Should it prove helpful, I would be available to discuss QEnergy's responses with you in detail to assist in informing future deliberations.

Best regards

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