APPLICATION FOR AMENDMENTS TO THE RETAIL SUPPLY CODE

CONSULTATION PAPER

July 2012

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Call for submissions

Submissions are invited from interested parties concerning the issues raised in this Consultation Paper and any related matters.

Submissions should be directed in the first instance:

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The closing date for submissions is **Wednesday 17 August 2012**.

Confidentiality

In the interest of transparency and to promote informed discussion, the Commission will make submissions publicly available.

Persons wishing to submit confidential information should:

- clearly identify the relevant sections of the submission that are confidential, so that the remainder of the document can be made publicly available; and
- provide a copy of the submission suitable for publication with any confidential material removed

Confidential information is defined in section 26 of the *Utilities Commission Act* as information that could affect the competitive position of a licensed entity or other person or information that is commercially sensitive for some other reason.

Public access to submissions

Subject to the above, submissions will be made available for public inspection at the office of the Commission and on its website (www.utilicom.nt.gov.au).

To facilitate publication on the Commission's website, submissions should be provided electronically in Adobe Acrobat or Microsoft Word format by CD, DVD, or email. However, if this is not possible, submissions can be made in writing.

CHAPTER 1

Application to amend the Retail Supply Code

Introduction

1.1 The Utilities Commission of the Northern Territory (the Commission) is an independent statutory authority responsible for economic regulation of the electricity supply industry, which is governed by the *Utilities Commission Act* (the Act), the *Electricity Reform Act*, the *Electricity Networks (Third Party Access) Act*, and associated legislation.

1.2 Under the Act, the Commission has the power to make codes and rules if authorised to do so under a relevant industry regulation Act or by regulations under the Act[1]. These relevant industry regulation Acts include the *Electricity Reform Act,* and the *Electricity Networks (Third Party Access) Act* among others.

1.3 On 3 August 2011, the Commission made an Electricity Retail Supply Code (the Code) in accordance with the Act.[2] The Code prescribes matters relating to:

- arrangements between electricity businesses for the transfer of customers between retailers;
- arrangements between generators and retailers including credit support and billing;
- arrangements between electricity businesses for business to business interaction;
- arrangements for a retailer of last resort; and
- arrangements for dispute resolution between electricity businesses.[3]

1.4 On 15 May 2012, QEnergy Ltd (QEnergy) made an application to the Commission to amend parts of the Code.[4] The application covers matters relating to credit support arrangements between generators and retailers, access to metering data and customer transfers.

1.5 A copy of QEnergy's application (excluding commercial-in-confidence information) is at Appendix A.[5]

1.6 Under the Act, the Commission is required to keep the contents and operation of codes and rules under review, with a view to ensuring their continued relevance and effectiveness.[6]

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1 Section 24, *Utilities Commission Act*.

2 Ibid.

3 Utilities Commission, Electricity Retail Supply Code Consultation Paper, July 2011, page 1.

4 An electricity entity may make a request for the Commission to vary or revoke parts of the Code under clause 2.2.1 of the Retail Supply Code.

5 A public version of QEnergy's request is found in Appendix A and is discussed in Chapter 2 of this Consultation Paper.

6 Section 24 (9), *Utilities Commission Act*.

1.7 To ensure that the Code remains relevant and effective, the Commission considers that the matters raised by QEnergy warrant further investigation. The Commission will consult with industry participants and stakeholders prior to making a decision on whether to amend the Code and, if so, in what form.

Purpose of this paper and process for consultation

1.8 The purpose of this Consultation Paper is to facilitate discussion with industry participants and stakeholders on the matters raised by QEnergy, including credit support arrangements, access to metering data and customer transfers.

1.9 Chapter 2 of this Consultation Paper outlines QEnergy's application, any comments at the time the Code was developed in 2011, and other developments that may assist interested parties when considering the proposed amendments.

1.10 It is noted that the Commission has not sought comments from Power and Water Corporation (PWC) on the issues raised in QEnergy's application. PWC may wish to respond to any of these issues, which will be considered by the Commission in determining whether amendments to the Code are required.

1.11 The Commission will also consider submissions that propose amendments to the Code that are independent from QEnergy's amendment application. The Commission may also identify other areas of the Code that may require amendments.

1.12 The Commission welcomes submissions on this Consultation Paper by close of business 17 August 2012.

1.13 After reviewing the submissions, the Commission will release a draft decision on what, if any, amendments should be made to the Code, including the potential wording of any amendments. The Commission will invite comments on the draft decision within 30 days.

1.14 After submissions on the draft decision have been reviewed and assessed, the Commission will issue a final decision on what, if any, amendments will be made to the Code and in what form.

1.15 Below is the table which outlines the proposed timeframe for consultation.

Table 1.1: Timeframe for consultation

Action	**Timeframe**
Release of Consultation Paper on QEnergy's application to amend the Code	6 July 2012
Submissions due	17 August 2012
Commission issues Draft Decision on whether to amend the Code	2 October 2012
Comments due on Draft Decision	2 November 2012
Final Decision to amend the Retail Supply Code, including the issuing of a varied Retail Supply Code.	30 November 2012

History of the Retail Supply Code

Full retail contestability

1.16 Full retail contestability refers to regulatory arrangements that provide customers with the option to select their electricity retailer. All Australian jurisdictions made a commitment through the Council of Australian Governments National Competition Policy to encourage competition in the electricity supply industry through facilitating full retail contestability.

1.17 The Territory adopted a staged approach to contestability. All large customers (eg consuming more than 750 megawatt hours (MWh) of electricity each year) were able to choose their retailers from April 2002.[7] Small businesses and household customers (ie consuming less than 750 MWh of electricity each year) became contestable from 1 April 2010.

1.18 Retail contestability requires a coordinated package of systems and processes to facilitate the transfer of customers between retailers, and to protect consumers and electricity entities. These arrangements are generally codified in legally binding regulatory instruments to provide certainty to retailers, the network provider, the market operator, and consumers on the rules associated with retail supply.

1.19 Prior to 2011, the Territory's electricity regulatory framework did not contain any specific requirements for retail supply. At the time, PWC was the only retailer of electricity in the Territory.

Development of the Code

1.20 The Code was developed as a transitional arrangement in response to the entry of a second retailer (QEnergy) into the Territory electricity market on 4 February 2011. The entry of QEnergy identified a need for specific regulatory requirements to facilitate retail supply activities between electricity entities (including the transfer of customers, business to business arrangements between competing retailers, and credit support arrangements between retailers and/or generators and the network provider).

1.21 The Commission was given the power to make a code relating to retail supply under Regulation 2A of the *Utilities Commission Regulations.* Under the Regulations, the Code may deal with one or more of the following:

- transfer of customers between retailers;
- credit support arrangements;
- billing;
- metrology;
- service order arrangements;
- retailer of last resort arrangements; and

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7 Customers using >4GWh were contestable from 1 April 2000, 3-4GWh from 1 October 2000 and 2-3GWh from 1 April 2001.

