



**Energy Users
Association of
Australia**

**Review of Network
Connection
Arrangements for
Large Electricity
Users in
Queensland**

November 2006

Final Report

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1 EXECUTIVE SUMMARY

Evans & Peck has been engaged by Energy Users Association of Australia (EUAA) to prepare a report investigating the benefits of opening connection agreements to negotiation or re-negotiation, with the focus of strengthening service quality outcomes, and how that can best be done in practice. The assignment was undertaken by carrying out a number of interviews with both large end users and network service providers (NSPs) in Queensland.

The key issues identified in discussions with the Electricity Users included:

- Few Electricity Users had current negotiated connection agreements in place and although they understand that there is some form of "deemed" contract in place most were unsure what form the contract took. None had a clear understanding that, in the absence of any negotiated arrangement, the Standard Customer Connection Contract required under the Electricity Act 1994 was the applicable contract.
- Many did not understand the processes for negotiation/renegotiation of their connection arrangements or the legislative framework within which the agreements are developed and operate;
- Most Electricity Users had an expectation that connection agreements should be negotiable, particularly in relation to service levels and quality of supply issues, but thought that the negotiation process was constrained to some extent by the regulatory environment. Few understood that there were no real constraints to establishing a negotiated agreement imposed by either the Queensland Legislation and the National Electricity Rules. The NSPs tended to promote the concept that the regulatory environment encouraged a more standard approach to the establishment of a Connection Agreement;
- Although the Electricity Users interviewed understood that NSPs tariffs were regulated they did not understand the implications of the fact that a "regulated tariff" applies to a "regulated service" or that it was not just a simple case of NSPs being able to charge more if they provide a higher level of service. None understood that most capital spent by an NSP in improving the service to one customer became part of the regulated capital spend and reduced the allowance for spending on other customers. The implication of this is to discourage NSPs

from investing to provide a “better than standard” service even if the customer is willing to pay extra for the improved service;

- All Electricity Users interviewed voiced an opinion that a higher level of understanding of their business drivers would assist the NSP in addressing their particular connection issues;
- A number of large Electricity Users interviewed were able to quantify large losses (often tens of millions of dollars) incurred due to business interruption resulting from an unreliable supply which could have been prevented or significantly mitigated with improved planning and a better response from NSPs following the interruption. Those able to quantify such losses believed that performance and response criteria set out in their Connection Agreements would assist in managing/mitigating the losses. This did not automatically imply that they were seeking direct compensation, rather a set of standards with which to plan their business.

The issues identified in discussions with NSPs included:

- Typically, NSPs recognised the need to manage regulatory constraints in the establishment of new connection agreements. Most had developed standard agreements that reflected those constraints and an acceptable corporate risk profile. All those interviewed recognised that there were no regulatory constraints that prevented negotiation of agreements outside the “standard” that would suit the requirements of most end users;
- NSPs already face a significant commitment in providing resources to undertake the role of liaising with network customers for the purposes of establishing connection access agreements. The current workload and level of enquiries for connection arrangements is significant and likely to continue. The pressure on NSP resources would be exacerbated if more customisation were required;
- Most recognised that in order to deal with more customisation of connection arrangements, there would be a need for additional personnel to support such a program and that these additional personnel were unlikely to have sufficient skills to be able to negotiate agreements that fall outside of the standard;

- NSPs also recognised the value of understanding the business drivers of their customers as well as the benefits of providing Electricity Users with an understanding of the process of establishing a connection agreement and the regulatory framework within which this must be done.

The key issues identified through this process were:

- Most Electricity Users have a poor understanding of the process of establishing connection agreements and the regulatory framework relevant to their establishment;
- Due to the relatively few individuals employed by NSPs who have a clear understanding of the regulatory framework combined with the high level of technical and commercial skills required, most representatives of the NSPs are unable to respond positively (due to a lack of experience and capability rather than on instruction from the NSP) to any request for additional flexibility or commitment to service levels outside the company's standard agreement;
- Few parties had an adequate understanding of the other's business drivers. It was recognised that it would be difficult for all parties to gain a high level of understanding without further significant commitment to manning levels in this area;
- There is a lack of clear direction from both parties of what could be appropriate service level commitments that could be added to agreements in order to customise them to meet end user issues; and
- Due to the mechanism of assessment, there is a lack of incentive under the revenue cap regulation for NSPs to negotiate enhanced levels of reliability or service provision for specific Electricity Users.

Five key recommendations have been identified which could assist in delivering a significantly superior process and outcome for both Electricity Users and NSPs. The recommendations are based on taking a step by step approach to improve education and communications rather than jumping immediately to making changes in the Rules or the Legislation. The report found that most of the issues identified can be addressed in this way.

