



**New South Wales Government**

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**BETTER REGULATION OFFICE  
DEPARTMENT OF WATER AND ENERGY  
OFFICE OF FAIR TRADING**

**ISSUES PAPER**

**REVIEW OF NSW ELECTRICITY NETWORK CONTESTABLE SERVICES**

**June 2009**

Written submissions due 7 August 2009

## HOW TO MAKE A SUBMISSION

Interested persons are invited to provide written submissions on this Issues Paper.

Please send submissions by email to: [electricity@dpc.nsw.gov.au](mailto:electricity@dpc.nsw.gov.au)

If you do not have access to email, please send submissions to:

Better Regulation Office  
GPO Box 5341  
SYDNEY NSW 2001

Phone: 02 9228 5414

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Submissions must be received by **7 August 2009**.

All submissions will be made publicly available. If you do not want your personal details released, please indicate this clearly in your submission.

Additional copies of this discussion paper are available on the Better Regulation Office website ([www.betterregulation.nsw.gov.au](http://www.betterregulation.nsw.gov.au)).

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## **EXECUTIVE SUMMARY**

The NSW Government introduced contestability in the provision of certain electricity distribution network connection services in 1995. The legislative framework established to support contestability includes a scheme to accredit individuals or businesses that are suitably qualified to provide these services.

The value of contestable works undertaken in NSW each year is estimated to be more than \$300 million. Given the significant contribution this sector makes to the economy, it is essential that the arrangements which support contestability and the scope of contestable works are effective, efficient and appropriate.

This review will examine contestability in the NSW electricity distribution sector, including reviewing the Scheme for Accreditation of Service Providers to Undertake Contestable Works and considering the scope to expand the range of works that are contestable.

Along with promoting competitive outcomes, ensuring a safe and reliable supply of electricity is central to the Government's regulatory approach. Alternative ways to meet the Government's objectives in the electricity distribution sector will be considered as part of the review, along with the implications of policy developments in other jurisdictions and at the national level.

The review is being conducted to maximise competitive outcomes for the benefit of NSW electricity consumers while removing any unnecessary regulatory burden for the electricity distribution industry.

## Review questions

1. In your view, are the regulatory arrangements for contestable works leading to the safe, reliable and efficient supply of electricity? Are the arrangements cost-effective?
2. Are current accreditation requirements appropriate for testing a company's fitness to offer contestable services?
3. Do existing accreditation requirements support the Scheme's aim of supporting competition in the electricity distribution industry?
4. Are existing insurance requirements reasonable?
5. Please provide comments on current cancellation and dispute resolution procedures. Do you have any suggestions for any improvements or alternative dispute resolution models that could be introduced into the ASP arrangements?
6. Is there duplication in the regulation of metering installations? Is there any need for the NSW accreditation scheme to be more closely linked to the NEMMCO meter accreditation requirement?
7. Do you think that there is any conflict or overlap between authorisation and accreditation processes? If so, please provide examples and suggestions on ways to harmonise or remove the conflict or overlap.
8. Do you have a suggestion for reducing delays in the authorisation process? Would you support a single, common training and authorisation system? If so, how would you see this working?
9. Your views on options for review of the Scheme and your preference (or alternative proposal) are requested. Please include reasons and any additional detail on how your preferred option might operate.
10. Do you have comments on the range of work that is contestable in NSW?
11. What are your views on introducing contestability for, or other changes to, design certification and inspection of networks assets and connections? Please provide quantified examples of any costs that you have borne as a result of any delay caused by slow certification or inspection processes or due to the imposition of additional requirements. How could potential conflicts of interest be minimised through the design of any certification and inspection regime?
12. Your views on the advantages and disadvantages of the options for contestability of design certification and inspections are sought, including any impact on reliability, safety, security and the ongoing cost effectiveness of electricity distribution networks and the most appropriate course of action.

## 1 INTRODUCTION

Under the [Electricity Supply Act 1995](#) (the Act), customers seeking connection services or who wish to augment or extend a network in order to obtain connection services may choose a contractor to do the work through the Scheme for Accreditation of Service Providers to Undertake Contestable Works (ASP Scheme).

Enabling provisions for the ASP Scheme are included in the Act and provided for in more detail in the [Electricity Supply \(General\) Regulation 2001](#). These provisions regulate the businesses seeking to compete for work on aspects of the electricity distribution network, for instance by requiring them to employ competent people, meet safety and technical standards and satisfy commercial requirements, including holding insurance.

The ASP Scheme was initially operated under the Energy portfolio but responsibility for administration of the Scheme was transferred to the Office of Fair Trading (OFT) in 2007. Policy and regulatory oversight were retained by the Minister for Energy through the Department of Water and Energy (DWE).

Two categories of work are performed by accredited service providers (ASPs):

- relatively minor work, such as installing the connection cable between a residence and a network and installing an electricity meter, which can be undertaken by an ASP in accordance with the NSW [Service and Installation Rules](#); and
- major network construction work which requires the submission of a design to the distribution network service provider (DNSP) who certifies the design before work can proceed and then inspects the work during construction and on completion.

Currently, certification of design work and inspections of connection work are not contestable services. This is because DNSPs have responsibility for work on a network once it is completed and so have required confirmation that the design and work meet required safety and technical standards. However, this has given rise to concerns that DNSPs are imposing additional or indirect costs on these services (direct charges for services are subject to pricing regulation). These indirect costs include those associated with delays in providing these services. Further, concerns have been expressed that DNSPs could use the inspection process to discriminate against competitors who also provide these services.

The NSW Government is conducting a review into contestability of electricity network services, undertaken jointly by the Better Regulation Office (BRO), DWE and OFT. In particular, this review will look at whether the ASP Scheme is meeting its objectives and, if not, how this may be addressed. The review will also look at the certification of design and inspection of contestable works by DNSPs and consider a range of potential solutions to any problems identified, including whether these services should be made contestable. This discussion paper will form the basis of consultation with stakeholders.

Submissions on the issues raised in this paper will be accepted until 7 August 2009. Submissions are welcome via email to [electricity@dpc.nsw.gov.au](mailto:electricity@dpc.nsw.gov.au) or post to the Better Regulation Office, GPO Box 5341, Sydney, NSW, 2001. This paper is also available on the BRO website ([www.betterregulation.nsw.gov.au](http://www.betterregulation.nsw.gov.au)).

## **2 TERMS OF REFERENCE**

### **2.1 Purpose**

The aim of the review is to examine contestability of certain electricity network services in NSW. The review will make recommendations to ensure that the governance arrangements which support contestability of work on the NSW electricity distribution network and the scope of contestability are effective, efficient and appropriate.

### **2.2 Scope**

The review into contestability in the NSW electricity distribution network will be conducted by BRO in partnership with DWE and OFT. The review will be informed by consultation with industry stakeholders including DNSPs, accredited service providers, major project proponents (builders/developers) and worker representatives.

The review will focus on three key areas:

#### **The Scheme for the Accreditation of Service Providers (ASP Scheme)**

- whether the ASP Scheme is achieving its objectives;
- whether the ASP Scheme is operating effectively and efficiently (including the suitability of existing administrative arrangements);
- assessment of any overlap between accreditation procedures under the ASP Scheme and the authorisation process undertaken by distribution network service providers (DNSPs) and whether these processes can be streamlined;
- whether other categories of work, such as recoverable work, should be made fully contestable (currently a number of these types of work are contestable at a DNSP's discretion);
- alternative approaches to achieve the objectives set for the ASP Scheme; and
- the impact of reforms being undertaken in other jurisdictions and at the national level.

#### **Arrangements and procedures for the certification of design of major work undertaken by ASPs**

- the role of design certification in ensuring the technical parameters of the network are correct and the proposed addition or alteration meets DNSP design standards and customer needs;
- any problems experienced by customers and ASPs seeking to undertake work for which design certification requirements apply;
- alternative approaches to design certification; and
- the impact of reforms being undertaken at the national level.