- dispute resolution.

1.22 On 21 June 2011, the Commission released a draft Retail Supply Code for consultation with the Minister, industry participants, and stakeholders. The draft Code and submissions are available on the Commission's website (www.utilicom.nt.gov.au) and may be read in conjunction with this Consultation Paper.

1.23 On 3 August 2011, the Commission released the Code and accompanying statement of reasons in response to submissions received during the consultation process. These documents are also available on the Commission's website and should be read in conjunction with the Consultation Paper.

1.24 In making the Code, the Commission had regard to the need to:

- promote competitive and fair market conduct;
- prevent misuse of monopoly or market power;
- facilitate entry into relevant markets;
- promote economic efficiency;
- ensure consumers benefit from competition and efficiency;
- protect the interests of consumers with respect to reliability and quality of services and supply in regulated industries;
- facilitate maintenance of the financial viability of regulated industries; and
- ensure an appropriate rate of return on regulated infrastructure assets.[8]

1.25 The Commission anticipated that the transitional arrangements set out in the Code would be further developed based on industry practice, the development of competition, experience with operating the Code, and the development of the regulatory framework.[9]

1.26 On 1 June 2012, a third electricity retailer (ERM Power Retail Pty Ltd) entered the Territory electricity market.

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[8] Section 5 (2), *Utilities Commission Act*.

[9] Utilities Commission, July 2011, Electricity Retail Supply Code – Consultation Paper, page 3.

CHAPTER 2

Application to amend the Retail Supply Code

Summary

2.1 QEnergy has identified a number of concerns relating to credit support arrangements between generators and retailers, access to metering data, and customer transfer arrangements prescribed in the Code. QEnergy has drawn a number of comparisons with regulatory arrangements in the National Electricity Market (NEM). QEnergy suggests that the existing arrangements under the Code provide an unfair competitive advantage to PWC Retail, given the nature of the Territory market and the vertically integrated nature of PWC's electricity business.

2.2 QEnergy has proposed six amendments to the Code, which QEnergy argues will "*improve the workability of the Code and encourage the development of efficient and workable business processes within PAWC relating to commerciality and time critical matters*".[10]

2.3 QEnergy's proposed amendments are:

- reduce the maximum required generation credit support amount payable by a retailer to a generator to two weeks (rather than two months) of generation charges (or the retailer's reasonable forecasts of generation charges);[11]
- reduce the timeframe within which a network provider must respond to a metering data request:
  - (from a retailer) to one business day instead of five;[12] and
  - (from a customer) to one business day instead of 20;[13]
- reduce the timeframe within which a network provider may reject a customer transfer request from a retailer to one business day instead of five;[14]
- reduce the timeframe within which a network provider may advise a retailer of a customer transfer date to one business day instead of five;[15]
- amend the Code to allow PWC Networks to provide data directly to PWC Generation at the request of a retailer;[16] and

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10 QEnergy Limited, Application of Amendments to the Retail Supply Code, see Appendix A
11 Clause 3.2.2, Retail Supply Code.
12 Ibid, Clause 6.2.9.
13 Ibid, Clause 6.3.1.
14 Ibid, Clause 8.2.6.
15 Ibid, Clause 8.2.10 (a).
16 Ibid, Clause 6.2.12.

- amend the Code to remove the right of a network provider to recover the cost of providing metering data to customers and retailers.

Credit support arrangements between a retailer and a generator

Existing arrangements

2.4 Credit support requirements between a generator and a retailer are contained in clause 3.2 of the Code. The Code:

- prevents a generator from requiring credit support from a retailer that either has an ‘acceptable credit rating’ (or its parent company has an acceptable credit rating) or is a fully owned subsidiary of the Australian Federal Government, or an Australian State or Territory Government;[17] and
- allows a generator to require credit support from a retailer up to the ‘required generation credit support amount’ calculated under the Code but only in instances where the retailer does not have an ‘acceptable credit rating’ or is not a fully owned subsidiary of the Australian Federal Government, or an Australian State or Territory Government.[18]

2.5 The Code defines ‘acceptable credit rating’ as a credit rating of BBB+ (or its equivalent) or higher from Standard and Poor’s, Fitch Ratings or Moody’s Investor Services.[19]

2.6 If a generator requires credit support from a retailer, the ‘required generation credit support amount’ is the greater of:

- two times the retailer’s reasonable forecast of its highest generation services bill over the following 12 months (of which the forecast must be updated half yearly); or
- two times the generator’s record of the highest generation services bill issued to the retailers by the generator over the previous 12 months (which will be updated half yearly).[20]

2.7 The time period covered by the highest generation services bill must not exceed one month for the purpose of calculating the ‘required generation credit support amount’.[21]

2.8 The required generation credit support mechanism defined in the Code enables a generator to calculate the maximum amount it may require from a retailer.[22] Retailers and generators can negotiate and agree alternative prudential arrangements.

2.9 The Code prescribes a form of credit support that may be any combination of:

- a bank guarantee that is unconditional and callable on demand and is issued by a financial institution supervised by the Australian Prudential Regulation Authority;

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[17] Clause 3.2.2 (a), Retail Supply Code.
[18] Ibid, Clause 3.2.2 (b).
[19] Ibid, Schedule 1.
[20] Ibid, Clause 3.2.2 (b).
[21] Ibid.
[22] Ibid, Clause 3.2.1.

- an unconditional guarantee or other form of irrevocable credit support that is in a form that is acceptable to the parties at their sole discretion and is issued by an entity with an acceptable credit rating; or
- such other forms of credit that the parties consider to be acceptable.[23]

QEnergy's concern

2.10 QEnergy claims that it is unable to compete on a level playing field, given PWC's dominant market position as a provider of generation services. QEnergy claims that PWC Generation will always require the maximum 'required generation credit support amount' and has been unwilling to negotiate terms below this upper limit. QEnergy also suggests that, as PWC Retail is not required to provide credit support to generators, the arrangements in the Code impose additional financial cost on QEnergy's business, and place it at a competitive disadvantage in the retail electricity market.

2.11 QEnergy claims that PWC has not been willing to consider any other way of mitigating risk to its business, including:

- more flexible forms of credit support from a retailer, such as a trust account; and
- shorter settlement periods (ie billing periods shorter than one month), which will reduce the 'required generation credit support amount' calculated under the Code.

2.12 On arrangements in the NEM, QEnergy claims that:

- most generators do not require credit support from retailers, as these generators are more willing to diversify their client base; and
- the Australian Market Energy Operator (AEMO) will require credit support ('maximum credit limit') from retailers, however, retailers may apply for a 'reduced maximum credit limit', which is calculated on a 28 day credit support duration and "*if any of the load is reallocated back to generators, the residential prudential credit limit payable is 7 days*".

