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Amended Revised Access  
Arrangement Information for  
the Network of the South West  
Interconnected System

24 December 2009

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## **1. PURPOSE AND SCOPE OF THIS DOCUMENT**

The purpose of this access arrangement information document (“this AAI” or “this document”) is to communicate Western Power’s response to the Required Amendments set out in the Economic Regulation Authority’s (“the Authority”) Final Decision.

Section 2 of this document provides background information relating to the Authority’s present review of Western Power’s access arrangement. Section 3 provides some brief commentary on key matters within the Final Decision, and sets out Western Power’s perspective on these matters. Individual responses to the Required Amendments are detailed in Section 4.

It is important to recognise that this process dates back to October 2008 when Western Power submitted its proposed revisions to the first access arrangement. Accordingly, this document sets out the key elements of the process to date in order to contextualise the Final Decision and Western Power’s response to it.

There is a considerable amount of material that has been produced throughout this process and this document does not repeat all information previously submitted by Western Power. However, to assist stakeholders further in their understanding, Attachment 5 cross references relevant elements of the amended access arrangement with the original October 2008 submission and Western Power’s response to the Authority’s July 2009 Draft Decision.

In response to the Final Decision, Western Power is re-submitting for the Authority’s approval, a complete set of access arrangement documentation that gives effect to, or addresses (as appropriate) all of the Required Amendments set out in the Final Decision.

## **2. BACKGROUND AND CONTEXT**

Western Power’s access arrangement describes the terms and conditions under which users (typically retailers and generators) can obtain access to Western Power’s South West Interconnected Network (SWIN). The Authority is the regulator responsible for ensuring that Western Power’s access arrangement complies with the Code.

Western Power’s first access arrangement commenced on 1 July 2007, following the Authority’s approval on 26 April 2007<sup>1</sup>. The first access arrangement required that proposed revisions be submitted to the Authority by 1 October 2008, for a target commencement date of 1 July 2009. In effect, the proposed revisions would amend the terms and conditions for access to Western Power’s SWIN.

On 1 October 2008, Western Power duly submitted its proposed revisions to its first access arrangement. Western Power’s October 2008 submission included detailed information on Western Power’s expenditure plans for the second access arrangement period, and proposed changes to some of the policies and procedures relating to Western Power’s provision of network services.

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<sup>1</sup> ERA, Further Final Decision on the Proposed Access Arrangement for the South West Interconnected Network, 26 April 2007. Originally, the access arrangement was expected to start 1 July 2006.

The October 2008 submission was provided in the context of the challenges that the company faces in the forthcoming access arrangement period, including:

- maintaining public safety and meeting compliance obligations;
- maintaining sufficient network capability to meet growing demand in the SWIS and the requirements of Independent Power Producers entering the wholesale generation market;
- servicing the increasing demand associated with further urban infill developments;
- achieving improvements in reliability of supply in underperforming locations;
- continuing to invest in government sponsored special initiatives including the State Underground Power Program and the Rural Power Improvement Program;
- addressing a backlog of work in network replacement and maintenance;
- managing significant real increases in labour and materials costs; and
- prioritising expenditure needs in light of on-going resource constraints.

Western Power explained that these challenges were reflected in the company's expenditure forecasts for the forthcoming access arrangement period.

In October 2008, Western Power's initial proposal included a total expenditure program of \$6.1 billion (in 30 June 2009 dollars)<sup>2</sup> for the second access arrangement period, comprising capital expenditure of \$4.5 billion and operating expenditure of \$1.6 billion. This program was developed at a time of significant expansion and unprecedented economic activity in the State.

In May 2009, Western Power advised the Authority that it planned to reduce its expenditure following the rapid shift in global financial conditions and the consequential impact on economic growth in Western Australia. Western Power noted indicative revisions to its planned expenditure that would reduce capital expenditure by approximately \$1 billion, and operating expenditure by approximately \$200 million.

On 16 July 2009, the Authority published its Draft Decision, which was not to approve Western Power's proposed revisions to the access arrangement. In total the Authority's Draft Decision set out 46 Required Amendments to Western Power's proposed access arrangement.

Of these required Amendments the key issues to emerge related to the Authority's intentions to write down the value of capital investment by 15% across the first access arrangement period; set a low Weighted Average Cost of Capital (7.06%); significantly reduce both capital and operational expenditure; and consequently drastically impact the price path (and revenue) over the second access arrangement period.