### **Arrangements and procedures for the inspection of connection work**

- the role of inspection of connection work in ensuring that safety and technical standards are met;
- any problems experienced by customers and ASPs in relation to inspection arrangements;
- alternative approaches to connection inspection work; and
- the impact of reforms being undertaken at the national level.

## 3 BACKGROUND

### 3.1 Overview of NSW electricity industry

Broadly, the electricity industry in NSW is made up of:

- electricity generators, which are companies that own or control generating systems. These companies operate in a competitive national market (the National Electricity Market (NEM));
- retail suppliers, which are companies that purchase electricity from the generators and sell the electricity to end use customers;
- transmission operators, which are companies that own or control transmission systems; and
- distribution network service providers (DNSPs), which are companies that own or control a distribution system. DNSPs are monopoly operators with a franchise licence issued by the NSW Government to serve a defined area of NSW.

The NSW electricity distribution network refers to the electricity power lines and associated equipment and structures that are used to convey electricity from the transmission network to a customer. This review relates only to the distribution sector. DNSPs in NSW are:

- Country Energy, which covers most of the rural area of NSW with a network of almost 190,000 km of overhead and underground sub-transmission, and distribution power lines;
- EnergyAustralia, which covers eastern and northern Sydney, the Central Coast, Newcastle and adjacent rural areas, with a network of almost 50,000 km of overhead and underground sub-transmission, and distribution power lines. EnergyAustralia also has transmission assets which are not relevant to the review; and
- Integral Energy, which covers western and southern Sydney, the coast down to and including Wollongong and adjacent rural areas, with a network of almost 34,000 km of overhead and underground sub-transmission and distribution power lines.

Other relevant stakeholders are ASPs (entities accredited under the ASP Scheme to undertake certain types of work on the networks and connections to the networks), customers of DNSPs and ASPs, major project proponents (builders/developers) and worker representatives.

### 3.2 NSW regulatory framework

#### *Electricity Supply Act*

The principal statute governing the electricity networks in NSW is the [Electricity Supply Act 1995](#) (the Act). In relation to the electricity distribution network, it establishes the legislative framework under which electricity is distributed to customers.

Central to this Act and related reforms was the introduction of competition into the retail energy market and contestability into the electricity distribution and supply industry. The (then) Minister for Energy stated that “A key objective of the reforms is to foster competition and competitive processes wherever practicable<sup>1</sup>”.

The Act seeks to safeguard consumers and the network by describing the work that is open to competition and providing a regulatory framework for the safe and efficient provision of those services. In particular, the Act establishes a process of accreditation by which only competent persons may provide contestable services. NSW is at the forefront of competition reforms in this area and is the only Australian jurisdiction that has an existing contestability regime for network connections.

The distribution network services that the Act and regulations make contestable are:

- customer connection; and
- the extension of, or increase in the capacity of, the distribution system;

so as to enable the provision of customer connection services<sup>2</sup>. More discussion on contestable services is in section 5.1 in this paper.

DNSPs who wish to compete with other ASPs and charge customers directly for any services they provide to connect new or existing premises to the network<sup>3</sup> must ‘ring-fence’ those operations within their organisation. .

The majority of network services, including construction (other than for new or augmented connections) and maintenance of the networks, have remained as regulated monopoly services carried out by DNSPs. Since 1 July 2008, the Australian Energy Regulator (AER) has been responsible for DNSP regulation (except pricing, which will be transferred from IPART to the AER on 1 July 2009). *Electricity Supply (General) Regulation*

Part 10 of the [Electricity Supply \(General\) Regulation 2001](#) details the framework for the establishment and operation of ASP schemes in NSW, consistent with the enabling provisions in the *Electricity Supply Act*. In particular, it provides a clear set of requirements for any agency that accredits persons wishing to perform contestable customer works.

#### *Code of Practice for Contestable Works*

The [Code of Practice for Contestable Works](#) (the Code) outlines principles for customer choice of supplier of contestable services and the accreditation of providers of contestable services, as well as describing the types of work that are contestable in accordance with the Act. It also sets out a number of other types of work that may be contestable at the discretion of the DNSPs, as well as the responsibilities of the parties involved in

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<sup>1</sup> The Hon. Michael Egan, Minister for Energy, on the Electricity Supply and other Bills in the Legislative Assembly on 12 December 1995

<sup>2</sup> Division 4 of Part 3 and the Dictionary of the *Electricity Supply Act 1995*, and clauses 3 and 79 of the *Electricity Supply (General) Regulation 2001*.

<sup>3</sup> ‘Regulation of Excluded Distribution Services Rule 2004/01’ in *NSW Electricity Distribution Pricing 2004/05 to 2008/09: Final Report*, Independent Pricing and Regulatory Tribunal of New South Wales, June 2004.

contestable works (the accrediting agency, the DNSP, the customer and the accredited service provider). The Code was developed by the Electricity Association of NSW and has since been amended by a working party chaired by DWE. DWE now has responsibility for the Code.

The Code applies to all contestable works and the persons who undertake them. DNSPs have been directed by the Director-General of DWE<sup>4</sup> to comply with the Code. Neither the accreditation scheme operator, ASPs, nor customers are required to agree to abide by the Code, although the Code's provisions are imposed in other ways, such as through contracts between the DNSPs and their customers and the ASP Scheme documents.

#### *ASP Scheme documents*

OFT operates the ASP Scheme in accordance with the Act and regulations described above and the Scheme documents which are 'recognised' by the Minister for Energy. Details of the Scheme's operations are provided in section 4.2.

*1. In your view, are the regulatory arrangements for contestable works leading to the safe, reliable and efficient supply of electricity? Are the arrangements cost-effective?*

### **3.3 National regulatory environment**

As well as NSW-specific statutes and rules, the electricity distribution industry operates within the National Electricity Market (NEM), which has a common set of rules under which wholesale electricity can be traded within and between jurisdictions and facilitates competition in the retail electricity market. However, while there is considerable movement towards a national regulatory framework for the generation and retail segments of the market, many aspects of the distribution industry will continue to be regulated at the state-level, at least in the short to medium term. Some national developments applicable to the distribution segment are outlined below.

#### *Regulation of distribution network connections*

As part of ongoing national electricity sector reforms, responsibility for distribution network connections is being transferred to the national regulatory framework. The Ministerial Council on Energy is currently facilitating this transfer, and has consulted on a policy paper developed by its Standing Committee of Officials setting out new network connection arrangements. While the process for connecting to a distribution network is shifting to a national framework, NSW remains responsible for regulating work undertaken during the process (for example, who can do the work).

Under the proposed framework, there will be two possible connection options, as is currently the case in NSW. The first is a standard connection process, which will apply to all standard connections defined by the DNSP and agreed with the Australian Energy Regulator. A standard connection includes a set form for terms, conditions, technical

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<sup>4</sup> Clauses 9(2)(i) and 13(1) of the Electricity Supply (Safety and Network Management) Regulation.

specifications, timeframes and charges. DNSPs will be able to develop a range of standard connection contracts for different types of connections. The second is a negotiated connection process, where a customer's technical requirements do not match any of the available standard contracts. Both connection procedures outlined in the policy paper include detailed processes with timeframes. More information on this matter may be obtained from the Council's website at [www.mce.gov.au](http://www.mce.gov.au).

#### *Harmonisation of technical and safety requirements*

The Ministerial Council on Energy has begun a process aiming to harmonise the approach to technical and safety regulation of electricity networks in each state. One aspect of this process is a proposed 'National Energy Skills Passport' for individuals who work on the electricity and gas networks. The Passport would provide a record of the individual's current qualifications, licences and other authorities, induction to local network standards and specifications and refresher training. This would aim to make it simpler for individuals to prove their competencies to different DNSPs. The Passport will be relevant when considering individual competency requirements under the ASP Scheme.