2.13 Given the comparison with the NEM, QEnergy concludes that the 'required generation credit support amount' should be calculated on a 14 day credit support duration (ie 0.5 of the highest generation services bill, or the reasonable forecast thereof). QEnergy believes that this proposed level is "*tolerable and equitable*" in the Territory market.

Comments at consultation

2.14 At the time the Code was developed, the Commission's view was that credit support arrangements:

- are not a deterrent or a penalty to encourage a retailer to pay on time but are an essential protection for the good operation and credibility of the retail market;
- cover the potential worst-case scenario of a non-payment event by a retailer;
- cover billing periods that span the time it takes for any transfer of customer load from a defaulted retailer to the retailer of last resort (RoLR). This includes the time

[23] Ibid, Clause 3.4.1.

required to confirm the credit default, formally cancel the retailer's license, identify affected retail loads, and to transfer those loads to the RoLR; and

- strike an appropriate balance between safeguarding the interests of generators and the need to support retail competition (but without transferring uncommercial financial risk from a retailer to a generator).

2.15 The Commission also noted that the RoLR procedures in the Territory are not fully developed or tested compared to NEM arrangements.

2.16 The Commission decided that the 'required generation credit support amount' should be calculated on a 56 day credit support duration (ie two times of the highest generation services bill, or the reasonable forecast thereof) and that this level of credit support provides an adequate balance between the need to safeguard the interest of the generator and to support retail competition in the Territory.

Approach in the NEM

2.17 In the NEM, retailers can purchase electricity in a wholesale electricity market (from a pool) administered by AEMO. AEMO operates the wholesale electricity market and is required to undertake administrative functions, such as settling the market four weeks after the end of the billing period and enforcing RoLR procedures. Therefore, AEMO requires credit support to protect the integrity of the market in the event that a market participant defaults.

2.18 In defining credit support arrangements and to protect the integrity of the market, AEMO has taken the approach of defining a 'maximum credit limit', which is provided by market participants through a financial guarantee in the prescribed form.[24] The maximum credit limit is calculated through a detailed formula that takes into account average price and regional or NEM-wide factors and trends.[25] The purpose of the maximum credit limit is to define the 'reasonable worst case' scenario, which is *"a position that, while not being impossible, is to a probability level that the estimate would not be exceeded more than once in 48 months".* [26] Therefore, the credit support arrangements in the NEM intend to calculate an amount of credit support that is commensurate with the probability of default in the NEM.

2.19 AEMO has stated that credit support arrangements aim to mitigate risk, but not to eliminate it.[27] Some of the approaches applied in the NEM are provided below.

- The requirement for market participants to provide a guarantee to AEMO that is based on the 'maximum credit limit'. The maximum credit limit is calculated on a 42 day credit support duration. which accounts for a seven day billing period, a 28 day payment period, and a seven day reactive period (the reactive period accounts for the enforcement of RoLR procedures). [28]

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24 AEMO Credit Support Management Guide, March 2011, page 7; <http://www.aemo.com.au/en/About-AEMO/Credit-Support>.

25 AEMO Energy Market Prudential Readiness Review, 13 April 2011, page 14.

26 Glossary, Clause s3.3.1, National Electricity Rules.

27 AEMO National Electricity Rule Request – New Prudential Standard and Framework, 27 July 2011, page 2, footnote 2.

28 AEMO Credit Limit Methodology, May 2012, page 11.

- Ability to apply for a 'reduced maximum credit limit', which is based on a credit support duration of 28 days, which generally accounts for a seven day billing period, a 14 day payment period, and a seven day reactive period.[29] It should be noted that most participants in the NEM have opted to use the reduced maximum credit limit.[30]
- Swap and option reallocation mechanism take into account commercial arrangements that are outside the market but only to the extent that retailers and generators offset their exposure to the pool. These arrangements are called 'reallocation' arrangements. These financial arrangements are negotiated between a pair of market participants and AEMO and aim to reduce settlements amounts and credit support requirements between all parties. Retailers are allowed to utilise reallocations for traded energy to calculate the 'maximum credit limit'.[31] In coming to these arrangements, it is assumed that generators hedge the risk of providing electricity to retailers through private contractual negotiations. The Commission understands that where generators are directly exposed to a retailer in contracts around the NEM or in reallocations, they usually charge a premium to take on risk or require some form of collateral.
- AEMO monitors a Market Participant's trading limit, to ensure that the difference between the 'maximum credit limit' and the prudential margin is sufficient to cover at least seven days of trading for the enforcement of RoLR Procedures.[32] If a Market Participant exceeds the trading limit, a default notice may be issued, and RoLR procedures may be enforced.
- If the credit support amount provided by a defaulted retailer is insufficient to cover the default, AEMO will pro-rata the short payment across all generators.[33]
- Separate credit support arrangements for new retail entrants. As well as being able to utilise reallocation for all of the traded energy, new entrants are able to provide their own load forecasts to calculate the 'maximum credit limit'. This accounts for the size and scope of operations undertaken or soon to be undertaken by the retailer. This change commenced in October 2011 in response to concerns of barriers to entry in the NEM.[34]

2.20 The Commission intends to seek advice from AEMO on appropriate credit support arrangements for the Territory market.

Access to metering data

2.21 QEnergy's proposed amendments are in response to concerns relating to:

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[29] Clause s3.3.1 (b) (6) (iii), National Electricity Rules

[30] AEMO Energy Market Prudential Readiness Review, April 2012, page 26.

[31] Clause 3.3.8 (b), National Electricity Rules; AEMO Credit limit methodology, May 2012, page 16.

[32] For a practical example, see AEMO NEM Prudential Dashboard Support Information, 1 December 2011, page 8; AEMO Credit limit methodology, May 2012.

[33] Clause 3.15.22, National Electricity Rules; AEMO's National Electricity Rule Request – New Prudential Standard and Framework 27 July 2011.

[34] This change was initiated by the Energy Market Prudential Readiness Review; AEMO Energy Market Prudential Readiness Review, April 2011, page 20.

- the timeframes within which a network provider must respond to a data request;
- data arrangements; and
- payment for access to standing data and historical consumption data.

Response time to a data request

Existing arrangements

2.22 The Code contains arrangements that facilitate access to customer metering data. A data request includes a request for metering standing data and historical consumption data. A request can be made to the network provider by a retailer or a customer.

2.23 Clause 6.2.9 of the Code requires a network provider to respond to a data request from a retailer within five business days. In comparison, clause 6.3.9 requires a network provider to respond to a data request from a customer within 20 business days.

QEnergy's concern

2.24 QEnergy claims that PWC will not provide data to a customer or a retailer as soon as possible, leading to what it (QEnergy) considers to be unnecessary time constraints on a competitive retailer. QEnergy believes that PWC Retail can access this data almost immediately and that this will enable PWC Retail to meet deadlines more aggressively. Furthermore, QEnergy believes that this data can be provided to retailers or customers within minutes.