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<sup>2</sup> Unless otherwise stated all dollars presented in this document relate to 30 June 2009 real dollars

Western Power reviewed the Authority's Draft Decision in detail and to facilitate the timely publication of the Final Decision, Western Power lodged three submissions in response to the Draft Decision:

- The first submission was lodged on 13 August 2009.
- The second submission was lodged on 10 September 2009.
- The third submission was lodged on 5 October 2009.

These submissions collectively sought to address each of the Authority's Required Amendments. The first submission addressed the less material matters. The second submission noted the very significant change in the economic circumstances of the State, following the onset of the global financial crisis, and explained the implications of these changes for Western Power's expenditure plans. The third submission addressed matters relating to the definition of reference services that provide for single connection points to function both as entry points and exit points (Required Amendment number 1).

Western Power's submissions in response to the Draft Decision supported 32 of the 46 required amendments, either unconditionally or with only minor variations. From Western Power's perspective, the remaining 14 Required Amendments sought to impose changes that would have material and adverse policy or expenditure implications that Western Power could not fully accept. In responding to the Draft Decision, Western Power provided detailed reasons for not fully accepting these 14 Required Amendments.

In formulating its response to the Draft Decision, Western Power adopted a constructive and pragmatic approach. In particular, Western Power balanced the additional expenditure required to deliver the network services expected by our customers against the affordability considerations and constraints that have become increasingly apparent throughout this process.

The Authority has now published its Final Decision, which sets out 45 Required Amendments to Western Power's proposed access arrangement. It is noted that these Required Amendments are essentially the same as those set out in the Authority's Draft Decision, as they relate to the proposed revisions submitted by Western Power on 1 October 2008.

### **3. KEY MATTERS**

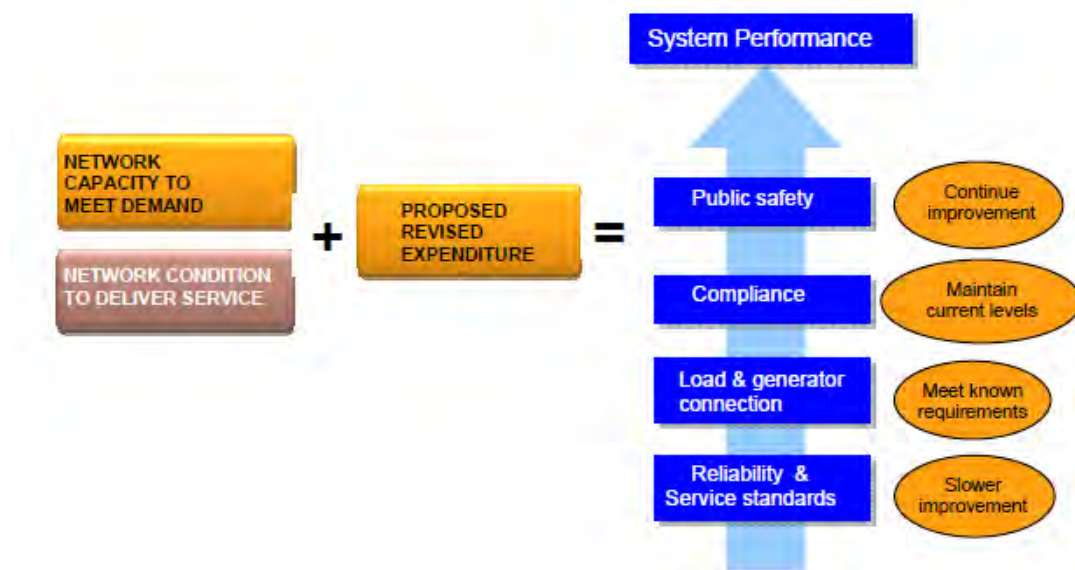
#### **3.1 Date of effect of approved access arrangement**

In light of the delays in the review process, the amended access arrangement could not be approved before the commencement of forthcoming access arrangement period on 1 July 2009. Therefore, Western Power proposes that the price control arrangements in the approved access arrangement should be effective from 1 July 2009. All other aspects of the approved access arrangement will apply prospectively from 1 March 2010 or the Authority's specified start date in accordance with clause 4.26 of the Code.

### 3.2 Future Expenditure Requirements and performance

In responding to the Authority's Draft Decision, Western Power undertook a detailed revision of its forecast expenditure. In particular, it addressed the matters raised by the Authority in its Draft Decision, as well as the radically changed economic conditions, including heightened affordability constraints and lower demand forecasts. Western Power explained in its second response to the Draft Decision that it sought to strike the optimum balance of expenditure priorities and consequential risks, within the affordability constraints imposed by economic conditions. The figure below provides a schematic representation of Western Power's approach to prioritising expenditure, given the constraints faced by the company and its customers.