The first key recommendation is for the development of an information and training package aimed at providing end-users with a better understanding of the process of developing a connection access agreement, the regulatory framework within which the process operates and a regular briefing and update on changes within the regulatory and corporate framework that will impact agreements. This package could extend to information forums on pricing and demand management initiatives.

The second recommendation is for the development of a number of NSP experts who have a superior understanding of the regulatory, commercial and corporate frameworks within which agreements can be negotiated, who can be used to target key Electricity Users who have a requirement that goes beyond that of the Standard connection agreement.

The third recommendation complements the second in that it recommends a review of the current Standard Agreements that have been set up by the NSPs with the aim of providing a range of additional/optional clauses that can be used to customise an agreement particularly in the area of service level provision. The concept of development of standard agreements that don't simply incentivise NSPs through the application of liability clauses is an important aspect of the recommended reviews.

The fourth recommendation is simply for the development of a range of appropriate "no liability" KPIs that are more tuned to the impact of NSP performance on individual Electricity Users rather than the broad nature of KPIs that currently only relate to the overall system performance. Evans & Peck is of the view that until and unless experience is gained with performance metrics on a no liability basis, few inroads are likely to be made to getting stronger more meaningful drivers in place.

A final recommendation is for large Electricity Users and NSPs to discuss with appropriate regulators the process of assessing a NSP's assets when determining regulatory controls to be imposed on the NSP. Specifically, the implementation of a more flexible process for allowing assets requested (even paid for) by the Electricity User in order to provide "better than standard" reliability and network performance to be built without automatically reducing the capital available for expenditure on the remainder of the NSP's customers. This will allow NSPs to consider addressing specific customer requests in the Connection Agreement without impacting/reducing spend on other important parts of the network.

The report concludes by identifying the unique opportunity that currently exists as a result of the restructuring of the industry to separate Retailers from Network Service Providers. To take full advantage of this opportunity it will be important to develop a structured implementation plan that recognises the value of communication with and lobbying of NSPs, State Government Energy Departments and Regulators. Evans & Peck is of the view that many of the issues identified can be resolved through better communication in the form of regular facilitated workshops with these parties, with the specific aim of identifying contemporary issues and programs, the rationale for contractual terms and conditions and a program of education and feedback.

2 INTRODUCTION

2.1 ENERGY USERS ASSOCIATION OF AUSTRALIA

The Energy Users Association of Australia (EUAA) is a non-profit organisation funded by membership fees, internally generated revenue and external funds. It is focused entirely on energy issues. Members determine EUAA policy and direction. The Association members are business users of energy with activities across all states and many sectors of the economy.

EUAA cover national and State issues dealing with electricity and gas, as well as greenhouse and energy efficiency. The organisation seeks to represent its member's views and concerns in relation to all of these aspects of Energy Supply and usage and it has been particularly interested in ensuring that members' interests are protected and profiled in relation to electricity supply across the National Electricity Market. This report has been produced as part of that interest.

2.2 ASSIGNMENT

Evans & Peck has been engaged by EUAA to prepare a report for public release investigating the benefits of opening connection agreements to re-negotiation, with the focus of strengthening service quality outcomes, and how that can best be done in practice.

Evans & Peck has endeavoured to identify and base this review on the latest information in relation to Network Connection arrangements in the National Electricity Market (NEM). The report is not intended to identify or address any specific customer issues and, without further review of specific circumstances the conclusion as set out below should not be relied upon for taking any final negotiating position. The report does however reflect current views, issues and positions of large energy use customers and Network Service Providers, certainly in Queensland and, because many of the larger users interviewed had facilities in other states, more generally across the National Electricity Market.

The aims of the assignment and this report are:

- to build on the work that has already been undertaken by the EUAA through their Regional User Network Consultation (RUNC) forums which involved input from EUAA members, NSPs, and State Government Owned Electricity Corporations and provided the building blocks for this investigation;
- to investigate specific issues that large end users experience when negotiating network connection agreements; and
- to incorporate into the report a consideration of the commercial drivers faced by NSPs in developing connection agreements.

The outcomes of this assignment, presented in this report, are to identify and propose changes to the current process including potential changes to the National Electricity Rules, reviews of current Connection & Access standard agreements and proposed changes to the processes utilised by Network Service Providers and Electricity Users in the development of agreements.

2.3 PROCESS UTILISED FOR UNDERTAKING THE ASSIGNMENT

The primary source of data for this review was a series of interviews held with a range of major electricity users and representatives from all three Network Service Providers in Queensland (Energex, Ergon and Powerlink).

Most of the end users interviewed either were or would qualify for Full Membership of the EUAA (ie. with annual electricity spend of \$5 million or more). For some, their electricity spend represented the major portion of their manufacturing costs whilst for others it was a smaller proportion.