2.25 QEnergy proposes that the timeframe within which a network provider must respond to a data request form should be one business day in all cases.

Comments at consultation

2.26 The Commission notes that no concerns were raised by industry participants and stakeholders during consultation in 2011.

Approach in the NEM

2.27 In the NEM, most data requests are facilitated in accordance with MSATS procedures and MSATS Systems (Market Settlement and Transfer Solutions). CATS (Consumer Administration and Transfer Solution) standing data and historical consumption data are generally provided to relevant Market Participants within two business days.[35]

2.28 Jurisdictional requirements generally require a retailer to identify metering data such as the National Metering Identifier (NMI), NMI Checksum, or NMI standing data (i.e. metering details and parameters) via the MSATS System before a request is made directly to a distributor. If MSATS cannot be utilised to access this data, then jurisdictional requirements may apply. Jurisdictional timeframes for access to standing data vary from one business day to four business days. [36]

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35 AEMO MSATS Procedures: CATS Procedures Principals and Obligations, paragraph 2.4 (o), paragraph 2.6 (a),(b), (m), paragraph 2.8 (a), (b), and (k).

36 Clause 3 (one business day) South Australian Energy Customer Transfer Consent Code; Clause 3 (two business days) Victoria Electricity Customer Transfer Code, Clause 9 (four business days) Market Operations (NSW Transfer Rules for Retail Electricity Supply) Rule No.4 of 2009; Clause 4 (two business days) ACT Electricity Customer Transfer Code.

2.29 It is understood that MSATS provides potential competing retailers with access to “NMI discovery” information only. It does not provide access by competing retailers or customers to actual metering data. It does record the financial responsibility for each customer, supports the transfer of customers between retailers and supports settlement services.

2.30 The National Electricity Rules strictly define the persons who are entitled to access or receive metering data via the MSATS System. This does not include customers.[37] Therefore, metering data must be provided to customers through other means.

2.31 Customer access to metering data varies in each jurisdiction. It appears that most jurisdictional requirements remain silent on the timeframes within which metering data must be provided to customers. However, it is noted that most customers have a right to electronically access this data:

- In Tasmania, New South Wales, and South Australia, a customer is entitled to access historical data either by inspecting the meter or through electronic access at the written request of the customer.[38]
- In Victoria, a retailer must use its best endeavours to provide historical billing and metering data to a customer within 10 business days of a customer’s request or such other period as agreed between the parties.[39]
- In Queensland and the Australian Capital Territory, customers have a general right to access metering data.[40]

2.32 The Commission understands that access to metering data is an issue which continues to develop in the NEM. The Australian Energy Market Commission’s Power of Choice review is looking at possible changes to the NEM to help consumers better manage their electricity consumption. The review is also investigating ways to encourage electricity companies to better facilitate consumer choice and to invest more efficiently. The recommendations from the review are due to be presented to the Standing Council on Energy and Resources in September 2012. The Commission will monitor the outcomes of the review.

Data arrangements

Existing arrangements

2.33 Currently, a retailer is required to make a request for standing data and/or historical consumption data to the network provider. A retailer must then provide this data to a generator for a wholesale generation quote. A retailer may then provide a quote for the provision of retail services to a potential client.

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[37] Clause 7.7 (a), National Electricity Rules.

[38] Clause 9.20, Tasmanian Electricity Code; Clause 5.3, South Australian Electricity Metering Code; Clause 9.2, Market Operations Rule (NSW Rules for Electricity Metering) No.3 of 2001.

[39] Clause 27.2, Victorian Energy Retail Code.

[40] Annexure A clause 15.3, Qld Electricity Industry Code; Clause 7, ACT Utilities (Consumer Protection Code) Determination 2010 (No 2).

QEnergy's concerns

2.34 QEnergy believes that this process is unnecessary and allows PWC to extend data requests and customer transfers for a prolonged period of time, resulting in what it (QEnergy) deems to be unnecessary time constraints on a competitive retailer.

2.35 QEnergy believes that, given the vertically-integrated nature of PWC, the Code should contain provisions that allow any data to be provided directly from PWC Networks to PWC Generation at the request of the retailer.

2.36 The Code remains silent on this issue.

Comments at consultation

2.37 The Commission notes that no similar concerns were raised by industry participants and stakeholders during consultation in 2011.

2.38 The Commission intends to seek advice from AEMO on appropriate timeframes for the provision of data in the Territory market.

Payment for access to standing data and historical consumption data

Existing arrangements

2.39 Clauses 6.2.12 and 6.3.3 of the Code state that a retailer or a customer, must pay any reasonable charges incurred by the network provider in providing standing data and historical consumption data. These charges must be approved by the Commission and published by the network provider.

QEnergy's concerns

2.40 QEnergy believes that these requirements amount to making a payment to access a customer quote. QEnergy argues that this is a barrier to entry and results in sub-optimal outcomes for customers. QEnergy claims that such arrangements are not adopted in the NEM.

2.41 QEnergy proposes that the network provider should be required to provide this data without a right of cost recovery.

Comments at consultation

2.42 During development of the Code, the Commission agreed with the position proposed by PWC that a network provider should be able to recover the reasonable costs incurred in providing data to retailers. The reasonableness of these costs would be determined by the Commission through the approval process defined in the Code.[41]

2.43 At present, PWC Networks has a list of prices for alternative control services, which includes a charge of $27.17 (GST exclusive) for the provision of data.

Approach in the NEM

2.44 In the NEM, AEMO has the ability to recover the cost of providing B2B (business-to-business) communications, (including providing and operating a B2B e-Hub), through participant fees paid by market participants.[42] AEMO MSATS procedures appear to be

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[41] Clause 6.2.12, Retail Supply Code

[42] Clause 7.2A.6, National Electricity Rules.

silent on whether a relevant market participant has any right to recover the cost of responding to an individual data request made by another market participant.

2.45 Customers are unable to access metering data via the MSATS System. Therefore, metering data must be provided to customers through other means. There are specific cost recovery requirements in providing metering data to customers:

- In Victoria, retailers may impose an additional retail charge for providing historical consumption data to customers but only if the request is not the first request made within the preceding year, or the request relates to a period prior to the preceding two years. However, a retailer may not impose a charge for providing data to customers if the request relates to a genuine customer complaint.[43]
- In South Australia, the Electricity Metering Code states that a person responsible for a metering installation must (in response to a written request from a customer) provide facilities that enable the customer to access metering data by remote electronic means. The Code is silent on any right to recover the cost of providing the service, however if an electronic service is unavailable, the person responsible for the metering installation must obtain the metering data locally and provide this data to the customer without the ability to recover the cost.[44]
- In Tasmania, customers are given a similar right to access metering data by electronic means. However, the Distribution Network Service Provider may charge the reasonable cost in providing metering data to customers. This right does not extend to instances where the electronic service is unavailable.[45]
- The requirements in New South Wales mirror those in Tasmania.[46]
- In Queensland, ENERGEX Limited and Ergon Energy Corporation Limited may charge the reasonable cost in providing metering data to customers.[47]
- In the Australian Capital Territory, a utility may charge a customer for the reasonable cost of providing metering data. This charge should be listed on the utility's website.[48]

Timeframes for customer transfers

2.46 The Code contains arrangements that facilitate the transfer of customers between retailers. These requirements are contained in clause 8.2 of the Code.