**Figure 1: Western Power's approach to prioritising expenditure**



Whilst Western Power's revised expenditure forecasts preserved necessary expenditure on public safety, it also deferred network augmentations and planned improvements in reliability. As noted above, Western Power's response to the Draft Decision contained significant reductions in the expenditure that had been forecast in October 2008. Specifically, Western Power proposed a total expenditure of \$4.9 billion (in 30 June 2009 dollars) over the 3 year access arrangement period. Table 1 summarises Western Power's October 2008 expenditure proposal and its response to the Authority's Draft Decision, together with the expenditure allowances adopted by the Authority in its Draft and Final Decisions.

**Table 1: Comparison of expenditure proposals and the Authority's decisions (\$ billion in June 2009 dollars)**

<b>Expenditure</b>	<b>Western Power October 2008</b>	<b>Western Power May 2009</b>	<b>Authority's Draft Decision July 2009</b>	<b>Western Power September 2009</b>	<b>Authority's Final Decision December 2009</b>
Capital expenditure	4.5	3.58	3.46	3.56	3.56
Operating expenditure	1.6	1.39	1.14	1.34	1.33
<b>TOTAL</b>	<b>6.1</b>	<b>4.97</b>	<b>4.60</b>	<b>4.90</b>	4.89

In its Final Decision, the Authority:

- accepted in full the capital expenditure forecast set out in Western Power's second submission of September 2009;
- concluded that a total of \$11 million of Western Power's operating expenditure forecast does not meet the requirements of section 6.40 of the Code.

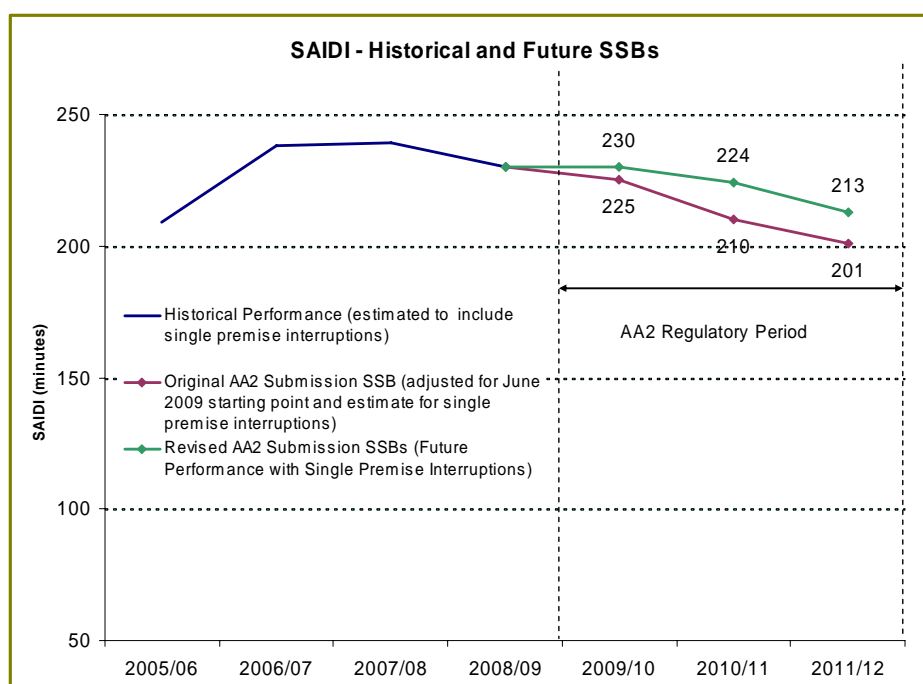
Western Power proposes to adopt the Final Decision's Required Amendments that relate to operating and capital expenditure forecasts for the second access arrangement period.

In relation to network performance and reliability, Western Power has previously noted that the performance of the transmission network is expected to remain at the current satisfactory level and no specific improvement works have been included in expenditure forecasts for the transmission network.

In its October 2008 proposed revisions, Western Power explained its plans to improve the overall performance of the distribution network by 29 minutes, as measured by the SAIDI (System Average Interruption Duration Index) indicator. In its second submission of September 2009 on the Draft Decision, Western Power proposed a reduction in its forecast of reliability driven capital and operating expenditure. As a consequence, planned distribution network reliability improvements will be delivered over a longer timeframe, and the net improvement in SAIDI is expected to be reduced by 17 minutes over the 3 year access arrangement period, compared to the improvement proposed by Western Power in its October 2008 proposed revisions. This is further explained in Figure 2 below.