Apart from the interviews, the process included a review and identification of current regulatory instruments in the Queensland jurisdiction relating to connection agreements and a preliminary review and assessment of the situation in other NEM jurisdictions.

Additionally, Evans & Peck has drawn upon experience from its own involvement in the negotiation of a number of connection agreements in its dealings in acting on behalf of both large energy use customers and Network Service Providers.

3 SUMMARY OF RESPONSES, FINDINGS AND ISSUES

3.1 ELECTRICITY USERS

A number of large electricity users were interviewed as part of this process. They ranged from those users for whom electricity costs represented the fundamental cost of producing their product to those for whom electricity remained a smaller component of their cost base.

The major issues identified in discussions with these businesses were:

- the majority of businesses interviewed had not negotiated a connection agreement with their NSP and were assuming that either a "deemed agreement" (a notional or implied agreement resulting from the fact that the entities were conducting business and supplying or paying for supply of electricity) or their previous negotiated agreement (negotiated prior to the commencement of the NEM) was in place. Few knew of the existence of or had seen a Standard Customer Connection Contract;
- a significant number of users did not completely understand the differences between a Connection Agreement and a Retail Electricity Supply Agreement. Most still had arrangements in place with the Distribution Entity and the Host Retailer (eg. Energex Ltd and Energex Retail) and relied upon communications with their retail account managers for information about network issues;
- most of those interviewed had regular contact with their "retail account manager" but few had contact with any equivalent person from the network part of the business. Even those who were provided with access to priority contacts in the network business did not view this as a customer management arrangement but saw it as little more than a mechanism for managing outages;
- very few of the personnel interviewed who had responsibility for energy supply arrangements within their own company had a good understanding of the legislative framework applicable to connection agreements;

- none felt that the legislative framework or rules facilitated the process of making the NSP negotiate an arrangement that
- all users had noted an increase in the charges levelled for network services over the years but few had an understanding of the justification for the increases or the basis upon which those increases had been determined. None could identify any increase or improvement in services as a result of the increased charges;
- the larger, more energy intensive users had a good understanding of the nature of connection agreements and what they thought could and/or should be delivered through those agreements. These users also tended to be large enough to be able to justify the use of external advisers (particularly legal advisers) to assist in the preparation, implementation and management of connection agreements;
- there were a number of businesses that appreciated the standard process that has been developed by Network Service Providers (NSPs) and, for these end users, because the cost of connection was a minor part of their overall costs time was of the essence and just getting the agreement in place rapidly was a priority. The standard arrangement offers a "safe house" to which to move expeditiously. Provided the resulting supply was of reasonable quality, these businesses typically had little need for additional services or interaction with the NSP. Rapid conclusion of arrangements was a much higher priority;
- there were also a number of businesses who needed more customisation of the physical supply arrangements (ranging from higher reliability to simple measurement of performance) from their NSP than the standard connection agreement is delivering. Of this group, a number of the very large users found that they could get better results through utilisation of their influence in the community, through media or even politically, and therefore were not reliant on an agreement;
- all Electricity Users – regardless of their size - had a view that Network Service Providers took advantage of their monopoly positions;

- any who had attempted to put an agreement in place were of the view that the NSP simply tabled their standard agreement and were unwilling to negotiate around any terms of the agreement;
- all end users had a strong view that a greater understanding of business drivers (both commercial and technical) would help in the development of an appropriate connection agreement (ie. one that is technically, commercially and legally acceptable to both parties). A number of businesses had taken steps with their local NSP to provide them with some level of understanding of business drivers through site visits and other communications, although these seem to be more with operational personnel than those employees of the NSP who are responsible for connection agreements;
- generally, the aspect of connection agreements that most large users wish to have the opportunity to negotiate was that of "service levels". Each customer's own definition of the service levels that they desired tended to be quite broad and included a range of service arrangements from provision of a "help line" through to guaranteed reliability of quality and supply;
- most users acknowledged that the NSPs provided some level of project management during the development of connection arrangements, however, most felt that it had been left up to them to keep following through on the process;
- a number of Electricity Users cited the Somerville Report (some even understood the "n-1" redundancy criteria that had been recommended for measuring supply reliability), concluding that the report had identified that the current level of reliability of the system was not at an acceptable level. Most users interviewed did not understand why the NSPs had not been offering some kind of guarantee of reliability of supply as a result of the report recommendations;
- none of those interviewed had a good understanding of their rights in relation to disputes or the processes for managing disputes that they might have with their NSP. None (including those who have had issues) had attempted to utilise any dispute resolution options.

3.2 NETWORK SERVICE PROVIDERS

The three licensed Network Service Providers in Queensland were interviewed as part of this process. Powerlink, the transmission operator, although different to the other two in having far fewer large Electricity Users, faced many of the same issues and had many of the same comments in relation to the development of connection agreements.