2.47 QEnergy has concerns relating to:

- the timeframe within which a network provider must notify a retailer that it has rejected a customer transfer request; and
- the timeframe within which a network provider may advise of a customer transfer date.

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43 Clause 27.2 (a), (d), Victorian Energy Retail Code.
44 Clause 5.3.2, 5.3.3, South Australian Electricity Metering Code.
45 Clause 9.20.1, Tasmanian Electricity Code.
46 Clause 9.2.1, Market Operations Rule (NSW Rules for Electricity Metering) No.3 of 2001.
47 Annexure A clause 15.3, Qld Electricity Industry Code.
48 Clause 7, ACT Utilities (Consumer Protection Code) Determination 2010 (No 2).

Timeframe to reject a customer transfer request

Existing arrangements

2.48 Under clause 8.2.6 of the Code, if a network provider rejects a customer transfer request form, it must electronically notify the retailer within five business days. The notification must set out all of the reasons for rejection. Clause 8.2.5 states that a network provider must use its best endeavours to resolve any potential grounds for rejection prior to rejecting a customer transfer request form.

2.49 The Code provides limited grounds for rejecting a customer transfer request form. These include instances where:

- the retailer does not have a network access agreement with the network provider;
- information provided by the retailer is materially inconsistent with the network provider's records on the customer;
- the meter type at the exit point is inconsistent with the meter type required under the Network Connection Technical Code before the customer may transfer, and the customer transfer request form does not include a request for a new meter; or
- the nominated transfer date does not comply with clause 8.2.9 of the Code.

2.50 Clause 8.2.9 defines the transfer date for all customer transfers. In most cases, the transfer will be at the end of the month, provided that the customer transfer request form is submitted no later than ten business days prior to the end of the month for an urban area, or 15 business days prior to the end of the month for a non-urban area.

QEnergy's concerns

2.51 QEnergy claims that five business days for a network provider to inform a retailer of its rejection of a customer transfer request form is longer than the timeframe in the NEM. QEnergy believes that this timeframe increases the length of time for customer transfers, which it deems to be burdensome and inefficient.

Comments at consultation

2.52 The Commission notes that no concerns were raised by industry participants and stakeholders during consultation in 2011.

Approach in the NEM

2.53 In the NEM, a change request is made via the MSATS system. Once an electronic form is lodged, interested parties have a right to lodge an objection within the 'objection period'. If an objection is received during this period, notification will be sent out to all relevant parties, presumably for resolution. If the objection has not been withdrawn at the end of the objection clearing period, the change request will be automatically cancelled, and interested parties will be informed electronically. The relevant timeframes are outlined below:

- the period within which a person can lodge an objection to a change request is generally five business days; and
- the objection clearing period is generally 20 business days.[49]

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[49] AEMO MSATS Procedures: CATS Procedures Principals and Obligations, paragraph 6.9, page 56.

Timeframe to advise of customer transfer date

Existing arrangements

2.54 Clause 8.2.10 (a) of the Code states that, following the receipt of a valid customer transfer request form, the network provider must electronically notify the current retailer of the transfer date within five business days after receipt of the customer transfer request form.

2.55 In the event that a network provider is unable to transfer a customer within the nominated transfer date, the network provider must electronically notify the retailer of the reasons why it cannot initiate the transfer and provide a proposed timetable for the transfer within five business days after receipt of the customer transfer request form.[50]

QEnergy's concerns

2.56 QEnergy claims that five business days is longer than the timeframe in the NEM. Taken together with the other timeframes in the Code, QEnergy believes that it allows PWC Networks to extend customer transfer requests for a prolonged period of time, which QEnergy deems to be burdensome and inefficient.

2.57 QEnergy proposes that the timeframe within which a network provider must advise of a customer transfer date should be one business day after the receipt of a valid customer transfer request form.

Comments at consultation

2.58 The Commission notes that no concerns were raised by industry participants and stakeholders during consultation in 2011.

[50] Clause 8.2.12, Retail Supply Code.

APPENDIX A

Application for Amendments to the Retail Supply Code – QEnergy Limited

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

Dear Philippe

Re: Code Change Application

This is QEnergy's application for a change to the Electricity Retail Supply Code (Retail Supply Code). This application is made under section 2.2.1 of the Retail Supply Code and is made consequent to a meeting with the Board and management of the Northern Territory Utilities Commission where these and other matters were discussed.

Section 2.3.1 sets out that in assessing any Code change request, the Commission must have regard to:

- The Code objectives, being to set out:
  - the arrangements for transferring customers between retailers;
  - the arrangements relating to credit support requirements and billing between the network providers, generators and retailers;
  - the arrangements for metrology between retailers and network providers;
  - Retailer of Last Resort arrangements; and
  - a dispute resolution process for this Code
- The matters set out in section 6(2) of the Utilities Commission Act, being the need:
  - to promote competitive and fair market conduct;
  - to prevent misuse of monopoly or market power;
  - to facilitate entry into relevant markets;
  - to promote economic efficiency;
  - to ensure consumers benefit from competition and efficiency;
  - to protect the interests of consumers with respect to reliability and quality of services and supply in regulated industries;
  - to facilitate maintenance of the financial viability of regulated industries; and
  - to ensure an appropriate rate of return on regulated infrastructure assets.

Each of these has been considered in the below supporting documentation.

Summary of Code Changes Sought

QEnergy seeks the following Code changes:

- ***Code Change 1*** – this change to clause 3.3.2 has the effect of reducing the maximum generation prudential amount payable to Power and Water Generation to 2 weeks rather than the current 2 months of generation charges. Specifically, QEnergy seeks:
  - Amendment of clause 3.3.2(b)(i) which currently reads "*2 times the retailer's reasonable forecast*" to instead read "*0.5 times the retailer's reasonable forecast*"; and
  - Amendment of clause 3.3.2(b)(ii) which currently reads "*2 times the generator's record of the highest*" to instead read "*0.5 times the generator's record of the highest*"
- ***Code Change 2*** – this change to clause 6.2.9 has the effect of reducing the maximum time that Power and Water may take to respond to a data request from a retailer from the current 5 business days to one business day. Specifically, QEnergy seeks amendment of clause 6.2.9 which currently reads "*A network provider must respond to a data request from a retailer by providing the data stipulated in Annexure 4 within 5 business days of the data request being*

submitted" to instead read "*A network provider must respond to a data request from a retailer by providing the data stipulated in Annexure 4 within 1 business day of the data request being submitted"*.