**Figure 2: Historical and proposed service standard benchmarks (SSBs)**



In its Final Decision, the Authority concluded that:

- the transmission service standard benchmarks proposed by Western Power are consistent with the requirements of section 5.6 of the Access Code; and
- the distribution service standard benchmarks proposed by Western Power for the second access arrangement period meet the requirements of the Access Code.

Western Power has reflected these service standard benchmarks in its access arrangement.

### 3.3 Prudence of actual capital expenditure

The calculation of Western Power's target revenue in the forthcoming access arrangement period requires an assessment of the value of the assets used in the delivery of regulated services (the "capital base").

Western Power's October 2008 proposed revisions explained that the Code only provides for additions to the capital base if the actual expenditure satisfies the New Facilities Investment Test (NFIT). Western Power expressed confidence that all expenditure incurred and expected to be incurred in the first access arrangement period satisfies the NFIT, and a report from consultants Parsons Brinckerhoff supporting this position was provided as Appendix 5 to the October 2008 proposed revisions.

In its Draft Decision, the Authority proposed a very substantial write down of Western Power's regulated asset base through Required Amendment 26, which stated that:

"The proposed access arrangement revisions should be amended to reflect actual new facilities investment in the first access arrangement period reduced to:

- exclude investment to the value of \$63.5 million (nominal) for the transmission network in 2008/09 that comprises an overstatement of costs for 2008/09;
- exclude investment to the value of \$65 million (nominal in 2007/08 dollar values) for the distribution network that comprises an amount of costs that is not appropriately considered as new facilities investment; and
- exclude a further amount of 15 per cent of the new facilities investment (other than that comprising gifted assets) to reflect likely inefficiencies in the undertaking of investment.”

Western Power’s response to the Draft Decision explained that the company could not accept either an across-the-board 15% write down in the value of capital expenditure or the rationale used by the Authority to justify its decision. Western Power considered the Authority’s approach to be unprecedented and inconsistent with the Code objectives. Given the magnitude of the proposed write down, Western Power engaged the following independent experts to review the Authority’s analysis and conclusions in its Draft Decision:

- Professor George Yarrow and Dr Christopher Decker – to provide an economic opinion on the application of the efficiency test;<sup>3</sup> and
- Sinclair Knight Merz (“SKM”) - to provide an engineering technical opinion on the efficiency of its new facilities investment.<sup>4</sup>

These independent expert opinions explained that the Authority’s approach and reasoning with respect to the proposed asset write down was not consistent with the information before the Authority or the relevant Code provisions. Both expert opinions indicated that a more systematic and analytical approach should be adopted by the Authority in its application of the NFIT, and that a write down of the magnitude proposed by the Authority was not justified.

In its second response to the Draft Decision, Western Power provided additional information to demonstrate that its planning, design and delivery approaches are generally consistent in terms of method and unit costs with network businesses in Eastern Australia. Western Power concluded in its second response to the Draft Decision that an appropriate application of the efficiency test in the Code would result in a write down of much less than that proposed by the Authority in its Draft Decision. Western Power noted that it had only identified inefficiencies of no more than \$28 million (or approximately 1.2% using the terms in which the Authority has described its estimate).

In its Final Decision, the Authority determined that the following amounts should be excluded from Western Power’s capital costs over the first access arrangement period in determining the amount of new facilities investment to be added to the capital base:

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<sup>3</sup> Professor George Yarrow and Dr Christopher Decker, Report to the ERA’s Draft Decision on Proposed Revisions to the Access Arrangement for the South West Interconnected Network, 1 September 2009.

<sup>4</sup> SKM, Application of the New Facilities Investment Test in the ERA’s Draft Decision on AA#2, September 2009.

- an amount of \$23.27 million (in dollar values of 30 June 2009) in respect of transmission projects that have been delayed or not proceeded, or amounts that should have been recovered through capital contributions;
- an amount of \$126.87 million in respect of inefficiencies arising from deficiencies in processes of cost estimation and from overcharging by contractors; and
- a further amount of \$110.97 million, being five per cent of new facilities investment net of the above adjustments and of gifted assets, reflecting the view of the Authority that inefficiencies have occurred in the selection and timing of augmentation projects as a result of deficiencies in methods for forecasting demand for network services and deficiencies in analysis of options for augmentation projects.

The effect of the adjustments is to reduce the value of new facilities investment to be added to the capital base by \$ 261.08 million.

