

24 February 2011

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary

Senate Environment and Communications Legislation Committee

Inquiry into the *National Broadband Network Companies Bill 2010*

Thank you for the opportunity to make a submission to the Committee's inquiry into the *National Broadband Network Companies Bill 2010* (the Bill).

The Energy Networks Association (ENA) makes this submission in its capacity as the peak body representing Australia's electricity transmission and distribution businesses, and gas distribution businesses, for which wholesale access to the national broadband (NBN) is a very important issue. A map of ENA's members is contained in Attachment A.

ENA has limited its comments to the exemptions in sections 9, 11 and 12 of the Bill, which allow electricity and gas supply bodies to purchase services from NBN Co, where it is for the sole purpose of managing and charging for their network activities. ENA strongly supports the retention of these sections of the Bill, without amendment.

Yours sincerely

Andrew Blyth
Chief Executive

ENA submission

Senate Environment and Communications Legislation Committee

Inquiry into the *National Broadband Network Companies Bill 2010*

The Energy Networks Association (ENA) wishes to make the following main points:

- The ENA strongly supports sections 9, 11 and 12 of the *National Broadband Network Companies Bill 2010* (the Bill), which contain an exemption that allows electricity and gas supply bodies to purchase wholesale services from NBN Co, where it is for the sole purpose of managing and charging for their network activities.
- Maintenance of this exemption is very important to the ability of electricity and gas network businesses to meet 21st century expectations around affordability, reliability and quality of energy supplies.

The Federal Opposition's proposed amendments 5 and 6 to the Bill may have the effect of:

- deterring energy network businesses from using the national broadband network (NBN),
- encouraging socially inefficient duplication of communications infrastructure, and
- increasing the cost of delivering energy network services in instances where the NBN would have otherwise been the most cost-effective and viable option.

Energy network businesses are facing a challenge to supply increasing amounts of energy while meeting community and government calls for more affordable, reliable and environmentally sustainable energy supplies.

Electricity distribution businesses are meeting this challenge by changing the way they operate and gradually modernising their networks with smarter technologies—in essence integrating information and communications technologies into existing network infrastructure and business systems to create a smart electricity network (or smart grid). Further information about smart electricity networks is contained in the ENA's *National Strategy for Smart Electricity Networks* (attached).

A crucial component of a smart electricity network is a communications network that delivers two-way broadband communications between the electricity distribution business's core communications network and millions of sensors and devices throughout its electricity network (including advanced metering infrastructure).

All electricity distribution businesses require a communications network that is ubiquitous, secure, reliable, cost-effective and interoperable. However, given electricity network businesses supply to areas with diverse geographic features and population density, there is no single technology that is suitable in all circumstances.

The NBN is an important candidate technology for many of the electricity distribution businesses.¹ Many electricity distribution businesses are currently involved in ongoing discussions and trials with NBN Co in order to determine whether NBN Co's network and service offerings can be designed to meet the unique requirements of the electricity distribution businesses. While the exact details are not yet finalised, it is clear that the nature of the service that energy network businesses require from NBN Co would be very different in its scope and features from the services supplied by retail service providers to standard retail consumers of the NBN.

The Bill recognises the need for providers of critical infrastructure to gain wholesale access to essential inputs, such as communications, in order to deliver their services. The Bill allows energy supply bodies and other infrastructure providers, such as water supply bodies, transport bodies, etc to purchase directly from NBN Co, just as they can purchase services from other telecommunications infrastructure owners.

Specifically, sections 9, 11 and 12 of the Bill contain an exemption that allows electricity and gas supply bodies to purchase wholesale services from NBN Co, where it is for the sole purpose of managing and charging for their network activities. Maintenance of this exemption is very important to the ability of electricity and gas network businesses to meet 21st century expectations around affordability, reliability and quality of energy supplies.

The energy networks sector is concerned with amendments to the Bill, proposed by the Federal Opposition, which would prevent electricity network businesses' direct access to the NBN and would leave them with three options. Each of these options is likely to increase the cost of delivering electricity network services in instances where direct access to the NBN would have otherwise been the most cost-effective and technically feasible solution.

1. Purchase NBN services through a retail service provider.

It is uncertain whether retail service providers will offer the basic type of NBN service sought by electricity network businesses. Several electricity network businesses have indicated that major retail service providers do not currently offer the basic service required. Given the service sought by electricity network businesses does not require transformation by a retail service provider, there could be little profit and hence incentive for them to offer it. One major retail service provider has suggested that, if there is market failure in the delivery of NBN products, then electricity network businesses could request that the Australian Competition and Consumer Commission declare these services. However, given the pressing drivers for smart electricity networks (such as the need to manage growing peak loads, and to enable the smooth integration of an increasing number of renewable and distributed energy resources), such an option is unlikely to deliver a timely deployment of smart network technologies.

