

Code of Practice Contestable works

April 2007



NSW Government
Department of Water & Energy

CONTENTS

- 1. PREFACE.....3
- 2. APPLICATION AND OBJECTIVES4
- 3. SCOPE5
- 4. DEFINITIONS6
- 5. CONTESTABILITY7
 - 5.1 Principles7
 - 5.2 Responsibilities of the Parties.....8
 - 5.2.1 *Accrediting Agency*.....8
 - 5.2.2 *Electricity Distributor*.....8
 - 5.2.3 *Customer*.....10
 - 5.2.4 *Service Provider*.....11
 - 5.3 Standards and Specifications11
 - 5.4 Connection and Disconnection12
- 6 ACCREDITATION12
 - 6.1 Principles12
 - 6.2 Application for Accreditation13
 - 6.3 Grading of Service Provider13
 - 6.4 Training and Qualifications13
 - 6.5 Safety Breaches and Defects13
 - 6.6 Suspension and Cancellation of Accreditation.....13
 - 6.7 Fees and Charges13
- 7 DISPUTE RESOLUTION.....13
- APPENDIX 1: DIAGRAM OF ACCREDITATION PROCESS14

1. PREFACE

This Code is a minor revision by the Department of Water and Energy of an earlier Code prepared for the former Electricity Association of NSW by a Working Group with representatives from:

- Australian Inland Energy
- Advance Energy
- EnergyAustralia
- Great Southern Energy
- Integral Energy
- National Electrical and Communication Association (NSW Chapter)
- NorthPower

The Code applies to all work subject to Contestability, and the persons who undertake such work (including local electricity distributors and electrical contractors).

For further information on the provisions of this Code contact the Department of Water and Energy, the National Electrical and Communications Association (NSW Chapter) or the local electricity distributor. Comments are welcome and should be sent to:

The Manager Energy Networks Performance Policy
Department of Water and Energy
GPO Box 3889
SYDNEY NSW 2001

Phone: 02 8281 7777
Email: information@dwe.nsw.gov.au

Note: This Code is one of a number which applies to contestable works. Other Industry Codes of Practice may overlap or complement this Code including the Service and Installation Rules for NSW.

Code of Practice - Contestable works
© State of New South Wales through the Department of Water and Energy, 2007
ISBN 978 0 7347 5524 7
DWE 09_003
First issued: March 1998. Revised: April 2007

This work may be freely reproduced and distributed for most purposes, however some restrictions apply. Contact the Department of Water and Energy for copyright information.

2. APPLICATION AND OBJECTIVES

Under the *Electricity Supply Act 1995* (the Act), customers are required to fund certain works which are required to enable new or increased capacity connection to the electricity network. These works are contestable and the customer chooses a service provider to carry out these works. Such choice facilitates competition between providers of these services. Table 1 shows the types of contestable works and the evolution of their commencement.

Table 1. Contestable Works Evolution

Service	Date
Services relating to underground residential development (excluding route evaluation and environmental assessment of distribution systems)	1 February 1997
Services relating to underground industrial development (excluding route evaluation and environmental assessment of distribution systems)	1 June 1997
Services relating to underground commercial development (excluding route evaluation and environmental assessment of distribution systems)	1 October 1997
Services relating to overhead distribution (excluding route evaluation and environmental assessment of distribution systems)	1 February 1998
Route evaluation and environmental assessment relating to contestable services.	1 June 1998
Services relating to street lighting	1 February 1997
General metering (single register metering and off-peak controlled load metering) and related systems.	1 February 1997
All other metering and related systems for franchise customers.	1 October 1997
Any other contestable work not listed above.	30 June 1998

Contestability may also be extended to other capital works requested by and funded by individuals or organisations to suit site developments (such as asset relocations), or required as a result of damage caused by others.

Work required under emergency conditions is not contestable at this time however accredited and authorised persons may be requested to assist local electricity distributors during times of system stress. In these instances the person is restricted to their level of authorisation.

The purposes of the Contestable Work provisions of the Act and Regulation are:

- (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 customer will then have a choice of the Service Provider for those works.

An Accredited Service Provider performing contestable work will liaise with the local electricity distributor on the design, construction and/or installation standards required for the particular work.