Another related project is currently underway that aims to assess and standardise across Australia the minimum competency requirements for individuals who work on or near the electricity networks. That project is being run by the ElectroComms and Energy Utilities Industry Skills Council (EE-OZ Training Standards) in conjunction with the Energy Networks Association, the Communications, Electrical and Plumbing Union and the Commonwealth Department of Education, Employment and Workplace Relations. This process might simplify assessing the worker requirements specific to particular distribution networks.

## 4 ACCREDITATION SCHEME

The ASP Scheme relates to customer funded work done on the electricity distribution networks to which the *Electricity Supply Act* applies. Those networks are operated by Country Energy, EnergyAustralia and Integral Energy Australia, as well as RailCorp<sup>5</sup>.

The Code of Practice for Contestable Works describes the purpose of the contestable works provisions of the Act and regulations to be:

- (a) to promote competition and customer choice as much as is practicable to the works required provided to customers of safe, efficient and reliable connection services and other works (recoverable works);
- (b) to permit access by competent persons on fair terms to the market for provision of contestable work;
- (c) to protect distribution assets associated with or affected by the performance of contestable works; and
- (d) to maintain the safety, reliability and efficiency of connection services.

The ASP Scheme centralises the accreditation of individuals or companies to provide contestable services on electricity distribution networks. To gain accreditation, ASPs must employ individuals who have the qualifications and competencies required by DNSPs and meet distribution network safety and technical standards. ASPs must also agree to indemnify DNSPs from any loss or damage incurred as a result of any contestable works undertaken<sup>6</sup>.

The Scheme operator is required to ensure that grading and contact details of accredited service providers are made publicly available<sup>7</sup>. OFT meets this obligation by providing a telephone service during normal business hours and by publishing details of accredited service providers on the OFT website, and updates this information every month.

The Minister may approve multiple schemes and scheme operators. DNSPs can also operate their own scheme, without Ministerial recognition. However, only one scheme (the ASP Scheme) has ever been approved and operated.

All contestable services must be undertaken in a safe manner and in accordance with legislative and ASP Scheme requirements and the local DNSP's network management plan, including the customer installation safety chapter of the plan.

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<sup>5</sup> RailCorp does not participate in the ASP Scheme as they do not have customer funded connection services.

<sup>6</sup> The DNSPs inspect contestable works and require rectification where appropriate before any damage to the network or consumer installations is done.

<sup>7</sup> Clause 84 of the Electricity Supply (General) Regulation 2001.

## 4.1 History of the ASP Scheme

The former Electricity Association of NSW (EANSW), consisting of the electricity DNSPs, developed and operated the ASP Scheme from 1997. The Scheme was funded through contributions from DNSPs and fees charged to ASPs and operated at arms length from DNSPs.

A feature of the original EANSW ASP Scheme's operation was the inclusion of technical advice, assistance and a limited inspection regime. This was not a role mandated by regulation, but evolved out of the body's industry membership.

Operation of the ASP Scheme was transferred to the (then) Ministry of Energy and Utilities<sup>8</sup> in December 2001 when EANSW was wound down. The Scheme was funded from a combination of cost recovery via fees and direct budget funding. The Ministry continued a limited assessment and targeted inspectorial role<sup>9</sup> for several years and made several minor amendments to the ASP Scheme. The Ministry also continued to provide technical advice to industry.

Operation of the ASP Scheme was transferred to OFT in April 2007, although responsibility for the legislation underpinning the ASP Scheme and related policy issues remains within the Energy portfolio.

## 4.2 Operation of the ASP Scheme

There are approximately 1,200 ASPs in NSW. The following table shows the number of service providers accredited to do different levels of work and the number of jobs undertaken in 2007/08:

Level of Accreditation	No. ASPs on 30/06/08 <sup>10</sup>	No. contestable jobs done <sup>11</sup>
level 1 – network asset construction services	109	2,224
level 2 – customer connection services	1,004	86,898
level 3 - network asset design services	86	2,383
Total	1,199	91,505

DWE estimates the value of the work done in NSW by ASPs at over \$300 million per annum. The total expenditure by OFT on salaries and operational costs for the ASP

<sup>8</sup> The functions of the Ministry of Energy and Utilities were transferred into the Department of Energy, Utilities and Sustainability, which was also abolished and many of its functions transferred to the current Department of Water and Energy.

<sup>9</sup> The inspection role was administratively separate from the policy functions of the Ministry (and, later, the Department).

<sup>10</sup> Data from the Office of Fair Trading.

<sup>11</sup> Data from the Electricity Distribution Network Performance Reports published by Country Energy, EnergyAustralia and Integral Energy for 2007/08.

Scheme was \$187,498 in 2007/08. The total of accreditation fees received during the year was \$177,508<sup>12</sup>.

The ASP Scheme provides for three distinct types of services:

- Level 1 services relate to the construction and installation of overhead and/or underground distribution systems owned and operated by the DNSPs. Level 1 service providers are rated at either grade A, B or C. The grading at the time of application depends on the result of an independent assessment.
- Level 2 services encompass five categories that relate to work on the connection from the distribution system to the point of supply of an electrical installation and the installation of electricity meters and associated equipment. The categories are for:
  - disconnection/reconnection services;
  - underground service lines;
  - overhead service lines;
  - metering and energising installations; and
  - installing contestable market metering.

Accredited level 2 service providers are rated at either grade A, B or C. In accordance with the provisions of the ASP Scheme all new applicants are rated at grade B.

- Level 3 services include the design of overhead and/or underground distribution and transmission systems owned and operated by the DNSPs. Level 3 service providers are not graded.

Grading affects the cost of inspection fees service providers pay for the DNSPs to inspect their work, and the number of inspections required. Regrading may occur on the basis of performance. All work done by Level 1 ASPs is inspected during construction/installation and prior to connection to the network due to the significant impact of the works. The potential risk to the network, customers and customers' installations from work done by Level 2 ASPs is not as high, and a sliding scale of inspections apply:

- grade A – 1 in 25 jobs are inspected;
- grade B – 1 in 5 jobs are inspected; and
- grade C – all jobs are inspected.

Inspection fees are set by IPART (AER from 1 July 2009) as part of the distribution network pricing determinations<sup>13</sup>.

Only contestable work for which accreditation is held may be undertaken. For example, a service provider with level 1 accreditation may construct an extension to a distribution network, but may not design the extension (level 3 work) or connect a customer's installation to it (level 2 work).

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<sup>12</sup> The total expenditure includes fees paid to external assessors for Level 1 applications. Total income includes those fees.

<sup>13</sup> The most recent monopoly service charges were set by IPART in NSW Electricity Distribution Pricing 2004/05 to 2008/09 Final Determination.

### 4.3 Applying for accreditation

Any person or company may apply for accreditation. Applicants must lodge the form provided by OFT with supporting information and the appropriate fee:

	Level 1	Level 2	Level 3
Initial accreditation	\$407.00 <sup>14</sup>	\$159.50	\$121.00
Renewal	\$159.50	\$159.50	\$121.00

To become accredited, a person or company must show that they have the appropriate capabilities (including equipment and staff) and satisfy prudential requirements (including insurance). Requirements vary across the different levels of work. Accreditation may be renewed annually upon payment of a fee and provision of evidence that insurance policies have been maintained. ASPs must also agree to specific terms and conditions (see Appendix A).

#### *Capability*

The applicant must show it has trained staff, in line with schedules of qualifications and training necessary for each type of work contained in the ASP Scheme documents. Each level 1 and 2 accredited service provider must also register with the ASP Scheme all employees who are intending to work on or near the electricity distribution network. Separately, the ASP must seek authorisation from a relevant DNSP for the individual to work on a network.