Western Power's response should not be interpreted as concurrence or agreement with the Authority's Final Decision in relation to the very substantial write-down of the value of capital expenditure during the first regulatory period. Western Power lodged very soundly-based technical and regulatory expert opinions on the level of the asset value write-down proposed in the Draft Decision. It is our view that the matters put to the Authority by Western Power and in those expert opinions have not been considered properly by the Authority in the formulation of the Final Decision. In particular, Western Power's primary concerns with the decision are as follows:

- The required write-down (which is more than 10% of capital expenditure undertaken over the first access arrangement period) is based largely on the Authority's qualitative judgment, which Western Power considers is not substantiated by the available information. For instance, a number of SKM's observations and conclusions have been incorrectly applied by the Authority "across the board", despite SKM stating explicitly that its findings were clearly confined to a particular group of projects.
- In reaching its judgment, the Authority has, in a number of matters, incorrectly applied a standard of "best practice" rather than "good industry practice". Both expert opinions lodged by Western Power in response to the Draft Decision noted that the application of such a high standard is inappropriate, unreasonable and inconsistent with regulatory practice elsewhere.

The proposed write-down will have a significant detrimental financial impact immediately and over the longer term. In view of the magnitude of the capital loss faced, the Board of Western Power has carefully considered its available options to seek redress.

One option given very close consideration was an appeal to the Energy (Gas) Review Board. The Board has decided not to pursue an appeal of the Final Decision. Key to the Board's decision was the fact that the finalisation of the access arrangement would be delayed further, on top of the (already) six month delay in commencement of the access arrangement revisions. The Board's decision was not taken lightly but has been made in the overall best interests of the business, customers and the owner.

Notwithstanding this, Western Power remains very concerned about the negative implications for investment incentives that have now arisen as a result of the

Authority's application of the New Facilities Investment Test and the imposition of a very substantial asset value write-down. The company is strongly of the view that the capital loss it will sustain as a result of the Final Decision is not consistent with providing effective incentives for efficient investment in infrastructure in the future; nor is it consistent with providing an environment that will foster a financially sustainable business over the longer term. Western Power will therefore be exploring further avenues – including possible Code changes, and the application of an optimised replacement cost asset revaluation at the next review – to mitigate the company's exposure to stranded asset risk.

### **3.4 Weighted average cost of capital**

The weighted average cost of capital (WACC) is the final critical determinant of the level of Western Power's capital-related costs. The product of the WACC and the capital base determines the "return on capital" component of the revenue requirement. This component comprises a substantial proportion of the company's total costs, and hence its target revenue.

Western Power commissioned KPMG to provide specialist advice on the WACC. In its October 2008 proposed revisions, KPMG concluded that Western Power's WACC lies in the range of 8.5% to 11.1% real pre-tax (taking account of the interest rates prevailing over the 60 trading day period to 23 June 2008). In light of KPMG's advice, Western Power initially proposed a real pre-tax WACC of 8.95%, being towards the lower end of the reasonable range estimated by KPMG.

In its Draft Decision, the ERA proposed a real pre-tax WACC of 7.06% subject to revision of the risk free rate and debt margin prior to the final determination.

In its second response to the Draft Decision, Western Power noted that the Australian Energy Regulator (AER) had completed an extensive review of WACC parameter values in May 2009, and application of those values (along with the risk free rate and debt margin prevailing in June 2009) would result in a WACC of 7.59% real pre-tax. In its second response, Western Power argued that there are no valid reasons to suppose that the cost of capital faced by a Western Australian electricity network business would be any lower than that determined by the AER as being applicable to similar businesses in the Australian National Electricity Market. On this basis, Western Power submitted that the point estimate of the WACC should be no less than the WACC value obtained by applying the parameter values determined by the AER in May 2009. In responding to the Draft Decision, Western Power therefore adopted a WACC of 7.59% real pre-tax which reflected the AER parameters and the debt market conditions prevailing at 30 June 2009.

The Authority's Final Decision determined that the WACC of 8.95% real pre-tax proposed by Western Power in its October 2008 proposed revisions does not meet the requirements of the Code. The Authority calculated that a pre-tax real WACC value of 7.98%:

- is consistent with the AER's WACC determination; and
- lies within the reasonable range of values (of 6.77% to 8.15% pre-tax real), which the Authority considers to meet the Code objective and the objectives of section 6.4 of the Code.