The Regulation requires that the providers of these services be accredited through a recognised accreditation scheme. In every case, the Service Provider will need to be accredited to undertake the type of work proposed (e.g. overhead, underground or design services). The process of maintaining accreditation is the system of inspecting and auditing of works (in progress and/or on completion). This ensures works are designed, constructed or installed to provide safe and efficient operation.

Works shall be satisfactorily completed to the local electricity distributor's requisite standards prior to the connection or reconnection to the distribution system.

The Code has the following aims to outline the principles for:

- 1. Customer choice of supplier of contestable services; and
- 2. The accreditation of providers of contestable services.

3. SCOPE

This Code outlines the principles and requirements of any accreditation scheme whether it is operated by the local electricity distributor, or another ministerially recognised accreditation agency.

4 DEFINITIONS

In this Code, unless defined below, terms have the same meaning as terms defined in the Act and Regulation:

“Accreditation” means the successful result of application to the accrediting agency.

“Accrediting agency” means the body that is recognised by the Minister under the Regulation to operate an accreditation scheme.

“Accreditation scheme” means a code or scheme, providing for the accreditation of service providers.

“Assessor” means the body which will carry out the examination of the applicant in order to determine suitability for accreditation and the grading to be granted.

“Act” means the *Electricity Supply Act, 1995*.

“Applicant” means an applicant for accreditation as a Service Provider.

“Authorisation” means permission in writing to an individual given by the local electricity distributor to undertake works on or near their transmission and/or distribution system. Authorisation is required from each distributor in whose network area the works are undertaken and remains current only while the person is employed by a Service Provider.

“Breach” means a violation in the performance of or a failure to perform an obligation created by a promise, duty, or law without excuse or justification

“Contestable works” or **“Contestable services”** means, from the relevant dates, the works described in Table 1 of this Contestable Works Code of Practice.

“Customer” means the person wishing to have the contestable works carried out.

“Independent Inspector” means a competent person independent of the local electricity distributor and the accrediting agency.

“Local electricity distributor” means the electricity distributor in whose network area the contestable electricity works are or will be located.

“Monopoly work” means the activities undertaken by the local electricity distributor in association with contestable work that ensure consistent planning, design, construction and installation standards are maintained.

“Recoverable Works” means those 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. For example - Asset relocation of electricity works on a customer’s property at the customer’s request or to allow other works (e.g. roadworks).

“Emergency Recoverable Works” means repairs to the network following damage which requires urgent repair. For example - repairs to electricity works damaged by third parties such as vehicle impacts or excavation work are included.

“Service Provider” means a person who has been accredited through an accreditation scheme to undertake contestable works.

5. CONTESTABILITY

5.1 Principles

The following principles apply to contestable works:

1. The customer decides which Service Provider shall undertake the design, construction and/or installation of contestable works.
2. Contestable works must be undertaken by an accredited Service Provider. Internal contracting businesses operated by electricity distributors must be independently accredited and appropriately ring fenced in accordance with Independent Pricing and Regulatory Tribunal (IPART) guidelines.
3. Design, construction and/or installation technical standards or requirements for contestable work are set by the local electricity distributor in whose network area the works will be sited, in accordance with any applicable Act, Regulation, Code or guideline.

The local electricity distributor may charge for monopoly work in accordance with the Independent Pricing and Regulatory Tribunal (IPART) Determinations¹. Monopoly works include:

- The provision of design information;
 - Design certification;
 - Inspection of works;
 - Access permits; and
 - Substation Commissioning.
4. Local electricity distributors must not misuse their statutory rights or obligations, such as denying or delaying inspections or approvals, to obtain a competitive advantage.
 5. Customers of local electricity distributors will provide commercially sensitive information from time to time. The local electricity distributor must obtain the customer's written consent before information is shared with the distributor's internal contracting arm or any other contracting business.

¹ The charges to apply from 1 July 2009 will be set by the Australian Energy Regulator (AER).

5.2 Responsibilities of the Parties

The following principles apply to the respective parties in respect of the accreditation of Service Providers to undertake contestable works.

5.2.1 Accrediting Agency

The accrediting agency will:

1. Conduct an accreditation scheme in accordance with this Code.
2. Maintain a data base of Service Providers.
3. Make available details of Service Providers including ratings.
4. Advise customers and Service Providers of the principles, processes and obligations in relation to Contestable Works.

