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

Dear Philippe

Re: Supplementary Submission to the Code Change Application

This is QEnergy's supplementary submission regarding proposed changes to the *Electricity Retail Supply Code* (the Code). This submission follows from our previous Code change request and is made under section 2.2.1 of the Code.

With respect to the application of rules relating to prudential requirements, QEnergy has in our previous submission indicated that we felt that the prudential requirements levied where a retailer is unable to satisfactorily demonstrate to the generator that it meets the credit rating requirement should be reduced from two times the forecast maximum monthly charge to 0.5 times the forecast maximum monthly charge.

QEnergy has separately been pursuing with Power and Water Corporation a relaxation of the requirement for prudentials under the current regime, which application has been refused. However this process has highlighted further refinement to the Code construction which should be considered.

In the current Code, an ***acceptable credit rating*** is defined as a credit rating of BBB+ (or its equivalent) or higher from Standard and Poors, Fitch Ratings or Moody's Investor Services.

The adoption of a rigid credit-rating oriented approach to the provision of network support in the National Electricity Market led to issues similar to those experienced by QEnergy with Power and Water Corporation, where prudentials were barriers to both entry and the promotion of competition.

As a result Victoria, Queensland, and ultimately the National Energy Consumer Framework (NECF) adopted an approach endorsing the use of Dunn and Bradstreet risk scoring in cases where a retailer does not have a credit rating from the agencies defined above.

In the final draft of the *National Electricity (Retail Support) Amendment Rules 2010* of the NECF suite of regulation, *Schedule 6B.1* provides ratings equivalencies for Dunn and Bradstreet dynamic risk scores relative to the other recognised ratings agencies as given overleaf.

Based on this table – which has been widely consulted across the country and is in use now in Queensland prior to the commencement of NECF, as well as being in the process of being adopted in South Australia, Tasmania and the Australian Capital Territory – QEnergy suggests that the definition of ***acceptable credit rating*** be changed as follows:

> ***acceptable credit rating*** *means a credit rating of BBB+ (or its equivalent) or higher from Standard and Poors, Fitch Ratings or Moody's Investor Services, or a Dunn and Bradstreet Dynamic Risk Score of Low or better.*

Further to this point, we note that the table given as *A.A Schedule 1 – Calculating Credit Allowance Percentage* of the Code is based on an old version of this table in the *National Electricity (Retail Support) Amendment Rules.* Consequently, it should be replaced by the current version being introduced through the NECF legislation for the purposes of calculating network prudential requirements levied by Power and Water Corporation, as well as forming the basis of generation credit assessment equivalencies.

Schedule 6B.1 Credit support allowance percentages

Standard and Poor's / Fitch Rating	Moody's Rating	Dun and Bradstreet dynamic risk score	Credit allowance (% of Maximum)
AAA	Aaa		100.0%
AA+, AA, AA-	Aa1, Aa2, Aa3	Minimal	100.0%
A+, A, A-	A1, A2, A3	Very Low	100.0%
BBB+	Baa1	Low	52.9%
BBB	Baa2	Average	37.5%
BBB-	Baa3		22.0%
BB+	Ba1		17.0%
BB	Ba2	Moderate	11.0%
BB-	Ba3	High	6.7%
B+	B1	Very High	3.3%
B	B2		1.4%
B-	B3	Severe	0.9%
CCC/CC	Caa, Ca, C		0.3%

Secondly, in the current Code, clause 3.4.1 defines the **Form of Credit Support** as a bank guarantee or:

(b) an unconditional guarantee or other form of irrevocable credit support that is:

(i) in a form that is acceptable to the ***network provider*** or ***generator*** (whichever is applicable) at its sole discretion; and

(ii) issued by an entity with an ***acceptable credit rating***.

QEnergy considers that this leaves the arrangements too open for the exercise of power by Power and Water Corporation. [redacted]

Accordingly, QEnergy suggests that clause 3.4.1(b) define the **Form of Credit Support** as:

(b) an unconditional guarantee or other form of irrevocable credit support that is:

(i) in a form that is acceptable to the ***Northern Territory Utilities Commission*** at its sole discretion; and

(ii) issued by an entity with an ***acceptable credit rating***.

An assessment of these proposed changes to the Code highlights the importance of their consideration:

Criteria for Assessment	Statement of Reasons
Meets the Code Objective	This Code change is brought under 1.6.1(b) and is therefore consistent with the objectives of the Code.
Need to promote competitive and fair market conduct	As it stands, Northern Territory assessments of an adequate credit rating and power to determine adequate instruments are more stringent than those in use outside the Territory. This is a barrier to entry and prohibits competition for those who do not fall into that retail category.
Need to prevent misuse of monopoly or market power	QEnergy does not suggest that PAWC is misusing market power. Power and Water Generation is behaving as has been proscribed by the Code.
Need to facilitate entry into relevant markets	The Code as it currently stands inhibits entry into the Northern Territory market by small retailers which do not have a credit rating or are Government owned, or do not have access to unlimited bank guarantees. This is a significant barrier to entry and one which does not exist in the National Electricity Market.
Need to promote economic efficiency	The current Code arrangements are inefficient. Other states do not require the level of credit support or rating to participate in the market that is currently implied by the Code, thereby inhibiting competition and reducing economic efficiency.
Need to protect the interests of consumers with respect to reliability and quality of services and supply in regulated industries	There would be no impact on reliability or quality of service.
Need to facilitate maintenance of the financial viability of regulated industries; and	No impact as the Code change does not relate to the supply of network services.
Need to ensure an appropriate rate of return on regulated infrastructure assets	No impact as the Code change does not relate to the supply of network services.

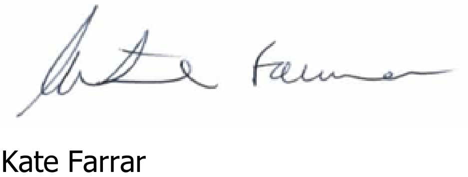
Conclusion

As per our previous submission, QEnergy does not make this Code change request lightly and, as noted in discussions, it would prefer to be able to reach commercial agreements with PAWC which might provide these solutions in a less public, less expensive and less confrontational manner.

That said, the end result of these changes will be advantageous to competition and to the market which is particularly important now that there is another licenced competitive retailer operating in the Northern Territory.

As is the case for all matters, QEnergy remains open to discuss or clarify any matter relating to this request. I look forward to future dealings as we work towards a regime that rewards diversity, choice and customer service over time.

Yours sincerely



Kate Farrar

Managing Director