On this basis, Required Amendment 28 of the Final Decision requires Western Power's target revenue to be revised to reflect a real pre-tax WACC value of 7.98 per cent. This WACC value reflects an assumed annual inflation rate of 2.47%, and the nominal risk free rate and debt margin estimated over the 20 business day period to 30 October 2009.

Western Power has calculated its target revenue to reflect a WACC of 7.98%, in accordance with Required Amendment 28.

### **3.5 Revenue and price outcomes**

Western Power has calculated its target revenue for the forthcoming access arrangement period to give effect to all of the Required Amendments set out in the Final Decision that have a bearing on the target revenue.

The revenue and price outcomes for the forthcoming access arrangement period reflect the deferral of \$64.5 million of revenue for transmission services and \$484.2 million of revenue for distribution services from the second period to subsequent periods. These deferred revenue amounts have reduced the price impact on customers for the forthcoming access arrangement period. In its Final Decision, the Authority's Required Amendment 35 addressed the future recovery of this deferred revenue as follows:

"The proposed access arrangement revisions should be amended to provide for the recovery of deferred revenue over the third and subsequent access arrangement periods subject to approval by the Authority and avoidance of resultant price shocks to users of reference services."

Western Power has amended its access arrangement in accordance with the above Required Amendment.

Attachment 2 sets out Western Power's revenue model and shows the composition of Western Power's reference service revenue for the forthcoming access arrangement period.

In addition to giving effect to the Required Amendments set out in the Final Decision, Western Power has made a number of minor adjustments to the revenue model. The adjustments are limited to the following items:

- Distribution capital expenditure - The 2008/09 distribution capital expenditure has been amended to align with the actual expenditure set out in the 2008/09 regulated financial statements (contained in Attachment 3). The Final Decision revenue model reflected expenditure in the distribution capacity expansion category of \$62.6 million. However, the 2008/09 regulated financial statements show that \$61.1 million of expenditure was undertaken in that category. Accordingly, Western Power has updated the revenue model to reflect a \$1.5 million reduction in distribution 2008/09 capital expenditure.
- Distribution forecast operating expenditure - The forecast distribution operating expenditure has been amended to correct a misallocation of metering costs to Maintenance Strategy. The total forecast operating expenditure remains unchanged.
- Transmission forecast capital expenditure - The forecast transmission capital expenditure has been amended to correct a misallocation of expenditure

associated with a single project (the Chapman-Oakajee line), which was allocated to Capacity Expansion incorrectly rather than to the Customer Driven category. The revenue model submitted by Western Power with this document has corrected the misallocation so there has been a change to the capital expenditure by asset class. As shown in Table 2 below, this change has a small effect on annual revenue because of the different depreciation rates applied to the Capacity Expansion and Customer Driven capital expenditure categories. However, the total forecast of transmission capital expenditure remains unchanged.

These adjustments reduce Western Power's revenue entitlement, when compared to the Final decision, by \$0.38 million (in present value terms) over the second access arrangement period. Table 2 below details the impact of these adjustments in present value terms for the second access arrangement period across the transmission and distribution businesses.

**Table 2: Comparison of PV of Reference Service Revenue for the second access arrangement period  
(\$ million real as at 30 June 2009)**

	Transmission	Distribution	Total
Authority's Final Decision Revenue Model	833.518	1,706.394	<b>2,539.912</b>
Western Power Revenue Model submitted with this document	833.525	1,706.007	<b>2,539.532</b>
Difference due to minor adjustments	0.007	-0.387	<b>-0.380</b>

Table 3 below shows a reconciliation between the smoothed transmission reference service revenue data contained in the Final Decision, and the maximum transmission reference service revenue set out in section 5.35 of Western Power's access arrangement.

**Table 2: Derivation of Western Power's maximum transmission reference service revenue (\$ million real as at 30 June 2009)**

	2009/10	2010/11	2011/12
Smoothed transmission reference service revenue (Table 92 of the Final Decision)	262.901	332.048	384.330
Adjustments (described above)	0.000	0.003	0.005
Adjusted smooth transmission reference service revenue (TR <sub>t</sub> in section 5.35 of the access arrangement)	262.901	332.051	384.335

Table 4 below shows a reconciliation between the smoothed distribution reference service revenue data contained in the Final Decision, and the maximum distribution reference service revenue set out in section 5.46 of Western Power's access arrangement.