5.2.2 Electricity Distributor

1. The local electricity distributor will:

Provide for prospective customers a plain language guide on:

- The rights and responsibilities of distributors, service providers and customers;
 - Charges for monopoly services and their separate identification in any quotes for services; and
2. Advise the customer of the following:
 - The works subject to contestability in accordance to this Code;
 - Any applicable fees and charges;
 - The local electricity distributor's design, construction and installation standards and specifications;
 - Where to obtain a list of Service Providers for the work;
 - The authorisation requirements adopted by the distributor in relation to work on or near the distributor's electricity network.
 3. Co-operate with the customer and the Service Provider to ensure the efficient and effective connection of the customer's works.
 4. Not impose fees for monopoly services except where such fees are levied in accordance with IPART determinations².

² The charges to apply from 1 July 2009 will be set by the Australian Energy Regulator (AER).

5. Provide to the customer within 14 days of application, or otherwise as agreed, the appropriate design information, standards and specifications necessary to undertake the works.
6. Advise the customer of any requirements for work to be carried out by the local electricity distributor in conjunction with the contestable work (eg, system augmentation works, monopoly works).
7. Advise the customer of the arrangements for sharing the cost of works with other customers (where applicable).
8. Either certify a submitted design or advise the accredited designer of any non-compliance with the required standards or specification. Such certification or advice to the contrary, must be provided within 14 days of the date of submission or as otherwise agreed.
9. Provide written advice to customers and/or, Service Providers of the result of any test, inspection or assessment made on any materials or works within 14 days of such test, inspection or assessment.
10. Where necessary, exercise its statutory powers under various acts, (including but not limited to, the Act and the *Land Acquisition (Just Terms and Compensation) Act 1991*) to facilitate an effective and efficient connection.
11. In the event of a Service Provider breaching the local electricity distributor's safety and operating plan the local electricity distributor must notify the accrediting agency and the customer of the breach within 7 days.
12. Ensure that the local electricity distributor's contracting business is subject to the same requirements as other Service Providers.
13. Reasonably facilitate authorisation for the Service Provider to enable them to work on or near the distributor's electricity network.
14. Ensure any defects liability period for contestable works does not exceed three years.

5.2.3 Customer

The customer (or their agent) proposing to undertake contestable works must arrange the following actions, either directly or, where technical and administrative expertise is required, through the chosen service provider:

1. Advise the local electricity distributor of the type, magnitude and timing of any proposed development and other relevant information to enable design, construction and/or installation requirements to be determined by the distributor.
2. Engage only entities who are accredited to undertake contestable works.
3. Provide detailed design plans in accordance with the published requirements of the local electricity distributor.
4. Comply with any contract with the local electricity distributor or requirement of a distributor under the Act as to the carrying out of the contestable works according to the distributor's published standards and specifications.
5. Ensure that the works are executed in accordance with the certified designs and that all equipment installed meets the local electricity distributors stated standards and specifications.
6. Be responsible for the coordination of all contestable works including coordination with associated works performed by the local electricity distributor.
7. Be responsible for the costs associated with monopoly works undertaken by the local electricity distributor such as the inspection of contestable works.
8. Be responsible for notifying and arranging for testing (including the provision of test certificates) and inspection of works as required by the local electricity distributor.
9. Be responsible for the quality of their contracted Service Provider's work and for its compliance with the local electricity distributor's standards and specifications and guarantee works from defects or faults for such period that the electricity distributor determines (but not greater than three (3) years).

NOTE: Any maintenance guarantee must be in the form of a bond, insurance or such other security as may be acceptable to the electricity distributor. Alternatively, an arrangement whereby the Service Provider provides the security may be agreed to by the Service Provider and electricity distributor.

10. Co-operate with an electricity distributor in immediately ensuring a Service Provider ceases work when the Service Provider fails to carry out the work in accordance with the local electricity distributor's 'Network Management Plan' under the Electricity Supply (Safety and Network Management) Regulation 2002.