Even if retail service providers do offer an appropriate NBN service type, the requirement to deal through a third party would add additional costs, without adding value.

2. Purchase other communications services (for example, wireless) through a retail service provider.

Previous experience has shown that commercial wireless carriers have been unable to provide cost-effective prices, or the level of reliability and ubiquity, that electricity network businesses require for mass deployment of smart technologies. This is particularly important given that, following the Telstra and Optus deals, the main other communications infrastructure will be wireless networks, which can suffer from congestion and availability problems, such as during and following natural disasters. For example, during the recent floods and cyclones, some commercial wireless networks did not become operational for several weeks, and well after the electricity distribution businesses' own communications infrastructure. The ability to purchase cost-effective, reliable and ubiquitous

¹ The assessment of the suitability of the NBN will be a longer-term consideration for electricity distribution businesses that have already made significant investments in alternative communications systems.

commercial communications products from retail service providers is a particular challenge for electricity network businesses that operate in rural areas.

3. Electricity distribution businesses deploy their own communications networks.

Analysis and experience indicates that if electricity network businesses are unable to purchase directly from NBN Co, the next most efficient option is likely to be for electricity network businesses to deploy their own communications network infrastructure. However, this would potentially result in an inefficient duplication of infrastructure for the Australian community, which would be at a higher cost to serve than wholesale access to the NBN.

The energy networks sector is also concerned that the Federal Opposition's proposed amendments 5 and 6 to sections 9, 11 and 12 of the Bill would change the intent of the existing *Telecommunications Act 1997*, but only with respect to the NBN.

Currently, electricity and gas network businesses (as well as other essential infrastructure providers) are able to purchase directly from telecommunications infrastructure owners, and have existing exemptions from the requirements contained in the *Telecommunications Act 1997* with respect to carriers and carrier service providers. The proposed amendments would introduce an inconsistency in that energy network businesses would still be able to purchase directly from other telecommunications infrastructure providers, such as wireless network owners, but not NBN Co.

ENA understands that some telecommunications carriers and retail service providers are concerned that the Bill, as proposed, would allow exempt bodies to on-sell telecommunications services in competition with them, without being subject to the same regulatory obligations. However, the Bill makes clear that the exemptions, which allow energy network businesses to purchase from NBN Co, are in relation to using the services for managing and charging for their own network activities. These dedicated services are separate from any purchase by energy network businesses of carriage services to on-supply to the public. In the few cases where energy network businesses have on-sold telecommunications services to the public they have, appropriately, been subject to carrier and carrier licensing provisions for this supply.

The energy network businesses support the continuation of existing arrangements, so that if in future they choose to offer telecommunications services to customers (that are not related to the management of, or charging for, the electricity network) then they would expect to be subject to the same regulatory obligations as other telecommunications carriers and/ or carriage service providers.

If there is any genuine residual ambiguity that the Bill, in combination with the *Telecommunications Act 1997*, does not achieve this, ENA would be willing to discuss this issue further to find an appropriate resolution.

Conclusion

While each energy network business will make its own decisions regarding the most cost-effective and technically feasible communications technology for their requirements and circumstances, the NBN is an important candidate technology being considered by many energy businesses.

The ENA strongly supports sections 9, 11 and 12 of the National Broadband Network Companies Bill 2010 (the Bill), which contain an exemption that allows electricity and gas supply bodies to purchase wholesale services from NBN Co, where it is for the sole purpose of managing and charging for their network activities.

Maintenance of this exemption is very important to the ability of electricity and gas network businesses to meet 21st century expectations around affordability, reliability and quality of energy supplies.

Attachment A

Map of ENA member companies



ENA MEMBER COMPANIES

- » ActewAGL
- » Aurora Energy
- » CitiPower
- » Country Energy
- » ElectraNet
- » ENERGEX
- » EnergyAustralia
- » Envestra
- » Ergon Energy
- » ETSA Utilities
- » Horizon Power
- » Integral Energy
- » Jemena
- » Multinet Gas
- » NT Power & Water Corporation
- » Powercor
- » Powerlink Queensland
- » Rail Corporation New South Wales
- » SP AusNet
- » United Energy Distribution
- » Tas Gas Networks
- » TransGrid
- » Transend Network
- » Unison
- » WA Gas
- » Western Power