The key issues identified in these discussions are set out below:

- as would be expected, all NSPs had a very good understanding of the regulatory framework and process for establishing connection agreements;
- NSPs encounter a large range of Electricity Users from those who just need connection urgently and aren't concerned about negotiating arrangements, to those for whom energy costs (and in particular connection costs) can be a real constraint for what can often be marginal business cases;
- the majority of work in relation to connection agreements has been carried out on new connections. Given the existence of a Standard Customer Connection Contract, renewal or development of a new connection agreement with current Electricity Users who are already connected has not been a priority;
- NSPs regard the process of putting in place connection access arrangements as being fairly prescriptive in nature and all manage the process along similar lines. Their view is that the NEM rules effectively dictate the bounds within which they can negotiate arrangements and, other than some "marginal" issues (ie. what NSPs regard as being second order issues such as service levels), the variation in arrangements that can be negotiated is not significant. Even with service levels, the NSPs believed that the rules placed some constraints around what could be negotiated.
- NSPs view that Electricity Users struggle to understand or accept the relatively prescriptive process imposed by NEM rules. Most Electricity

Users expect to be able to negotiate arrangements and can get upset at simply being taken through a process.

- Because of the number of personnel required to manage the volume of enquiries and workload, most personnel employed by NSPs to manage the delivery of connection agreements for Electricity Users have insufficient skills to explain the process adequately or to understand when negotiation is possible (ie. they stick to the standard they have been given);
- NSPs note that where Electricity Users have access to an expert (either technical or legal), then this can benefit the understanding that the customer has of the process requirements because of the expert's familiarity with the process;
- NSPs have a significant workload in simply dealing with the large number of new connection agreements or connection enquiries made by Electricity Users. This limits the NSPs ability to allocate resources to respond to enquiries about negotiating new Connection Agreements, since the process can take some time to complete (due to the identification of the necessary data, and necessary design checks etc.);
- NSPs have no willingness to take on the potential liabilities imposed if they guarantee reliability of connection. Some of this reluctance is due to the fact that, even with a system designed for redundancy (in accordance with the "n-1" redundancy criteria), there remains a probability that a connection will fail at some time. The costs of a failed connection for either party, even with a short duration outage, can be significant. They also argue that the rate of return set by regulators is set on the basis of this limited liability, and if such risk was taken on, the rate of return would need to increase;
- NSPs feel that major users are often given priority service (such as being given dedicated contact lines in order to discuss issues with retail account managers or obtain reports on network outages and priority of repair) that they may not recognise. To this extent, NSPs believe they provide "account management", albeit reactive rather than proactive.

- Since their development in 1997, the Standard Customer Connection Contracts have not really changed significantly. NSPs view is that this reflects the relative consistency of the rules over this period;
- NSPs generally agree that, where the parties can develop an understanding of the business drivers of the other, this can assist in the development of the connection arrangements. However, there remains a limited ability to manage some of the Electricity Users' issues through the Connection Agreement. NSPs recognise that Electricity Users believe that some issues can often be achieved more effectively through the media or political leverage;
- NSPs are generally supportive of the education of Electricity Users in the process of developing connection arrangements and all can cite some attempts to gain a better understanding of individual customer requirements. The only programs that were actually mentioned at the interviews were those that were run jointly with the EUAA and were not at the initiation of the NSP.

3.3 REVIEW OF REGULATORY REQUIREMENTS

3.3.1 Introduction

The regulatory requirements around the process of developing and agreeing connection arrangements have been developed with the intention of protecting Electricity Users from the monopolistic position of Network Service Providers.

In Queensland it is both the *Electricity Act, 1994* and the National Electricity Rules that set out the processes to be followed in establishing connection arrangements for end users.

3.3.2 Regulatory Framework

The legislative basis for connection agreements between distribution entities and Electricity Users in Queensland is established in Part 5 of the *Electricity Act, 1994*. Under the Act, each electricity distribution entity is required to have a Standard Customer Connection Contract (SCCC) setting out the terms on which

it will connect and supply electricity to both contestable and non-contestable Electricity Users in its distribution area. The Regulator must approve the SCCC, together with any amendments, before they can be applied. The distribution entity is required to make copies of their approved SCCC available to Electricity Users upon request.