5.2.4 Service Provider

The Service Provider is responsible for ensuring that:

1. All works comply with the local electricity distributor's standards and specifications.
2. Only contestable works for which accreditation is held is undertaken.
3. All employees (including sub-contractors) engaged on contestable works are suitably qualified, trained and where applicable, authorised to undertake the particular works.
4. All works are executed safely, in accordance with relevant Acts and Regulations.
5. The connection of contestable works to the transmission or distribution system is only undertaken by the Service Provider's employees or subcontractors who have been authorised by the local electricity distributor.
6. All contestable works are undertaken in accordance with this and other relevant industry Codes of Practice.
7. Insurance coverage is maintained in accordance with the requirements of any accreditation scheme.
8. All works cease when notified in writing by a local electricity distributor that those works are in breach of the local electricity distributor's;
 - a) Network Management Plan, or
 - b) Customer Installation Safety Plan.

5.3 Standards and Specifications

1. Materials used in the construction and/or installation of contestable works must comply with the local electricity distributor's published design standards and specifications. The distributor must make available within 14 days, or as otherwise agreed, appropriate material standards and specifications when requested.
2. The local electricity distributor may reject or require appropriate modification or testing of work or materials which fail to meet the distributor's standards and specifications.

5.4 Connection and Disconnection

1. Unless otherwise authorised completed contestable works must only be connected to the distribution system following inspection and/or acceptance of the works by the local electricity distributor.
2. The contestable works will not be connected if major defects are detected and not rectified.
3. The contestable works may be connected despite minor defects being found, if in the view of the local electricity distributor, the works are capable of complying with the following chapters of the distributor's Network Management Plan:
 - a) Chapter 1: Network safety and reliability, and
 - b) Chapter 2: Customer installation safety.
4. The customer or Service Provider must be notified in writing and must be given a reasonable time to correct any defect.
5. In an emergency or in the event of a customer or Service Provider failing to rectify a problem within the time-frame nominated by the distributor, the local electricity distributor has the right to disconnect the contestable works and undertake necessary repairs, at the customer's expense.

6 ACCREDITATION

6.1 Principles

1. A local electricity distributor may:
 - a) Prepare its own accreditation scheme (where recognised by the Minister); or
 - b) Adopt an accreditation scheme prepared and operated by another body,for the accreditation of persons who may provide contestable services.
2. Any accreditation scheme must contain the provisions that are outlined in the Regulation.
3. An accreditation scheme may contain additional provisions which the accrediting agency deems necessary to ensure that only persons with the necessary skills, resources and competence undertake contestable works.

6.2 Application for Accreditation

An accreditation scheme must outline the process of assessing applications.

6.3 Grading of Service Provider

An accreditation scheme must detail the levels and/or grading of Service Providers and the number and extent of any inspections or audits of work applicable to the level and/or grade of Service Provider.

6.4 Training and Qualifications

An accreditation scheme must outline the training, qualifications and/or competencies required to undertake any class or type of work.

6.5 Safety Breaches and Defects

An accreditation scheme must outline the consequences of, and procedures for dealing with, safety breaches and defects.

6.6 Suspension and Cancellation of Accreditation

1. An accreditation scheme must outline the circumstances in which suspension and/or cancellation of accreditation may occur.
2. An accreditation scheme must outline the procedures followed by the accrediting agency in seeking to suspend or cancel the accreditation of a service provider.

6.7 Fees and Charges

An accreditation scheme must detail all fees and charges which are applicable to seeking and maintaining accreditation and for any inspections or audits conducted.

7 DISPUTE RESOLUTION

An accreditation scheme must contain provisions which outline the procedures to be followed in the event of a dispute in respect of matters dealt with by this Code. These provisions should provide no less protection than that provided by the Regulation.

APPENDIX 1: DIAGRAM OF ACCREDITATION PROCESS

PROCESS	ORGANISATION	NOTES
APPLICATION		
ACCREDITATION		
	Accrediting Agency Responsibility	<p>Accreditation is the process of assessing and certifying that an entity has the capability and resources to undertake the design, construction or installation of electricity works.</p> <p>Accreditation is required to provide contestable services.</p>
	Level	
	Category	
	Grading	
AUTHORISATION		
	Local Electricity Distributor Responsibility	<p>Authorisation is permission from the local electricity distributor for a person to work on or near its transmission and distribution system (including connections to the network).</p> <p>Authorisation is provided following familiarisation in the local transmission and distribution system's characteristics and the safety and operating plan of the local distributor.</p> <p>Authorisation is subject to the Service Provider successfully completing training and information sessions run from time to time by the local electricity distributor.</p>