Independent assessors with extensive industry experience go on site to assess the suitability of level 1 applicants against the terms of accreditation on behalf of OFT. The assessor's report provides the basis for the grading for each successful level 1 applicant. Assessors are paid \$297 by OFT, but may also charge applicants for any additional travelling expenses. Level 2 and 3 applications are subject to a desktop assessment, reflecting the lower risks associated with this work.

Applicants seeking level 1 accreditation must also prove they have access to appropriate equipment and are rated on past performance, capability and quality, health, safety and environmental management systems. Where it is known that an applicant for level 1 accreditation intends to subcontract all work (to suitably accredited service providers), OFT requires evidence of acceptable contract management systems.

Applicants seeking level 3 accreditation must also meet professional association membership or experience requirements and be able to demonstrate that they have knowledge of the various network standards and specifications.

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<sup>14</sup> Figure includes the fee for an independent assessment.

## *Insurance*

The ASP Scheme requires accredited persons to hold insurance cover for public liability, product liability, motor vehicles and worker's compensation (where applicable). Insurance must remain in place for 3 years after a job is undertaken.

It is a condition of accreditation that public and products liability insurance policies<sup>15</sup> note DNSP interests (this can be difficult to arrange). The policies must also waive the insurer's rights, remedies or relief to which it may become entitled by way of subrogation against a DNSP (this can substantially increase premiums or make insurance difficult to purchase).

Level 3 service providers are also required to hold professional indemnity insurance.

*2. Are current accreditation requirements appropriate for testing a company's fitness to offer contestable services?*

*3. Do existing accreditation requirements support the Scheme's aim of supporting competition in the electricity distribution industry?*

*4. Are existing insurance requirements reasonable?*

## **4.4 Cancellation of accreditation and dispute resolution**

Cancellation of accreditation can be on any of the following grounds:

- the person is no longer competent to provide the relevant contestable service (having regard to the results of any inspection by the accrediting agency or any audit of the person's performance);
- the person has been convicted of an offence against the *Electricity Supply Act* or *Electricity (Consumer Safety) Act 2004* or their regulations;
- the person was accredited on the basis of false or misleading information or a failure to disclose or provide required information;
- the person has breached an undertaking given to the accrediting agency; and
- it is necessary on any other grounds relating to the safety of the work carried out or to public safety.

Cancellation does not prevent the individuals associated with a business from seeking accreditation as a different legal entity, as, under the terms of the legislation and Scheme documents, no proof of identity is required, no cross-checking of directors is done and there are no 'fit and proper person'-type checks of applicants. While some checks are made to ensure that corporate and business names, addresses and other details are correct, this must necessarily be limited to action that is permitted under laws

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<sup>15</sup> The same requirement also applied to motor vehicle insurance until recently.

administered by OFT and the *Corporations Act 2001*. 'Fit and proper person'-type checks are required by law for other licences issued by OFT, such as Home Building authorities, property agents and managers, travel agents and motor dealers.

DNSPs provide OFT with advice about ASPs when:

- OFT requests the information after a service provider applies for an upgrade;
- work done by a service provider seriously breaches safety standards or other terms of accreditation; or
- authorisation of a person to work on or near the electricity network is suspended or withdrawn (see section 4.5 for more on authorisation requirements).

The grading of a service provider may be upgraded or downgraded on the basis of advice and evidence from a DNSP, or OFT may suspend the accreditation of a service provider at any time on safety grounds. This has rarely occurred. A service provider seeking re-accreditation after a period of suspension is rated at grade C, which is a significant cost penalty as the inspection charges may be significantly higher. For example, the current inspection fee for Level 1 service work (for the first 10 lots) is:

- grade A – \$32 per lot;
- grade B – \$76 per lot; and
- grade C – \$158 per lot<sup>16</sup>.

The ASP Scheme provides for a dispute resolution process for accreditation-related disputes, which include decisions by the accrediting agency to:

- refuse an application for initial or renewal of accreditation;
- suspend or cancel accreditation; or
- set or change the grading of a service provider.

The dispute resolution process can involve an internal review, an alternative dispute resolution process with an appointed mediator and an arbitration process under the provisions of the *Commercial Arbitration Act 1984*. This can be time consuming and expensive. The same procedures apply to ASP Scheme-related disputes between ASPs and the DNSP. It appears the alternative dispute resolution and arbitration procedures have not been used.

*5. Please provide comments on the current cancellation and dispute resolution procedures. Do you have any suggestions for any improvements or alternative dispute resolution models that could be introduced into the ASP arrangements?*

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<sup>16</sup> IPART: NSW Electricity Distribution Pricing 2004/05 to 2008/09 Final Determination, page 54.

#### 4.5 Other relevant requirements

ASPs may also be required to comply with other requirements such as the provisions of the *Home Building Act 1989*, national metering requirements and DNSP's authorisation processes.

##### *Home Building Act*

In NSW only holders of an appropriate authority under the *Home Building Act* may undertake electrical wiring work<sup>17</sup>. This means that someone working on the distribution network and on a customer's installation may be required to be accredited under the ASP Scheme, as well as hold a licence or certificate under the *Home Building Act* (except for employees of DNSPs, who are exempted<sup>18</sup>). Similarly, the level 2 service provider may be required to hold a licence under the *Home Building Act* to contract for that work.

##### *National metering requirements*

Under Chapter 7 of the National Electricity Rules, electricity meters can only be provided and installed by persons who are registered by NEMMCO, which is responsible for developing, revising and publishing a metrology procedure that specifies the responsibility and arrangements for metering installations in the NEM.

However, under the *Electricity Supply Act* and associated regulations, ASPs are accredited to install meters. Over 1,000 ASPs are accredited under NSW law to install electricity meters, but only 8 are also registered with NEMMCO. To date, NEMMCO has not included ASP categories in the accreditation guidelines as required in S7.4.5 of the National Electricity Rules. NEMMCO is aware of this issue and is understood to be taking steps to address this gap.

6. Is there duplication in the regulation of metering installations? Is there any need for the NSW accreditation scheme to be more closely linked to the NEMMCO meter accreditation requirement?

##### *Authorisation of individuals to work on distribution networks*

The ASP Scheme requires individuals working for ASPs to have specific training and/or qualifications and be authorised by the relevant electricity DNSP if they are going to work on or near the network. Authorisation contributes to the safety and reliability of the network by ensuring that employees of ASPs are familiar with the technical and safety requirements of the particular network they are working on.

<sup>17</sup> The Home Building Act relies on the definition of "electrical wiring work" in section 3 of the Electricity (Consumer Safety) Act 2004, being: "the actual physical work of installing, repairing, altering, removing or adding to an electrical installation or the supervising of that work".

<sup>18</sup> Clause 22 of the Home Building Regulation 2004.

Authorisation requirements stem from the electricity DNSP's obligations under clause 9(2)(e)(iii) of the *Electricity Supply (Safety and Network Management) Regulation*, which requires DNSPs to include in their network operating plans, amongst other things, procedures and standards designed to ensure that persons working on or near the system's electricity works have the competencies required to undertake the work safely. Authorisation also partially addresses DNSP's occupational health and safety obligations.

While accreditation focuses on the structure and processes of a business that provides contestable services (such as its insurance policies and the staff it employs), authorisation focuses on the skills, expertise and knowledge of the business's employees. However, an ASP needs to demonstrate that its staff have the requisite skills, expertise and knowledge to become accredited and to pre-register employees that will seek authorisation. Individuals who work for more than one ASP will be registered on multiple occasions.

There is overlap between the authorisation and accreditation processes where an ASP or individual has to provide the same information to OFT or a particular DNSP.