**Table 3: Derivation of Western Power’s maximum distribution reference service revenue (\$ million real as at 30 June 2009)**

	2009/10	2010/11	2011/12
Smoothed distribution reference service revenue (Table 93 of the Final Decision)	510.160	681.035	818.158
Adjustments (described above)	-0.022	-0.160	-0.288
Adjusted smooth distribution reference service revenue	510.138	680.875	817.870
Deduct TEC <sup>5</sup>	-121.131	-170.387	-171.101
Adjusted smooth distribution reference service revenue (DR <sub>t</sub> in section 5.46 of the access arrangement)	389.007	510.489	646.769

Over the forthcoming access arrangement period Western Power is proposing a smooth path of tariff changes, in accordance with Required Amendment 32. The following table sets out the expected proportional changes in reference tariffs from one pricing year to the next during the forthcoming access arrangement period.

**Table 5: Pricing Path over the second access arrangement period**

Pricing Year commencing	1 March 2010	1 July 2010	1 July 2011
Transmission	12.9%	CPI+12.9%	CPI+12.9%
Distribution	17.6%	CPI+17.6%	CPI+17.6%
Weighted Average	16.3%	CPI+16.3%	CPI+16.3%

### 3.6 Tariffs and service offerings

Under the Code, Western Power is required to offer “reference services”<sup>6</sup>. In Western Power's proposed revisions (submitted in October 2008), the company did not propose any material changes to the reference services established in the first access arrangement period.

In its Draft Decision, the Authority required Western Power to introduce one or more reference services to cater for the requirements for network services that arise where small-scale renewable energy systems connect to the network and where electricity consumers participate in the Renewable Energy Buyback Scheme. Western Power accepted this Required Amendment, and in its third submission, dated 5 October 2009, set out its proposed reference service and charging arrangements.

<sup>5</sup> The TEC is deducted in this calculation because the revenue control formula in section 5.46 of the access arrangement includes a term, TEC<sub>t</sub>, which allows Western Power to recover the costs of the TEC in addition to the distribution reference service revenue, DR<sub>t</sub>.

<sup>6</sup> A reference service is a service regulated under the Code for which there is a standard access contract (which forms part of the access arrangement), a reference tariff, and service standard benchmarks which set out the standard of service that users can expect to receive in exchange for payment of the reference tariff.

Western Power proposed that a new “C1 reference service” will be available to new and existing users with bidirectional energy flows due to small scale embedded generator (inverter connected), in preference to the currently available reference services of:

- Reference Service A1 – Anytime Energy (Residential) Exit Service; and
- Reference Service A3 – Time of Use Energy (Residential) Exit Service.

The tariff and tariff structure proposed by Western Power was designed to meet the following criteria:

- the tariff should reflect network costs;
- the tariff should limit cross subsidies between customer classes;
- the tariff should be simple to administer, from the perspectives of Western Power, retailers and customers;
- there should be minimal barriers to entry; and
- the tariff should be compatible with the Renewable Energy Buyback Scheme (REBS).

The Final Decision noted that the Authority accepts that Western Power’s proposed reference service will satisfy the requirements for approval of the access arrangement.

Accordingly, Western Power has incorporated into its amended proposed access arrangement the new “C1 reference service”, in accordance with Required Amendment 1 of the Final Decision.

### **3.7 Regulatory and policy framework**

Western Power’s access arrangement includes a number of documents that set out the terms and conditions on which Western Power offers to provide covered services to applicants and users. The Authority’s Draft Decision included a number of Required Amendments relating to these terms and conditions, which Western Power addressed in its first submission, dated 13 August 2009. Western Power has accepted all of the Required Amendments specified by the Authority in relation to the terms and conditions of access, with the exception of Required Amendment 15, where Western Power has proposed the inclusion of a new provision in the Electricity Transfer Access Contract (ETAC) to prevent Western Power from over-recovering costs under the circumstances contemplated in clause 12.2 of the ETAC. Western Power is confident that its proposal addresses the Authority’s intent as set out in paragraph 302 of the Final Decision.

The regulatory framework provides for a number of incentive and adjustment mechanisms that are intended to balance the allocation of risk and reward between Western Power and its customers. In the Draft Decision, the Authority required amendments to Western Power’s proposals relating to the D-factor mechanism; the Service Standard Adjustment Mechanism (SSAM); and the Gain Sharing Mechanism (GSM).



Western Power's response to the Draft Decision substantially accepted the Authority's Required Amendments, subject to particular amendments in some instances. For example, in relation to the SSAM, Western Power proposed a cap on its revenue exposure of +or- 1% of revenue, in contrast to the Authority's view that it should be uncapped.