- ***Code Change 3*** – this change to clause 6.3.1 has the effect of reducing the maximum time that Power and Water may take to respond to a data request from a customer from the current 20 business days to one business day. Specifically, QEnergy seeks amendment of clause 6.3.1 which currently reads "*The network provider must provide a customer with its historical consumption data within 20 business days of receiving such a request in writing from the customer*" to instead read "*The network provider must provide a customer with its historical consumption data within 1 business day of receiving such a request in writing from the customer*".
- ***Code Change 4*** – this change to clause 8.2.6 has the effect of reducing the maximum time that Power and Water may take to reject a customer transfer request form from a retailer from the current 5 business days to one business day. Specifically, QEnergy seeks amendment of clause 8.2.6 which currently reads "*If a network provider rejects a customer transfer request form, it must electronically notify the retailer within 5 business days setting out all the reasons for the rejection* " to instead read "*If a network provider rejects a customer transfer request form, it must electronically notify the retailer within 1 business day setting out all the reasons for the rejection*".
- ***Code Change 5*** – this change to clause 8.2.10(a) has the effect of reducing the maximum time that Power and Water may take to advise a retailer of a customer transfer date from the current 5 business days to one business day. Specifically, QEnergy seeks amendment of clause 8.2.10(a) which currently reads "*within 5 business days after it receives the customer transfer request form*" to instead read "*within 1 business day after it receives the customer transfer request form*".
- ***Code Change 6*** – this is a change to the Code to alter the current arrangements whereby QEnergy must seek customer data from Power and Water Corporation (PAWC), and then provide this data back to Power and Water Generation in order to secure a quotation for wholesale energy services. This current arrangement, which derives from various clauses in the Code as well as PAWC's procedures, is inefficient and imposes costs and delays onto QEnergy and customers which are simply unnecessary.

Together, these changes improve the workability of the Code and encourage the development of efficient and workable business processes within PAWC relating to commerciality and time critical matters. Under current arrangements, customers are being deprived of choice, lower prices and timely connection through PAWC's stated intentions to conduct itself to the stated maxima under the Code and to resist any attempts to develop new or innovative ways of structuring their processes or mitigating their risks. QEnergy's only option in the face of this is to alter the Code and we encourage the Commission to view this Code change proposal in that context.

Code Change 1: Generation Prudential Cover (Clause 3.2.2)

When a customer seeks supply, QEnergy must request a quotation for wholesale supply from Power and Water Generation, which is the only supplier of wholesale energy in the Northern Territory.

Power and Water Generation has applied, and states that it intends to continue applying, the maximum prudential cover allowed by the Code. This maximum is set out in clause 3.3.2 and reads as follows:

If the retailer is unable to satisfactorily demonstrate to the generator that it meets the credit rating requirements set out in clause 3.2.2(a), the Required Generation Credit Support Amount shall be the greater of:

I. *2 times the retailer's reasonable forecast of its highest generation services bill over the following 12 months (which forecast must be updated half yearly); or*

II. *2 times the generator's record of the highest generation services bill issued to the retailer by the generator over the previous 12 months (which amount will be updated half yearly), provided that the time period covered by the highest generation services bill for the purposes of calculating the Required Generation Credit Support Amount shall not be greater than one month.*

Clause 3.2.2(a) notes that:

If the retailer or its parent company has an acceptable credit rating or is a fully owned subsidiary of the Australian Federal Government or an Australian State or Territory Government, the Required Generation Credit Support Amount is NIL.

There are only two retailers currently licensed in the Northern Territory; Power and Water Retail and QEnergy (although ERM Power has now applied for a licence). Consequently any competition which the Utilities Commission is seeking to engender must come from the available combination of retailers.

Power and Water Retail has the backing of a balance sheet underpinned by Government and hundreds of millions of dollars of generation and networks assets. It therefore does not need to provide prudential support.

QEnergy on the other hand has asked as recently as this morning that Power and Water Generation consider reducing the prudentials required below the maximum and been told that that would not be in consideration. This is despite QEnergy now operating in the Northern Territory for two years without ever having missed a payment to PAWC; and indeed being a retailer of some substance in the NEM, as well as being a cash and EBIT positive business.

Within the National Energy Market (NEM), generators are concerned to support the entry of other retail customers to reduce their dependence on a single counterparty. Consequently most generators do not require prudential lines to be put up to them and many of them are happy to have market credit risk reallocated back to them to support new entrants and a thriving competitive retailer base (which is the basis of a healthy wholesale counterparty). [redacted]

The other category of wholesale prudentials payable in the NEM is to AEMO. Through AEMO, the option is available to retailers to utilise a Reduced Maximum Credit Limit. Under this arrangement, the maximum wholesale prudential credit limit payable in the absence of any reallocations back to generators is 28 days. If any of the load is reallocated back to generators, then the residual prudential credit limit payable is 7 days. Additionally, NEM prudentials are readjusted quarterly to take account of fluctuations in maximum load through seasonality (note that the Code applies the maximum seasonal volume throughout the year).

QEnergy currently has an average daily NEM load of [redacted]MWh, or around [redacted]GWh per annum. On that load, the entire prudentials payable are $[redacted] million, or around $5.70 / MWh.

Contrast this with the prudentials of $2.7 million which would have been required for QEnergy to take up the Department of Defence contract – for which it was preferred tenderer – in 2011. This customer has a load of approximately 100GWh per annum, meaning the balance sheet requirements to support this customer are $27 / MWh, around five times the level payable in the NEM. Simply accessing that level of balance sheet is a substantial barrier to QEnergy growing its competitive share and even offering to customers (QEnergy is unwilling to offer promises it cannot support).

Further, the requirement to supply these prudentials imposes financing costs on QEnergy which disadvantages it when competing with Power and Water Retail. So, clause 3.2.2 has the effect of imposing a material cost on QEnergy that is not borne by Power and Water Retail. This in turn creates a benefit to Power and Water Retail that is equal to around [redacted]c/kWh. If applied to a 100GWh customer, customers are therefore overpaying Power and Water Retail around $[redacted] per annum to support this clause.

PAWC has indicated it is unwilling to consider any other method of mitigating the perceived risk of dealing with QEnergy Retail – a trust bank account, and shorter settlement periods were both offered (both of which are in use with generation counterparties elsewhere within the National Energy Market) – and were declined.

QEnergy considers that because of the flawed vertically integrated structure of PAWC, Power and Water Generation does not value retailer diversity as much as a generator in the NEM might, and therefore seeks 100% protection against retailer default – essentially valuing this diversity at zero. This reflects its financial and contractual sophistication. The Code however entrenches this position.

It is QEnergy's view that for pragmatic and cultural reasons, a mid-point should be established that mirrors the NEM levels of prudentials required. To this end, QEnergy would support a position of 14 days credit support, which would equate to a requirement for around $6.50 / MWh in prudential support, a tolerable and equitable level of support which nonetheless ensures that the retailer does not treat the prudential bond lightly and always pays on time in full (as has been QEnergy's practice both with Power and Water Corporation and in the NEM).