In Victoria, the possible issues of delay caused when a service provider is required to apply to different DNSPs to work on different networks are dealt with by a 'passport' agreed between the DNSPs that allows portability across networks. The passport proves competency and training currency, as well as any DNSP issued authorities and regulatory licences. In Victoria a DNSP negotiates and contracts with a service provider on behalf of a customer seeking connection work, which means that the DNSP maintains control over who is working on its network. This example is included for discussion purposes, but is not directly applicable to NSW, as NSW has higher levels of direct contestability – in NSW customers are able to contract directly with the service provider for work done on a DNSP's network. One reform option for NSW to consider is a single common authorisation training model, with additional units to account for technical differences across each DNSP's networks.

*7. Do you think that there is any conflict or overlap between authorisation and accreditation processes? If so, please provide examples and suggestions on ways to harmonise or remove the conflict or overlap.*

*8. Do you have a suggestion for reducing delays in the authorisation process? Would you support a single, common training and authorisation system? If so, how would you see this working?*

#### **4.6 Regulation in other jurisdictions**

On 23 April 2009, the ACCC approved an application made by a group of Victorian DNSPs to set up a system where civil contractors can be pre-qualified and approved to work on a distribution network. This application includes elements of accreditation, but rather than being a mandatory requirement in place to protect network and community safety (in the case of the ASP Scheme), it would be voluntary, and would be put in place

to facilitate risk-based assessment processes. However, the Victorian DNSPs will reserve the right to refuse to connect work done by contractors who are not pre-qualified.

#### **4.7 Need for review**

The ASP Scheme may duplicate or overlap with processes undertaken by the DNSPs and NEMMCO and may not be achieving its objectives under the current administrative arrangements.

The accreditation process determines whether an applicant has the required level of skills, resources and competency necessary to undertake contestable works. However, the process may not be the best way to make this determination. Potential issues include the mainly desktop nature of the review, restricted investigation powers, limited compliance activities and overlap with other processes.

If incorrect information is provided in applications, accreditation could be given to inappropriate applicants. The majority of applications (for level 2 and 3 accreditation) are determined on the basis of a desktop assessment which assumes that applicants provide true and accurate information about their legal and trading entities, their resources, and the abilities and qualifications of the individuals doing the work. The process for assessing level 1 applications is more robust – applicants receive a site visit by an independent assessor to examine their resources, management systems and experience.

OFT has limited scope to investigate a ASP's claims. It has no powers of entry or right of access to ASPs' premises or documents under the *Electricity Supply Act* or any of its regulations, nor, in relation to the ASP Scheme, under the *Fair Trading Act 1987*. Instead, OFT must rely on DNSP advice on any contestable works undertaken by an ASP, including any technical and safety breaches.

Limited compliance activities can be carried out under the ASP Scheme. A key issue for the review is that the Scheme does not include any reliable means of enforcing compliance with its requirements, nor of compliance with the technical, safety and other laws, rules, codes or standards that service providers agree to abide by as part of the terms of accreditation. There are no financial or other penalties attached to breaches of the Scheme, and the majority of triggers for suspension or cancellation of accreditation – apart from insurance or misrepresentation (eg providing false information to obtain accreditation) – relate to breaches of obligations under the *Electricity Supply (Safety and Network Management) Regulation*. Safety breaches are dealt with by the DNSPs, who authorise individuals to work on the network. Withdrawal of the authorisation of individuals is likely to be more effective than suspension or cancellation of accreditation, although it only applies to individuals working for the ASP rather than the ASP itself. The ASP Scheme itself does not seek to address network safety.

The accreditation process may act as a filtering mechanism to limit the number of businesses that seek to have employees authorised to work on or near the network. In this scenario, the ASP Scheme is, in fact, a service to the distribution network industry (which has the obligation to provide a safe network) rather than a consumer safety mechanism.

Insurance is a significant cost component for a company seeking accreditation. Insurance requirements may be acting as a barrier to entry to this industry, inhibiting competition.

There is also a question as to whether it is appropriate for an ASP to be required to insure work that has been inspected by and become the responsibility of the DNSP. An alternative may be for the ASP to be required to hold insurance for the work up until the point at which the work is approved by the DNSP at which time the DNSP assumes full liability for the work.

#### **4.8 Options for review**

##### *1. Retaining the ASP Scheme as it currently operates*

The first option would be to retain operation of the ASP Scheme by OFT, essentially in its current form. The advantage of maintaining this arrangement is that OFT has experience in administering a large number of licensing schemes for a range of industries. Also, industry and stakeholders are familiar with the operation and systems that are currently in place. Fees are currently below cost-recovery level and would have to be increased to cover increasing operating costs.

However, this option would not address the possible issues associated with the current ASP Scheme outlined in the previous section, which include concerns about the depth of the checks undertaken, the perceived overlap of functions between OFT, the DNSPs and national requirements and the lack of clarity about the Scheme's objectives.

##### *2. Modify administration of the ASP Scheme*

The second option would be to retain the ASP Scheme, but to modify its design and operation to improve efficiency and effectiveness. This could include a change of administering agency. Administrative or regulatory changes could lead to greater assurance that accreditation requirements are being met (ie. that a business has the required staff, training, equipment and insurance). Other basic operational issues, such as the computer software used for the database and public access to information about ASPs, could also be addressed.

The perceived problems of overlap and duplication with the authorisation processes would still require examination and alteration as required and to take account of national regulatory matters. In relation to powers to enforce requirements of the ASP Scheme, consideration could also be given to changes which better enable the administrator to ensure the scheme operates effectively and risks are minimised. Consideration may also be given to raising fees charged to ASPs to fully fund any extended investigation or compliance activities.

In relation to changing the administering agency, possible alternatives could include DWE (technical expertise and policy responsibility for the Scheme as well as greater powers to inspect and enforce, but potentially a conflict as an industry regulator) or an industry association. A similar model is operated on behalf of the electricity distributors in the United Kingdom by Lloyd's Register for the equivalent of level 1 and level 3 ASPs.

Another administrative issue that could be considered is the accreditation renewal period. Other trade licences issued by OFT have a variable renewal period of one or three years, depending on the grade or licence type. Extending the renewal period for accreditation

may reduce regulatory and administrative burden for ASPs and the accrediting agency. However, it would be necessary to ensure that accreditation requirements remain current over the licence period where essential for the effective operation of the scheme.

Accreditation requirements, such as insurance, could be reconsidered under this option. An alternative approach to the insurance requirements would be to make the DNSP responsible for taking out insurance once it has approved the work, as it has the ultimate responsibility for the safety and technical integrity of the asset (and responsibility for inspecting work).

### 3. *Combine authorisation and accreditation processes*

The third option is to combine the accreditation and authorisation processes. One way to do this would be to amend the ASP Scheme to include authorisation of individuals to work on the networks and removing the DNSPs obligations under clause 9(2)(e)(iii) of the *Electricity Supply (Safety and Network Management) Regulation*. This would deal with the current overlap and gaps between the separate accreditation and authorisation processes, as well as consolidating authorisation processes across the distribution networks.

A consolidated process may enable public safety and consumer protection goals to be met more efficiently, as it would accurately reflect the status of a business and an individual's capacity to complete work. It may also lead to more effective discipline processes, as the regulator could act immediately on any breach of authorisation or accreditation requirements (at the moment, if a DNSP suspects a breach of accreditation requirements, it must report the breach to OFT, which then takes separate action where possible). It would also mean that the same body was taking action for both safety and technical breaches.

