



825 Ann Street, Fortitude Valley QLD 4006  
PO Box 264, Fortitude Valley QLD 4006

[ergon.com.au](http://ergon.com.au)

30 June 2014

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Ms Erin Pasley  
The Research Director  
State Development, Infrastructure and Industry Committee  
Parliament House  
George Street  
**BRISBANE QLD 4000**

Dear Ms Pasley

**Submission No. 012 11.1.21**

**Submission on the *National Energy Retail Law (Queensland) Bill 2014* and the  
*Electricity Competition and Protection Legislation Amendment Bill 2014***

**Submission No. 014 11.1.20**

Ergon Energy Corporation Limited (EECL), in its capacity as a Distribution Network Service Provider in Queensland, and Ergon Energy Queensland Pty Ltd (EEQ), in its capacity as a non-competing area retail entity in Queensland, herein after referred to as Ergon Energy, welcome the opportunity to provide comment to the State Development, Infrastructure and Industry Committee on the *National Energy Retail Law (Queensland) Bill 2014* and the *Electricity Competition and Protection Legislation Amendment Bill 2014*.

Ergon Energy supports in principle, the modification of the application of the National Energy Retail Law (NERL) in Queensland and consequential amendments to the *Electricity Act 1994* (the *Act*) and agrees that the jurisdictional modifications proposed in the Bills will facilitate improved customer protection and support to small customers following the removal of regulated prices in South East Queensland.

However, despite this support, Ergon Energy is concerned that a number of the proposed provisions are not in keeping with the underlying purpose of the Bills and in some cases have the potential to result in increased cost to energy businesses that will ultimately be borne by energy customers. Specific comments in relation to the content of each Bill are included under the respective headings below:

***National Energy Retail Law (Queensland) Bill 2014***

- The NERL Bill provides that the Minister must review the operation of the NERL no later than 1 January 2018. Ergon Energy supports this proposal, on the basis that certain jurisdictional derogations are addressed in the regulations. If these issues are not addressed, Ergon Energy will incur significant implementation and ongoing costs,

which may ultimately be unnecessary if these provisions are subsequently altered following the review.

- Ergon Energy notes that the following definition of *standard meter* for a particular small customer contained in section 60(D)(5): *a metering installation of the type that would ordinarily be installed at the premises of the customer*, is confusing and may lead to undesirable outcomes in application of the legislation as it applies to card-operate meter customers who are registered as having life support equipment. In particular, card-operated meters are rolled out in communities after consultation with and on the request of elders, on behalf of the community, rather than at the request of individual customers. That is, in those communities a *metering installation of the type that would ordinarily be installed at the premises of the customer* is in-fact a card-operated meter.
- Ergon Energy is concerned that the indemnity provisions in section 317 of the NERL Bill are not sufficiently equivalent to the existing jurisdictional arrangements contained within the Standard Coordination Agreement at Annexure C to the Electricity Industry Code. More specifically, the current indemnity would apply to protect Ergon Energy in a claim arising from the performance of a retailer requested job, except to the extent that the matter claimed was as a consequence of Ergon Energy's negligence, recklessness or breach of the law. However, under section 317 of the NERL the indemnity will only apply to the extent that the retailer has been negligent, breached a statutory duty or acted in bad faith, with the onus on the distributor to prove that the retailer's instruction was so flawed.

In consideration of this issue, Ergon Energy requests that an amendment to the NERL be included to ensure that the current indemnity provisions under section 11 (e) of the Standard Coordination Agreement are replicated in the new jurisdictional framework.

- Ergon Energy notes that the NERL (Qld) does not provide standard form contract arrangements for large customers (businesses that consume equal to or over 100MW per annum, and State and local governments who consume energy at street lighting premises) and supports the proposed transitional arrangements to continue the existing arrangements for EEQ to deliver the Uniform Tariff Policy by providing customer retail services to large customers on large customer standard retail contracts at the notified price. Furthermore, Ergon Energy also supports other large customers with existing large customer standard retail contracts retaining the terms and conditions of those contracts, but having the ability to negotiate variations to those terms and conditions under normal contractual arrangements in the future.
- Ergon Energy supports the proposed transitional arrangement to deem existing instalment plan arrangements under the Electricity Industry Code (the Code) payment plans under the NERL (Qld) on the basis that the arrangement will help to avoid any unnecessary customer confusion or inconvenience and reduce the cost to retail businesses of having to retrospectively apply the new product upon commencement.

- Ergon Energy supports the proposed transitional regulation making power as a mechanism to accommodate any necessary transitional provisions that are not apparent at this stage, given the complex nature of the existing new legislative schemes and the move to national scheme legislation. We note that any transitional regulation will expire within three years and consider this timeframe suitable in view of the intended review of the broader operation of the NERL (Qld) by 1 January 2018.
- Although the prepayment meter regime envisaged by the NECF is not currently suitable for application in Queensland, Ergon Energy supports the replacement of the definition of prepayment meter system under section 2(1) of the NERL to clarify that a prepayment system does not include a card-operated meter. In particular we agree that this will maintain the necessary distinction between the two, should the prepayment meter provisions of the NERL be applied at some time in the future.
- Ergon Energy supports the continued ability for EEQ, as an ‘assigned retailer’ to enter into a non-standard agreement with a customer, for example in order to trial new products and tariff structures.
- Ergon Energy supports the proposed introduction of a standard retail and standard connection contract for card-operated meter customers. Furthermore, Ergon Energy supports the proposed provision to allow a card-operated meter to remain at the premises of a customer who is registered as having life support equipment, where that customer gives the retailer explicit informed consent to this effect.
- Ergon Energy supports the proposal to not apply the Small Compensation Claims Regime in Queensland.

### ***Electricity Competition and Protection Legislation Amendment Bill 2014***

- Ergon Energy supports preservation of the mechanism for setting regulated retail electricity prices for standard contract customers outside SEQ.

Ergon Energy notes that it has had ongoing discussions with the Department of Energy and Water Supply (Department) on the implementation of the NERL in Queensland and appreciates the Department’s ongoing engagement in regard to these issues. We look forward to continuing these discussions with the Department as implementation progresses.

Should you require additional information or wish to discuss any aspect of this submission, please do not hesitate to contact either myself on (07) 3851 6416, or Trudy Fraser on (07) 3851 6787.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jenny Doyle', with a stylized flourish at the end.

**Jenny Doyle**

Group Manager Regulatory Affairs

Telephone: (07) 3851 6416

Email: [jenny.doyle@ergon.com.au](mailto:jenny.doyle@ergon.com.au)