QEnergy therefore seeks:

- Amendment of clause 3.3.2(b)(i) which currently reads "*2 times the retailer's reasonable forecast*" to instead read "*0.5 times the retailer's reasonable forecast*"; and
- Amendment of clause 3.3.2(b)(ii) which currently reads "*2 times the generator's record of the highest*" to instead read "*0.5 times the generator's record of the highest*"

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	The requirement for 56 days prudentials exceeds the prudential expected in the NEM by around 400%. This is turn results in customers not receiving a material pricing benefit which costs customers money unnecessarily. The current arrangements are therefore not promoting competitive market conduct.
Need to prevent misuse of monopoly or market power	QEnergy does not suggest that PAWC is misusing market power. Power and Water Generation is entitled under law to charge the maximum prudential under the Code.
Need to facilitate entry into relevant markets	The Code as it currently stands inhibits entry into the NT market by small retailers which do not have a AAA credit rating or are Government owned. 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. The requirements pass the costs of Power and Water's draconian approach to risk management directly onto customer bills. If PAWC were willing to accept any other method of risk management other than the maximum allowed in the Code, customers could pay even less for their power.

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. QEnergy has stated time and time again to PAWC that it is open to a number of alternative risk management methods that would be satisfactory to other generators in the market. PAWC has flatly refused to countenance these. Put simply, the risk that QEnergy will default is easily dealt with by any number of means other than requiring 56 days of generation payments up-front. The requested Code change will encourage PAWC to consider carefully its risks and to investigate real ways of dealing with them, which may require financial products more sophisticated that simply putting money into an account.
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.

<u>Code Change 2: Metering Data (Clause 6.2.9)</u>

When a customer seeks a quotation for supply, QEnergy must request access to the metering data held by PAWC in order to understand the customer's load profile and to assess whether the customer is profitable.

QEnergy understands from discussions with PAWC that metering data is held in excel spreadsheets. This means that the data is readily available and can be discovered within minutes. Despite that, PAWC has consistently advised that it will provide data at the maximum time period specified in the Code – being 5 business days.

QEnergy has no visibility as to whether Power and Water Retail is being provided with data for the purposes of undertaking quotations. QEnergy does not suggest that Power and Water Retail is being treated advantageously, however simply notes that in a competitive bid situation there is the potential for Power and Water Retail to meet timeframes more aggressively unless the same 5 day maximum rule is being followed internally within PAWC.

QEnergy seeks amendment of clause 6.2.9 which currently reads "*A network provider must respond to a data request from a retailer by providing the data stipulated in Annexure 4 within 5 business days of the data request being submitted*" to instead read "*A network provider must respond to a data request from a retailer by providing the data stipulated in Annexure 4 within 1 business day of the data request being submitted*".

Amending the requirement to 1 business day means that if a request is made at 2pm on one day, then the data can be accessed and sent before 2pm the following day. This is not an unreasonable request; in two years, QEnergy has sent under 20 data requests to PAWC. It is simply beyond any reasonable person's belief that they require 5 business days to open an excel file and send the data to QEnergy under these circumstances.

Criteria for Assessment	Statement of Reasons
Meets the Code Objective	This Code change is brought under 1.6.1(a) and 1.6.1(c) and is therefore consistent with the objectives of the Code.
Need to promote competitive and fair market conduct	The current data arrangements compare with the B2B service order procedures which deal with thousands of requests for data per day. This is turn results in delays for QEnergy to develop quotes for customers in a timely way. The current arrangements are therefore not promoting competitive market conduct.
Need to prevent misuse of monopoly or market power	QEnergy does not suggest that PAWC is misusing market power. PAWC is entitled under law to use the maximum time period under the Code.
Need to facilitate entry into relevant markets	The Code as it currently stands creates a barrier to entry in the timely provision of information which does not exist in the National Electricity Market.
Need to promote economic efficiency	The current Code arrangements are inefficient. The requirements allow far too long to retrieve data from a very simple system and in turn complicate the customer quotation processes.

Need to ensure consumers benefit from competition and efficiency	As noted above, the current arrangements do not allow customers to receive timely quotations. The only option that will result in customers being given a benefit is to reduce the requirements set out in the Code.
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 – in fact this change would increase the service provided to customers. The requested Code change will encourage PAWC to consider the efficiency of its business arrangements. If indeed it does take 5 business days to retrieve the information, it is possible that PAWC's network operational costs are too high.
Need to facilitate maintenance of the financial viability of regulated industries; and	No impact.
Need to ensure an appropriate rate of return on regulated infrastructure assets	No impact.

Code Change 3: Metering Data (Clause 6.3.1)

Sometimes, a customer will seek its own data in order to investigate whether a retailer is providing them with a quotation based on correct information or to assess their own demand patterns. Currently, PAWC has 20 business days to provide this information. As noted above, this data can be accessed within minutes.

QEnergy seeks amendment of clause 6.3.1 which currently reads "*The network provider must provide a customer with its historical consumption data within 20 business days of receiving such a request in writing from the customer*" to instead read "*The network provider must provide a customer with its historical consumption data within 1 business day of receiving such a request in writing from the customer".*

Criteria for Assessment	Statement of Reasons
Meets the Code Objective	This Code change is brought under 1.6.1(a) and 1.6.1(c) and is therefore consistent with the objectives of the Code.
Need to promote competitive and fair market conduct	The current data arrangements compare with the B2B service order procedures which deal with thousands of requests for data per day. This is turn results in delays for customers to understand their own consumption patterns which is not efficient and which delay them seeking supply from other retailers. The current arrangements are therefore not promoting competitive market conduct.
Need to prevent misuse of monopoly or market power	QEnergy does not suggest that PAWC is misusing market power. Power and Water Networks is entitled under law to use the maximum time period under the Code.
Need to facilitate entry into relevant markets	The Code as it currently stands creates a barrier to entry in the timely provision of information which does not exist in the National Electricity Market.
Need to promote economic efficiency	The current Code arrangements are inefficient. The requirements allow far too long to retrieve data from a very simple system and in turn complicate the customer quotation processes.
Need to ensure consumers benefit from competition and efficiency	As noted above, the current arrangements do not allow customers to receive timely quotations. The only option that will result in customers being given a benefit is to reduce the requirements set out in the Code.
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 – in fact this change would increase the service provided to customers. The requested Code change will encourage PAWC to consider the efficiency of its business arrangements. If indeed it does take 20 business days to retrieve the information, it is possible that PAWC's network operational costs are too high.
Need to facilitate maintenance of the financial viability of regulated industries; and	No impact.

Need to ensure an appropriate rate of return on regulated infrastructure assets	No impact.