By reducing overlap and gaps between the authorisation and accreditation processes, a combined process may reduce cost and complexity for DNSPs and ASPs. A service provider would be able to seek approval once, and then work across all networks, rather than being required to accredit the business, and then separately satisfy three different sets of authorisation requirements across NSW's three distribution networks. As well as reducing financial cost, this would reduce delay in getting individuals and companies on-site (for example, when they are required to go through separate processes to work on different networks), increasing the efficiency of the connection process. However, if DNSPs maintained their own separate induction processes (to reflect technical differences in their networks and to meet insurance or liability requirements), this could result in an extra layer of authorisation, increasing cost and complexity in the regulatory framework, undermining the 'one approval' approach.

### 4. *Removing the ASP Scheme*

A fourth option is to remove the Scheme, meaning that DNSPs would rely on authorisation processes to ensure network safety and protect customers' installations. This option recognises the view of some stakeholders that it is the authorisation process rather than accreditation that reduces the risk to public safety from work on distribution networks.

If DNSPs are relying on the accreditation process to provide proof of insurance and competency, removing the ASP Scheme could impose additional work. However, a benefit

of this approach is that it would ensure that DNSPs do not rely on a third party to show a company has certain staffing or insurance, particularly when evidence of insurance is only required once a year. A further benefit would be the removal of some unnecessary duplication between the authorisation and accreditation processes, reducing regulatory burden and cost to service providers, savings that could be passed on to consumers.

There are disadvantages associated with this approach, including a possible conflict of interest where DNSPs have the power to refuse authorisation to a competing provider of contestable work (which is currently also the case). Also, it would potentially increase costs for individual DNSPs (such as the cost of checking insurance policies of each service provider before they start work on a network). It would also mean the loss of a centralised database of providers that customers can access when they want work completed. However, this could be addressed if a third party such as DWE, OFT or an industry body was to host a service provider database maintained by DNSPs.

#### *5. Other options*

Any alternative proposal or discussion of other options is welcome.

*9. Your views on options for review of the Scheme and your preference (or alternative proposal) are requested. Please include reasons and any additional detail on how your preferred option might operate.*

## 5 CONTESTABILITY OF DESIGN CERTIFICATION AND INSPECTIONS

Currently, not all of the direct customer funded services necessary to connect a customer to the network are contestable. Services that are contestable include the work to design, extend or increase the capacity of a distribution system and connect, increase or maintain a customer's connection, as well as other work included at the discretion of DNSPs such as asset relocation. Certification of the design work is not contestable; neither is inspection for technical compliance of completed contestable work.

### 5.1 What connection work is contestable?

Clause 3 of the *Electricity Supply (General) Regulation* defines a "contestable service" as:

- any service provided for the purpose of a connection of any premises to a distribution network, an increase in capacity of an existing connection or the maintenance of a distribution network connection); and
- any service comprising work relating to an extension of a service provider's distribution system or an increase in the capacity of a service provider's distribution system.

The *Electricity Supply Act* provides for the supply of service lines, transformers, meters<sup>19</sup>, other equipment and apparatus and requirements regarding their installation and use. The electrical equipment, including service lines, transformers, meters and apparatus installed in the course of providing customer connection services, ends up forming part of the network. Depending on metering arrangements and the location of the point of supply to a customer's premises<sup>20</sup>, that equipment becomes the property of the relevant DNSP. The work is therefore maintained on an ongoing basis by the DNSP.

#### *Recoverable works*

The Minister for Energy has also approved the contestability of recoverable works at the discretion of a DNSP. Recoverable works are capital works on the electricity network, undertaken at the request of customers or other external parties, but which are not for the purpose of establishing a new or upgraded connection to the electricity network. They include asset relocation or electricity works on a customer's property at the customer's request, or to allow other works. An example of recoverable work is the relocation of an asset such as a power pole or distribution pillar at the request of the customer to allow installation of a new driveway. Another example is large project work such as preparation before the construction of a motorway.

Emergency recoverable works are not contestable at any time. These include emergency work undertaken by a DNSP to repair damage to the distribution system where someone is at fault, such as damage resulting from a motor vehicle collision where the driver was negligent. However, a DNSP may sub-contract such work to an ASP.

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<sup>19</sup> See section 4.5 for further discussion on electricity metering.

<sup>20</sup> The point of supply is determined in accordance with the Service and Installation Rules of New South Wales as published by the Department of Water and Energy.

### *Street lighting*

“Services relating to street lighting” are also contestable at the discretion of the relevant DNSP. “Street lighting” refers to work on the streetlight network and the work required to replace the lamps. This only covers maintenance of street lighting assets where these are owned by the DNSPs.

10. Do you have comments on the range of work that is contestable in NSW?

## **5.2 What connection work is not contestable?**

### *Certification of design*

The design for any proposed extension or augmentation of the network to enable a customer connection must meet the construction standards and specifications applicable to the local network. This may include matters such as voltage calculations, alignment with the existing overhead or underground network, substation design, cable joint terminations or construction materials. As there are differences between the distribution networks across NSW, each DNSP has its own safety and technical requirements. Network designs must also meet other criteria, such as the requirements of environmental protection laws.

Currently, only the local DNSP may certify that a design is compliant with the required standards. The rationale is that the DNSP is the one who must take responsibility for the work once it has been constructed.

### *Inspection of network construction and installation and customer connections*

Contestable works are inspected to make sure that they comply with the certified design and relevant technical standards. At the moment, these inspections are conducted by the local DNSP. The DNSP determines the number of jobs to inspect in accordance with each service provider’s grading. Level 1 work inspections are done at the discretion of the DNSP – generally all jobs are inspected during and after the work is completed. The inspection regime for Level 2 work is shown in the following table:

Level 2 Grade	Min. inspections	Max. major defect reports to maintain grading	Min. inspections for upgrade
A	1 in 25	Less than 3%	
B	1 in 5	3% to 5%	30
C	All	More than 5% $\geq$ 20%	10

An example of a contestable approach to inspection work is Victoria’s scheme for the inspection of customer installations, where licensed electrical inspectors inspect the work done by licensed electricians (on the customer’s premises, not work on network assets or

connections to the network). The customer engages an electrical inspector selected from an approved list and pays for the inspection. The inspector carries out compliance inspections for a range of prescribed work and then signs a certificate of inspection (which is part of the certificate of electrical safety) if the work complies with the relevant rules. Electrical inspectors are not allowed to inspect work that they have installed.

### 5.3 Rationale for review

It may not be necessary for a DNSP to undertake design certification and inspection work to protect the safety of the network and ensure the integrity of its asset. There is an argument that appropriately qualified inspectors should be able to compete for this work, just as ASPs may do for contestable work.

Requiring contestable work to be design certified and inspected by a DNSP may lead to delay and unnecessary cost, as customers are forced to deal with a regulated monopoly service provider with competing priorities for allocation of resources. Customers may be disadvantaged by the uncertainty of having to wait for DNSP staff to be available to certify a design or conduct an inspection. Additional costs may also be incurred by a customer when a DNSP's inspector is delayed and service providers cannot commence the next stage of their work.

Additionally, there may be a conflict of interest when DNSPs (who are also ASPs) certify or inspect contestable works. This could lead to a perception that a DNSP could apply a more onerous standard to competitors than required, or a situation where a DNSP applied a more onerous standard than required for its own risk management purposes. This may lead to unnecessary cost if reasonable work is considered non-compliant and unnecessary rectifications are required. This possible conflict means that there may not be a level playing field for ASPs. It is acknowledged however that DNSPs are required to ring-fence business units that complete ASP work from other business units, which is aimed at addressing the potential for conflict.

As workloads on DNSPs have increased, DNSPs have done less and less contestable work, and instead have focused on ensuring the safe, effective and efficient operation of the network. Broadening the scope of contestable services may be a natural extension of this maturing of the sector, further allowing DNSPs to focus on their core business, while enabling service-level work to be undertaken by dedicated companies. This could lead to more efficient, safe and well-run distribution networks as well as creating skilled employment and business opportunities for service providers.