Under current arrangements, Section 40 (4) of the Act states that, for the provision of customer connection services:

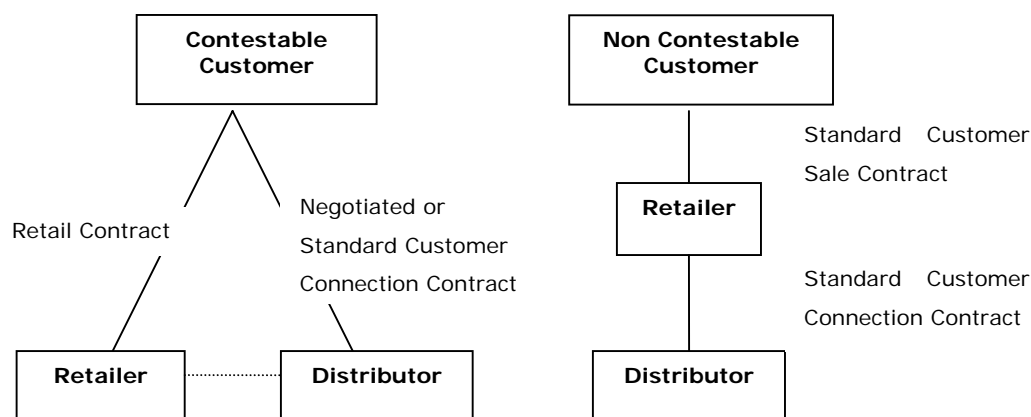
The applicant and the distribution entity are taken to have entered into a contract on the terms of the distribution entity's standard customer connection contract, in effect from time to time, for the provision of the services to the premises if –

- (a) the distribution entity provides the customer connection services applied for to the premises; and*
- (b) the applicant does not enter into a negotiated customer connection contract for the customer connection services applied for.*

Section 40AA of the Act expands this to include existing Electricity Users. If a premises is connected to the distribution entity's network and there is no customer connection contract in effect or taken to be in effect, then:

- (a) For a contestable customer, the customer and the distribution entity are taken to have entered into a contract on the terms of the SCCC. Negotiated contracts are permitted, provided they do not conflict with the Act.
- (b) For a non-contestable customer, the host retail entity and the host distribution entity are taken to have entered into a contract on the terms of the SCCC. The Act then specifies that, in the absence of a negotiated contract, the customer and the host retail entity are taken to have entered into a standard customer sale contract. This contract also applies to connection services if there is no separate connection contract.

In general terms, the relationships are as follows:



3.3.3 Changes for the Introduction of Full Retail Competition

Associated with the introduction of Full Retail competition, these arrangements will change from 1 September 2006. The contractual arrangements currently applying to contestable Electricity Users will apply to all Electricity Users, i.e. the current "linear" relationship shown above will be replaced by the "triangular" relationship.

The Act requires that the Standard Customer Connection Contract be approved by the regulator. In this case, the regulator is the Director General of the Department of Energy. The contract to take effect from 1 September 2006 is currently being finalised.

3.3.4 Management of Disputes

The Act also provides for disputes to be referred to the Regulator. However, this is restricted to Electricity Users who have used less than 200MWh per annum in any 12 month period. Electricity Users with consumption in excess of this level are expected to use commercial or legal dispute resolution mechanisms.

Under the current draft of the Standard Customer Connection Contract, the distribution entity's responsibility in relation to a complaint is to:

- review the matter relating to the complaint;
- make a decision about the complaint;

- within 10 days, provide a written notice of their decision, together with reasons;
- manage the complaint in accordance with the Australian Standard on Complaints Handling (As4269) 1995; and
- advise of the external dispute resolution mechanism established under the Act (which is only applicable to customer less than 200MWh per annum).

3.3.5 The National Electricity Rules

The obligations of Network Service Providers (i.e. distribution entities) and “Market Participants” are also dealt with in the National Electricity Rules (NER), which has been established under the *National Electricity (South Australia) Act, 1994* and the associated Queensland enabling legislation.

Section 5 of the NER specifies the obligations of Network Service Providers and “Electricity Users”. A customer meeting the eligibility requirement for contestability within the jurisdiction may register as a “Customer” even though they are not purchasing directly from the pool. The NER then establishes the procedures, protocols and technical requirements that both the Network Service Provider and Customer must follow in arranging connections.

The current form of regulation, which is based on revenue regulation, also provides a disincentive for NSP’s to provide enhanced, non standard, connection arrangements to specific Electricity Users. Once the revenue cap has been set (currently on a 5 year cycle), additional expenditure on specific Electricity Users reduces the funds available for other programs (even if paid by the customer concerned). This reduces the propensity of NSP’s to engage in what may be entirely sensible augmentations from the perspective of both the NSP and the major user. They cannot make someone better off, without making someone else worse off.

3.3.6 Summary of Regulatory Arrangements and Constraints

In summary, whilst the regulatory regime achieves its aim in providing a level of protection for Electricity Users through a fairly prescriptive set of processes and

minimum standards, it has by its nature also tended to constrain innovation in the development of individual or non-standard connection arrangements. However, the stifling of innovation is more due to the complexity of, and difficulty in, interpretation of arrangements than it is to real constraint on innovation. In other words, it is the contention of this report that there remains sufficient flexibility within the current rules for Network Service Providers and Electricity Users to develop more innovative and customised arrangements.