Code Change 4: Notification of Transfer Rejection (Clause 8.2.6)

Currently, the Code allows PAWC to wait 5 business days before notifying QEnergy that is does not intend transferring a customer. This is longer than the period allowed in the National Electricity Market and allows a lengthening of the time periods in the customer connection process which is burdensome and inefficient.

QEnergy seeks amendment of clause 8.2.6 which currently reads "*If a network provider rejects a customer transfer request form, it must electronically notify the retailer within 5 business days setting out all the reasons for the rejection*" to instead read "*If a network provider rejects a customer transfer request form, it must electronically notify the retailer within 1 business day setting out all the reasons for the rejection*".

Criteria for Assessment	Statement of Reasons
Meets the Code Objective	This Code change is brought under 1.6.1(a) of the Code and is therefore consistent with the objectives of the Code.
Need to promote competitive and fair market conduct	The current rejection arrangements compare with the B2B service order procedures which deal with thousands of requests for data per day. This is turn results in a delay and a lengthening of the customer connection and transfer process which is not reflective of the time requirements upon Power and Water Networks. The current arrangements are therefore not promoting competitive market conduct.
Need to prevent misuse of monopoly or market power	QEnergy does not suggest that PAWC is misusing market power. Power and Water Networks is entitled under law to use the maximum time period under the Code.
Need to facilitate entry into relevant markets	The Code as it currently stands creates a barrier to entry in the timely provision of information which does not exist in the National Electricity Market.
Need to promote economic efficiency	The current Code arrangements are inefficient. The requirements allow far too long for PAWC to assess the transfer request and to consider their response. This in turn complicates the customer transfer process.
Need to ensure consumers benefit from competition and efficiency	As noted above, the current arrangements do not allow customers to receive timely transfer and connection. The only option that will result in customers being given a benefit is to reduce the requirements set out in the Code.
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 – in fact this change would increase the service provided to customers. The requested Code change will encourage PAWC to consider the efficiency of its business arrangements. If indeed it does take 5 business days to consider whether a request meets the requirements of the Code, it is possible that PAWC's network operational costs are too high. It should be noted that QEnergy has transferred two customers in 2 years, and still Power and Water insists on applying the maximum time periods.
Need to facilitate maintenance of the financial viability of regulated industries; and	No impact.
Need to ensure an appropriate rate of return on regulated infrastructure assets	No impact.

Code Change 5: Advice of Transfer Date (Clause 8.2.10)

Currently, the Code allows PAWC to wait 5 business days before notifying QEnergy of the date for transferring a customer. This is longer than the period allowed in the National Electricity Market and allows a lengthening of the time periods in the customer connection process which is burdensome and inefficient. Taken together with the other time periods in the Code, it allows Power and Water Networks to extend the data collection, review, transfer request and transfer date process for an inefficient period of time.

QEnergy seeks amendment of clause 8.2.10(a) which currently reads "*within 5 business days after it receives the customer transfer request form*" to instead read "*within 1 business day after it receives the customer transfer request form*".

Criteria for Assessment	**Statement of Reasons**
Meets the Code Objective	This Code change is brought under 1.6.1(a) of the Code and is therefore consistent with the objectives of the Code.
Need to promote competitive and fair market conduct	The current notification arrangements compare with the B2B service order procedures which deal with thousands of requests for data per day. This is turn results in a delay and a lengthening of the customer connection and transfer process which is not reflective of the time requirements upon Power and Water Networks. The current arrangements are therefore not promoting competitive market conduct.
Need to prevent misuse of monopoly or market power	QEnergy does not suggest that PAWC is misusing market power. Power and Water NEtworks is entitled under law to use the maximum time period under the Code.
Need to facilitate entry into relevant markets	The Code as it currently stands creates a barrier to entry in the timely provision of information which does not exist in the National Electricity Market.
Need to promote economic efficiency	The current Code arrangements are inefficient. The requirements allow far too long for Power and Water to advise of the date for transfer. This in turn complicates and lengthens the customer transfer process.
Need to ensure consumers benefit from competition and efficiency	As noted above, the current arrangements do not allow customers to receive timely transfer. The only option that will result in customers being given a benefit is to reduce the requirements set out in the Code.
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 – in fact this change would increase the service provided to customers. The requested Code change will encourage PAWC to consider the efficiency of its business arrangements. It should be noted that QEnergy has transferred two customers in 2 years, and still Power and Water insists on applying the maximum time periods.
Need to facilitate maintenance of the financial viability of regulated industries; and	No impact.
Need to ensure an appropriate rate of return on regulated infrastructure assets	No impact.

Code Change 6 – Change to Data Arrangements: Various Clauses

Currently, the Code and PAWC's procedures require QEnergy to seek metering data from PAWC, incurring a fee, and then to provide this data to Power and Water Generation in order to obtain a wholesale energy quotation.

It is a reality that PAWC's economics unit undertakes both the networks data requests and the wholesale pricing quotes. This means that QEnergy is presumably purchasing data from a person who sits in one desk, and then sending it to a person that sits within 20 feet from the first person. In reality, QEnergy should simply be able to request that PAWC provide the information to Power and Water Generation for the quotation to be produced.

Further, nowhere else in the NEM are monies payable to access a customer quote. Once again, this is a barrier to the competitive process, and results in suboptimal outcomes for customers.

Criteria for Assessment	Statement of Reasons
Meets the Code Objective	This Code change is brought under 1.6.1(a) and 1.6.1(c) and is therefore consistent with the objectives of the Code.
Need to promote competitive and fair market conduct	The current notification arrangements do not account for the fact that "the Territory is different", and provide an unnecessary process which costs QEnergy and the customer money and provides unnecessary delays. The current arrangements are therefore not promoting competitive market conduct.
Need to prevent misuse of monopoly or market power	QEnergy does not suggest that PAWC is misusing market power.
Need to facilitate entry into relevant markets	The Code as it currently stands creates a barrier to entry in the timely provision of information which does not exist in the National Electricity Market.
Need to promote economic efficiency	The current Code arrangements are inefficient, imposing cost and time delays on QEnergy. This in turn complicates and lengthens the customer transfer process.
Need to ensure consumers benefit from competition and efficiency	As noted above, the current arrangements do not allow customers to receive timely transfer. The only option that will result in customers being given a benefit is to reduce the requirements set out in the Code.
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 – in fact this change would increase the service provided to customers. The requested Code change will encourage PAWC to consider the efficiency of its business arrangements.
Need to facilitate maintenance of the financial viability of regulated industries; and	No impact.
Need to ensure an appropriate rate of return on regulated infrastructure assets	No impact.

Conclusion

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. The current prudential arrangements, in particular, create an adversarial relationship between Power and Water Generation and new entrant retailers, where retailers are treated as users in the system (which Power and Water Generation seeks to be protected against) rather than as a source of diversity for its wholesale load and potentially partners in the provision of lower cost, higher service quality supply for customers. This does not seem to be achievable through commercial negotiations.

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