Continuing to require this work to be completed by the DNSPs may also be at odds with the Government's aim to encourage competition for work previously undertaken by regulated monopoly providers.

*11. What are your views on introducing contestability for, or other changes to, design certification and inspection of network assets and connections? Please provide quantified examples of any costs that you have borne as a result of any delay caused by slow certification or inspection processes or due to the imposition of additional requirements. How could potential conflicts of interest be minimised through the design of any certification and inspection regime?*

## Options for review

### 1. *No change*

The first option is for certification of network designs and the inspection of network asset construction and installation and customer connection services to remain non-contestable under the current framework.

### 2. *Licence qualified certifiers and inspectors*

The second option is to set up a licensing scheme for certifiers and inspectors. Requiring a certifier or inspector to be licensed would ensure that they had the appropriate qualifications and expertise to assess work against the technical requirements.

However, establishing a licensing scheme would impose additional costs on business and government. This cost would potentially be passed on to either DNSPs or connecting customers and would increase the overall cost of network connections.

It may also lead to duplication if DNSPs or their insurers don't have sufficient confidence in the arrangements.

### 3. *Allow ASPs or authorised workers to complete inspections*

The third option is to for the Minister for Energy to declare design certification and connection inspection contestable work by including design certification and connection inspection work as separate categories of work under the ASP Scheme. For example, new categories of work could be created under the ASP Scheme, or a similar authorisation process for certifiers and inspectors could be established.

The advantage of this approach is that it would encourage increased competition in the electricity distribution industry without the additional costs of establishing a licensing regime. Generally, many existing ASPs would be appropriately qualified to undertake certification and inspection work.

However, it is unclear whether DNSPs would do a follow-up inspection to ensure safety and technical integrity of its asset (where it considered there was a risk that the contestable inspection failed to do this). Where this did occur, it may increase the administrative and cost burden for the connecting customer.

The Government would need to be fully satisfied that such a scheme would not result in any decrease in safety or reliability.

*12. Your views on the advantages and disadvantages of options for contestability of design certification and inspections are sought, including any impact on reliability, safety, security and the ongoing cost effectiveness of electricity distribution networks and the most appropriate course of action.*

## **APPENDIX A**

### **Terms of accreditation**

#### **Level 1**

1. Only contestable work for which accreditation is held will be undertaken and that all work will be undertaken in a safe manner and in accordance with all Acts, regulations, this scheme and the local electricity distributor's standards, safety and operating plan and customer installation safety plan.
2. Suitable equipment will be used for the construction of contestable works and that equipment will be maintained to ensure safe operation.
3. All of employees (and sub-contractors) of the service provider undertaking the specified types of work are trained and qualified as required in Appendix I for the work to be undertaken.
4. Records of contestable works undertaken, including details of qualified personnel who undertook the work, will be maintained for a period of three years. Such records shall be provided to the local electricity distributor on inspection of the works, or to the Office of Fair Trading, on request.
5. The applicant, and its employees, sub-contractors or other agents, will not carry out work on or near the distribution system of a NSW electricity distributor that adopts this accreditation scheme unless each of them is qualified under the relevant requirements of the local electricity distributors network management plan to carry out the work, and unless the work is carried out in accordance with the relevant requirements of that plan. (see cl. 23 Electricity Supply (Safety and Network Management) Regulation 2008)
6. The required insurances will be maintained for the duration of the accreditation period.
7. The service provider will indemnify the local electricity distributor against any loss or damage incurred as a result of any contestable works provided by the Applicant.
8. The service provider agrees to notify the Office of Fair Trading of any circumstances that may affect the conditions of the accreditation.
9. The service provider accepts as a condition of accreditation an independent audit of records, equipment and works to confirm compliance with the conditions of accreditation.
10. Management systems will be maintained to ensure compliance with the local electricity distributor standards, safety and operating plan and customer installation safety plan.

#### **Level 2**

1. Only contestable work for which accreditation is held will be undertaken. All work will be undertaken in a safe manner and in accordance with all relevant Acts, regulations, this scheme and the local electricity distributor's network management plan and customer installation safety plan.
2. Suitable equipment will be used for the construction of contestable works and that the equipment will be maintained to ensure safe operation.

3. Procedures must be in place to ensure that qualified personnel undertaking works have access to current local electricity distributor standards.
4. Records must be maintained on:
  - a. the qualifications of personnel undertaking contestable works;
  - b. contestable works completed and by which qualified person; and
  - c. equipment available and routine testing undertakenfor a period of three years from the completion of the works. Such records shall be provided to the local electricity distributor on inspection of the works, or to the Office of Fair Trading on request.
5. The service provider, and the service provider's employees, sub-contractors or other agents, will not carry out work on or near the transmission or distribution system of a NSW electricity distributor unless each is qualified under the relevant requirements of the local electricity distributor's network management plan to carry out the work and the work is carried out in accordance with the relevant requirements of that plan (see cl. 23 Electricity Supply (Safety and Network Management) Regulation 2008).
6. The required insurances must be maintained for the duration of the accreditation period.
7. The service provider will indemnify the local electricity distributors of NSW against any loss or damage incurred as a result of any contestable works undertaken by the Applicant.
8. The service provider agrees to carry out works in a way that complies with all applicable laws and regulations concerning the protection of the environment.
9. The service provider must ensure that the following tests on all works are carried out before connecting them to supply to ensure safe operation, and, where applicable, compliance with clause 1.5 of AS/NZS 3000:2000 (the Wiring Rules):
  - a. for Categories 1, 2 and 3 work: polarity, phase rotation (where applicable), insulation resistance and earthing integrity.
  - b. for Category 4 work where applicable, to ensure compliance with clause 1.5 of AS/NZS 3000 (the Wiring Rules), testing procedures shall be adopted from the AS/NZS 3017:2001 Electrical Installations – Testing Guidelines (a copy must be retained by the Service Provider). Service Providers engaged in this category of work must not energise the installation past the main switch unless they are in possession of a copy of the relevant Certificate of Compliance - Electrical Work (CCEW) or have completed such a document indicating that all tests required have been performed.
  - c. for Category 5 work, any tests on the metering equipment that are required by the National Electricity Rules<sup>21</sup>, Metrology Procedures and Market Operations Rule (NSW Rules for Electricity Metering) No. 3 of 2001, as applicable.

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<sup>21</sup> The National Electricity Rules govern the operation of the National Electricity Market. The Rules have the force of law, and are made under the National Electricity Law. The rules are made by the AEMC, which in the main obtains its statutory powers from the National Electricity Law.

10. The service provider must be accustomed to working on ladders and not be subject to giddiness, defective sight or other physical defect which might cause him/her to lose balance when working in an elevated position.
11. The service provider must make a separate application in respect of each job involving electrical work for which written approval by the local electricity distributor is required before such work is carried out.
12. When performing electrical work, the service provider must comply with the Service and Installation Rules of New South Wales and the local electricity distributor's requirements, as applicable.
13. The service provider must carry out all electrical work in accordance with any directions given by the local electricity distributor. Fixtures and equipment owned by the local electrical distributor must be left in good order after being accessed by the Service Provider.
14. The service provider must be aware of the meaning of the word "LIVE" (alive) as defined in the Code of Practice for Transmission and Distribution Asset Management and that contact with a live part is dangerous unless suitable precautions are taken. The Service Provider must be aware of the precautions required to guard against danger to life, health or property and take these precautions whenever performing electrical work.
15. The service provider shall be aware that authorised persons must not, while working on a live conductor, make contact with any other conductor or with any metal structures or attachments that may be earthed.
16. The service provider must ensure that authorised persons wear and use in the manner intended, an approved line workers' safety belt and pole strap when performing work on the local electricity distributor's overhead service lines in an elevated position where overbalancing may lead to an accident.
17. The service provider will not carry out work aloft on, or within 0.5 metres of, any conductor of a live low voltage line unless:
  - a. a non-conductive ladder is issued; and
  - b. any part of a conductor (except the conductor on which work is being done) within 0.5 metres of any part of the body, other than the forearms, of the authorised person is permanently insulated or temporarily covered with suitable insulating material (provided by the service provider) while carrying out work; or
  - c. the service provider must ensure that authorised persons wear an approved rubber insulating glove on each hand and occupy such a position that no part of their body, other than the forearms, is at or above the level of any conductor of the live line which is within 0.5 metres of any part of the body, other than the forearms, and which is not permanently insulated or temporarily covered with suitable insulating material provided by the service provider.
18. The service provider must ensure that authorised persons do not perform electrical work if affected by alcohol or other drugs or if, in any other respect, judgement or ability to carry out electrical work is impaired.