It is the burden of customisation itself that tends to be the constraint on development, due to the significant additional workload and subsequent pressure on resources that this places on the Network Service Provider. Network Service Providers have tended to use the complexity of arrangements and constraints imposed by the regulatory regime as an excuse to avoid the workload brought on by customisation.

3.4 KEY ISSUES

3.4.1 Connection Responsiveness

The first key issue identified in discussions is that there were a fair proportion of respondents who have identified that their only requirement is a rapid response to their connection enquiry and effective completion of connection arrangements. This group of users have no need for additional service provision or reliability guarantees beyond those given in the Standard Customer Connection Contracts. They appreciate a simple "no bells and whistles" process that can be quickly put in place. In all circumstances where this was the case, end users viewed the response of NSPs as being adequate and supported the current practices and the standard agreements developed by the NSPs.

Any proposed changes to this capability to respond quickly or the current processes, needs to take into account this group of Electricity Users.

3.4.2 Understanding the Process and Regulatory Regime

Almost all Electricity Users interviewed had an inadequate understanding of the process of establishing connection arrangements and the regulatory regime and constraints around the process. A number of the users, for whom energy was a

high cost and/or a high proportion of their costs for production, had a strong view that most aspects of the connection arrangements should be negotiable. This was very different to the understanding held by representatives of the NSPs whose job it was to put connection arrangements in place.

There are obvious opportunities in this area for further development of guidelines for the process, and the education of end users in relation to the process, the regulatory regime and constraints around the negotiation of connection arrangements.

3.4.3 The Standard Agreement and Ability to Negotiate

NSPs have developed a response to the large number of inquiries they consistently get in relation to connection arrangements. The development of a standard agreement provides an ability to respond quickly to enquiries with documentation that meets all the guidelines and constraints imposed by the regulatory environment.

The fact that this process requires a significant level of resource support from most NSPs means that, in spite of a good level of training of these professionals, few have the skills and/or authority to address all enquiries that might be made of them from all Electricity Users (particularly those sophisticated Electricity Users who desire more flexible arrangements from their connection agreement); and even fewer have the skills or the knowledge to understand when or even how they can move outside of the guidelines set by the standard agreement.

3.4.4 Understanding the Other Party's Business Drivers

All parties, end users and NSPs agree that an understanding of the other party's business drivers can prove to be significantly beneficial in the development of both retail and network service arrangements. Examples include the impacts on a process of a sudden interruption of power supply requiring a major maintenance, disposal of work in process and cleanup and reinstatement of equipment prior to restarting the plant. This spoilage cost, additional workload or the additional delay to resuming production can cost businesses many millions of dollars, which can easily justify additional investment in ensuring reliable power supplies.

One of the issues, however, is that for NSPs to gain such an understanding is a resource intensive process and one which they have been finding difficult, given current resources, to take on.

However, it has been a process that, with the competition in the retail sector, Retailers have taken on with Account Managers approaching Electricity Users to discuss their needs on a regular basis. This is one of the aspects that tend to add to the confusion of Electricity Users over the difference between retail and network service provision. There needs to be an attitude shift that recognises proactive account management by NSP's as core activity.

3.4.5 Service Level Commitments Versus Reliability Guarantees

As noted above, one of the aspects of connection agreements that many end users were keen to negotiate was that of service provision. The main issue with this is the broad range of expectations that end users have when they talk about service provision. For example, many end-users were content to talk about service provision as:

- the provision of a dedicated helpline;
- access to a technical expert who could discuss their specific issues and explain the constraints of their current arrangement; or even
- provision of a priority repair service.

However, other end users thought of Service Provision as the provision of a guaranteed response time for repairs or even a guaranteed reliability of supply backed up by an appropriate damages regime within the contract. Other areas mentioned were service standards as well as monitoring and reporting of energy consumption.

The typical response of the NSP to this broad range of Service Provision requirements is a rejection based on the fact that even a regulated "n-1" reliability regime envisages that there is some probability of failure that will cause an outage of the system (albeit a low probability) and the NSP is not required by regulation, to take on any liability under these circumstances.

3.4.6 Other NEM Jurisdictions

Whilst the process for development of this report involved interviews with major Queensland Electricity Users and Network Service Providers, many of the Electricity Users interviewed were responsible for connection arrangements at other sites located in other States of the National Electricity Market. Additionally, all Queensland NSPs, through their interstate operations, are involved with and are aware of interstate issues to do with connection. It is concluded that the same issues identified in this report exist in and need to be addressed across the National Electricity Market.