19. Equipment belonging to the local Electricity Distributor which the service provider is authorised to remove must be returned within seven (7) days of the authority being given.
20. Any meter readings must be submitted on the prescribed form together with the Notification of Service Work (NOSW).
21. The Office of Fair Trading may suspend the accreditation of the Service Provider at any time on the grounds of safety following a report by the local electricity distributor. Cancellation of accreditation is provided for in clause 86 of the Electricity Supply (General) Regulation 2001.

### **Level 3**

1. Only design work for which accreditation is held will be undertaken and that all designs will be prepared in accordance with all Acts, Regulations, this scheme and the local electricity distributor's standards and specifications.
2. Only qualified personnel will be used for the design of electricity distribution works.
3. Records will be maintained on:
  - a. the qualifications of personnel undertaking designs, and
  - b. designs completed and by which qualified person.
4. The required insurances will be maintained for the duration of the accreditation period.
5. The service provider will indemnify the local electricity distributor against any loss or damage incurred as a result of any contestable works provided by the Applicant.
6. The service provider agrees to carry out the works in a way that complies with all applicable laws and regulations concerning the protection of the environment.
7. The service provider agrees to notify the Office of Fair Trading of any circumstances that may affect the conditions of the accreditation.
8. The service provider accepts as a condition of accreditation an independent audit of its records to confirm compliance with the conditions of accreditation.

## APPENDIX B

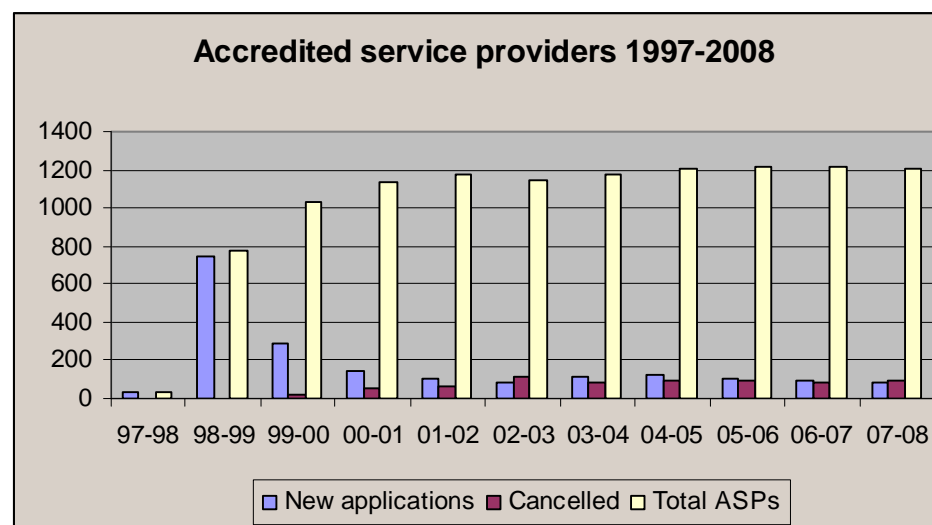
### ASP Scheme Statistics 2007/08

<b>Total ASPs on 30/06/08</b>	
level 1	109
level 2	1,004
level 3	86
<b>Total</b>	<b>1,199</b>
<b>New Accreditations</b>	
level 1	15
level 2	61
level 3	11
<b>Total</b>	<b>87</b>
<b>Cancelled Accreditations</b>	
level 1	3
level 2	98
level 3	5
<b>Total</b>	<b>106</b>
<b>Telephone calls to OFT re: the ASP Scheme</b>	
From customers seeking ASPs (estimate)	2,900
From existing or potential ASPs (estimate)	1,950
<b>Total</b>	<b>4,850</b>
<b>Visits to OFT's ASP Scheme web pages</b>	
Electricity network connections (customers)	5,820
Electricity network services (tradespeople)	4,931
<b>Total</b>	<b>10,751</b>
<b>PDF downloads</b>	
PDF - ASP list level 1	3,780
PDF - ASP list level 2	4,656
PDF - ASP list level 3	2,826
<b>Total</b>	<b>11,262</b>
<b>Contestable work done by ASPs<sup>22</sup></b>	
Number of external ASP level 1 notifications	2,224
Number of external ASP level 2 NOSWs	86,898
Number of external ASP level 3 designs certified	2,383
<b>Total</b>	<b>91,505</b>

<sup>22</sup> Data from Table 7.1 in the 2007/08 Electricity Distribution Network Report respectively published by Country Energy, EnergyAustralia and Integral Energy.

### Trends in accreditation since commencement of the ASP Scheme

	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	total
<b>New applications</b>	33	747	284	147	106	79	113	119	104	90	82	1,904
<b>Not renewed/cancelled</b>	0	3	24	52	62	109	81	96	91	83	96	697
<b>Total ASPs</b>	<b>33</b>	<b>777</b>	<b>1,037</b>	<b>1,132</b>	<b>1,176</b>	<b>1,146</b>	<b>1,178</b>	<b>1,201</b>	<b>1,214</b>	<b>1,221</b>	<b>1,207</b>	
<b>Net change in number of ASPs</b>	33	744	260	95	44	-30	32	23	13	7	-14	
<b>No. new applications weekly (average)</b>		14.4	5.5	2.8	2	1.5	2.2	2.3	2	1.7	1.6	3.6
<b>No. cancellations weekly (average)</b>		0.1	0.5	1	1.2	2.1	1.6	1.8	1.75	1.6	1.8	1.3
<b>Individuals registered for authorisation</b>		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	211	224	
<b>Upgrade applications (Levels 1 &amp; 2)</b>		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	21	22	
<b>Unsuccessful upgrade applications (Levels 1 &amp; 2)</b>		n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	1	4	



## APPENDIX C

### Acronyms

The following is a list of acronyms used within the electricity industry and in this paper:

ACCC	Australian Competition and Consumer Commission
ADR	Alternative Dispute Resolution
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator (a part of the ACCC)
AQF	Australian Qualifications Framework
ASP	Accredited Service Provider
CE	Country Energy
DEUS	Department of Energy, Utilities & Sustainability
DNSP	Distribution Network Service Provider
DWE	Department of Water and Energy
EA	ElectricityAustralia
EANSW	Electricity Association of NSW
ENA	Energy Networks Australia
ESAA	Energy Supply Association of Australia
ETU NSW	Electrical Trades Union, NSW Branch
IE	Integral Energy
ISSC	Industry Safety Steering Committee
LNSP	Local Network Service Provider
MEU	Ministry of Energy and Utilities
NECA	National Electrical and Communications Association
NEL	National Electricity Law
NEMMCO	National Energy Market Management Company (will be replaced by the Australian Energy Management Operator)
NER	National Electricity Rules
NOSW	Notification of Service Work
OTEN	Open Training and Education Network (TAFE)
SENI	Significant Electricity Network Incident
U&EITAB	NSW Utilities and Electrotechnology Industry Training Advisory Body