4 RECOMMENDATIONS

The recommendations set out below are based on the issues identified in Section 3 above and, have often been identified as a result of suggestions made during interviews with both Electricity Users and the NSPs. This is an important point and the reason for making it is that the report concludes that, with improved communication, major Electricity Users and NSPs would be able to identify solutions to all of the issues identified. As with many processes where issues and disputes have developed, there is often good reason to review the communications process and seek to improve the understanding and participation of all parties.

The major recommendation of this report is that there is no immediate need to identify and make Rule changes in order to address a majority of the issues. It is consequently recommended that a step-by-step approach be taken which, in the first instance looks to develop improved understanding of the issues and appropriate communication to assist in the resolution of these issues. As part of the solution then, appropriate changes to the Rules may be identified and implemented by the parties.

4.1 EDUCATION

As a result of the lack of understanding of the connection process and legislative requirements by end-users, it is recommended that NSPs (perhaps through such customer focused organisations such as EUAA) look to provide a more formal education process for Electricity Users.

This is no longer an aspect of the electricity industry that can be left to the retail side of the business particularly as the separation of Retail and Network Owner becomes better defined and more clearly regulated.

This education process should include as a minimum:

- Development of process flow chart which clearly sets out the processes to be followed in the establishment of connection arrangements;
- Development of a guideline that explains in "simple English" each section of the standard agreement, the regulatory drivers behind each section and that references relevant regulation and legislation;

- Provides a forum(s) to discuss the range of negotiable issues and some of the issues/ constraints that need to be taken into account in developing negotiation positions; and
- Development of a training/seminar presentation that is scheduled to be held on a regular basis (probably twice a year) at a number of appropriate regional centres for the NSP. The seminar series should be constantly under development/review and utilised to take end users through the basic processes plus any new regulatory changes. It is Evans & Peck's view that this forum could also be used as a consultative forum on a wide range of issues such as planning criteria, network pricing and demand management initiatives. These presentations could be delivered through a mechanism such as the Regional User Network Consultation forum that EUAA runs in Queensland from time to time.

4.2 DEVELOPMENT OF EXPERTS

An important aspect of the issues identified above was the inability of representatives of the NSPs to help Electricity Users understand the processes of developing a connection agreement or their inability to be able to negotiate outside a standard connection framework. This latter issue arises in particular with larger, more sophisticated Electricity Users, who have a real requirement to move beyond the standard agreement.

It is recommended that, in addition to its current utilisation of personnel for managing the development of connection agreements, NSPs consider the development of an additional number of experts who can be allocated on an "as needs" basis to Electricity Users who need the higher level of attention. These experts should be adequately skilled and empowered to manage the development of more customised agreements that meet customer needs but remain within the legislative framework and remain compatible with the approved corporate risk profile.

These "experts" can also be utilised to become more familiar with the business drivers of relevant target Electricity Users and can be provided with a range of potential clauses to assist in managing these drivers/expectations.

4.3 DEVELOPMENT OF A RANGE OF SERVICE STANDARDS AND OPTIONAL AGREEMENT CLAUSES

The current Standard Customer Connection Agreements reflect early market understandings of the regulatory regime and a corporate risk profile for the NSP that is relatively conservative due to a low level of experience with the market.

Given the time since the Market was introduced and experience gained since then, Evans & Peck consider that it is now appropriate to review and revise the "Standard Agreements" to reflect a better understanding of regulatory requirements and probably more appropriately a better appreciation of risks and probability of occurrence.

It is therefore recommended that NSPs review current standard agreements to identify appropriate changes targeting the potential for more customisation of agreements that may better suit their customers' requirements (particularly in relation to the establishment of a range of appropriate Service Level Commitments) whilst maintaining an appropriate corporate risk profile. This could be achieved through a forum similar to the EUAA's Contract Improvement Project and managed by a steering committee of EUAA members and representatives of the NSPs.

It is envisaged that the revised standards may contain a range of clauses that have been pre-approved by the Regulator and the NSPs' legal departments, which can be utilised to provide a more customised outcome where this is desirable.

As part of the processes of reviewing standards, it is important to establish an understanding with both end users and NSPs that putting a connection agreement in place is not simply about allocating responsibility, forcing either party to take on risks or liabilities that they cannot manage or agreeing to compensation that they cannot fund. It is about getting appropriate metrics in place on which to base decisions, and providing appropriate incentives on the parties in order that industry can perform more effectively in the marketplace.

It will be appropriate as part of this review to consider the establishment and resourcing of a process that supports Electricity Users and the development of more customised agreements with NSPs. The development of such a process provides an organisation such as EUAA with an opportunity to meet customer

requirements and members' expectations in an effective way. Clearly, the Advocacy Panel has a role to play here.

In carrying out this review, it will be important not to lose the option of the simplicity of the current process which meets the criteria of a number of Electricity Users who simply need a standard connection agreement to be put in place rapidly and with minimal resource involvement.

4.4 KEY PERFORMANCE INDICATORS

NSPs currently utilise a range of key performance indicators that provide appropriate drivers for the management of system reliability, availability and outage management. These same KPIs are sometimes utilised in connection agreements with Electricity Users. Discussions with end users have revealed that utilisation of these KPIs is not useful for the individual customer who can face real issues and costs even at a time when current KPIs are being met by the NSPs.

It is recommended that the parties to connection agreements develop a range of KPIs that are targeted at connection performance from the customer's point of view. As this needs to occur with the support of NSPs it is highly desirable that it not take on the perception of a "thin edge of the wedge" approach and that KPIs be developed such that they are not targeting blame or looking to manage liability for various performance issues. It should be possible to develop and utilise KPIs that promote continuing performance improvement without attaching any concept of a liability for a failure to achieve the KPI. This could be facilitated through a process similar to the EUAA's Contract Improvement Project utilising a steering committee made up of EUAA members and representatives from the NSPs.

4.5 ASSET VALUES AND REGULATORY RETURNS

The issue of reducing funds available for investment that was identified in 3.3.5 relating to the determination of regulated returns is one that has some interesting implications. For example, if a large Electricity User requests a connection agreement with superior reliability or network performance through the construction of an additional feeder or transformer (even if the customer

contributes the capital towards such an upgrade), the default position is that the capital value of that asset is taken into account by the regulator in determining the overall revenue cap for the NSP. This effectively means that any money spent improving one Electricity User's Supply performance is money that can't be spent on another part of the network. Whilst there is a mechanism for the NSP to request a "re-opening" of their revenue determination, the process remains a bureaucratic one with an uncertain outcome.

Therefore, the final recommendation is for large Electricity Users and NSPs to discuss with appropriate regulators a more flexible process of assessing "above standard" connection arrangements. Specifically, the parties should seek greater flexibility in the process for allowing assets that have been requested by the Electricity User to be built without automatically having a deleterious effect on the NSP's ability to spend capital on the remainder of customers.

5 IMPLEMENTATION

5.1 INTRODUCTION

The recommendations set out above address those key issues that Evans & Peck has identified will deliver most value to the marketplace and large end-users in relation to improved outcomes for Connection arrangements. Whilst there is no legislative or administrative framework that precludes the introduction of these recommendations, it is recognised that any process for implementation will need to be facilitated. The proposals below could form part of an implementation plan that will need to evolve if the recommendations above are to be put in place successfully.

5.2 SEPARATION OF RETAILERS FROM NETWORK SERVICE PROVIDERS

The current move to a more rigorous separation of Retail Electricity Entities from the Network Service Providers (in Queensland this is currently being implemented through the sale of the Government Owned Retail Entities) presents a unique opportunity to influence the management of the issues identified above and implement some of the recommendations.

The new "stand-alone" NSPs will have an incentive to educate Electricity Users in order to increase process understanding and therefore manage resource demands and will no longer be in a position where they can solely rely on Retail Account Managers, who will now work for an unassociated company, to promote NSP issues with Electricity Users.

NSPs should be encouraged to take the opportunity to review the way they currently conduct business in this area and EUAA is in an ideal position to take such a proposition forward. Evans & Peck is of the view that the education process should not exclude retailers, but provide a forum for information and consultation with all retailers and customers.

5.3 LOBBY GROUPS

The major groups that need to sign on to the implementation process if the recommendations are to be adopted are the NSPs themselves. It is strongly recommended that a process for engaging senior personnel in the NSPs be developed. This engagement of senior NSP personnel is a role that is commonly taken on by the

EUAA in relatively informal circumstances but needs to become more formalised in the approaches made that relate to the outcomes of this report. Chief Executive Officers and other senior executives of each of the NSPs will be a key target audience.

The other key stakeholders in the development of a strategy for implementation will be the State Government's Energy Departments, Energy Ministers and Energy Regulators. It will be appropriate to prepare a presentation on the findings of this report to brief these stakeholders.

5.4 WORKSHOP FACILITATION

The final recommendation in the development of an implementation plan is for the EUAA to develop a workshop program aimed at exploring the proposed recommendations with representatives from large Electricity Users and the NSPs. It is considered that the EUAA take on an ongoing role in the facilitation of an education program that meets the requirements of recommendation 4.1 and the facilitation of an annual/biannual workshop which undertakes a regular review of the latest "standard agreements" for the purpose of recommending or facilitating changes to the documents where issues continue to be identified.