Western Power proposes to accept the Final Decision's Required Amendments in relation to the incentive and adjustment mechanisms, with the following exceptions:

- In relation to the definitions of SAIDI and SAIFI Western Power would prefer to retain the reference to the IEEE definition of major event days for clarity and consistency. Western Power acknowledges the need to separately address the detailed licence reporting requirements with the Authority.
- Western Power considers that the application of a cap to the company's financial exposure under the SSAM accords with the Code objective, and so the company proposes that its liability under the System Minutes Interrupted measure of the transmission SSAM be limited to 1% of revenue.

The Authority's Required Amendment 33 imposes the following condition on the operation of the gain sharing mechanism:

"In any year in which an above-benchmark surplus is calculated to be a positive value but Western Power fails to meet service standard benchmarks for that year, the above-benchmark surplus for that year is deemed to be zero."

Western Power remains concerned that any efficiencies in non-network expenditures will not be recognised under this mechanism and Western Power therefore does not support this aspect of the Authority's Required Amendment 33. In the interests of obtaining regulatory approval in the Authority's Further Final Decision, however, Western Power has amended the access arrangement to accommodate the Authority's Required Amendment in full.

### **3.8 Submission and approval process**

The Authority is required by the Code to determine whether Western Power's amended access arrangement meets the Code objective and the requirements set out in Chapter 5 (and Chapter 9, if applicable). In accordance with section 4.19 of the Code, Western Power's view is that the Authority should approve the amended access arrangement that accompanies this submission.

#### 4. WESTERN POWER'S RESPONSES TO THE FINAL DECISION'S REQUIRED AMENDMENTS

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 1 (Draft Decision Required Amendment 1)</b></p> <p>The proposed access arrangement revisions should be amended such that one or more reference services provide for single connection points to function both as entry points and exit points. The reference service or services must cater for the requirements for network services that arise where small-scale renewable energy systems connect to the network and where electricity consumers participate in the Renewable Energy Buyback Scheme.</p>	<p>Amendment accepted.</p> <p>Paragraph 75 of the Final Decision notes that the Authority has accepted the response to this Required Amendment that was set out in Western Power's third submission on the Draft Decision.</p>	<p>A new reference service C1 has been incorporated into section 3.6A and Appendix 7 of the access arrangement.</p>
<p><b>Required Amendment 2 (Draft Decision Required Amendment 2)</b></p> <p>The proposed access arrangement revisions should be amended to include a new clause 3.3(b) of the electricity transfer access contract that reads "Where the user has sought to change the reference service in respect of a connection point under clause 3.2(a), its obligation under clause 3.3(a) in relation to that connection point is subject to compliance by Western Power with clause 3.2(b)".</p>	<p>Amendment accepted.</p> <p>Paragraph 121 of the Final Decision notes that the Authority has accepted the response to this Required Amendment that was set out in Western Power's first submission on the Draft Decision.</p>	<p>A new clause 3.3(b) has been included in the ETAC in accordance with this Required Amendment.</p>
<p><b>Required Amendment 3 (Draft Decision Required Amendment 3)</b></p> <p>The proposed access arrangement revisions should be amended to include a new clause 3.6(d) of the electricity transfer access contract that reads "Subject to the Customer Transfer Code, Western Power must not delete a connection point other than in accordance with a notice given by a user under clause 3.6".</p>	<p>Amendment accepted.</p> <p>Paragraph 132 of the Final Decision explains that the Authority accepts that Western Power's proposed clause 3.6(d) (which was set out in Western Power's first response to the Draft Decision) addresses this Required Amendment.</p>	<p>A new clause 3.6(d) has been included in the ETAC in accordance with this Required Amendment.</p>

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 4 (Draft Decision Required Amendment 4)</b></p> <p>The proposed access arrangement revisions should be amended to include a new clause 3.6(e) of the electricity transfer access contract that reads: "If Western Power commits a breach of clause 3.6(d) in circumstances that constitute wilful default it is liable to the user for any damage caused by, consequent upon or arising out of the wilful default. In this case, the exclusion of indirect damage in clause 19.3 does not apply".</p> <p>The electricity transfer access contract should also be amended to include a definition of wilful default as:</p> <p>a) <i>a deliberate and purposeful act or omission carried out with a calculated regard for the consequences of the act or omission, or</i></p> <p>b) <i>a reckless or wilful disregard for the consequences of the act or omission, but does not include any error of judgment, mistake, act or omission, whether negligent or not, which is made in good faith.</i></p>	<p>Amendment accepted.</p> <p>Paragraphs 133 to 142 of the Final Decision outline that the Authority accepts Western Power's proposed clause 3.6(e) and associated definition of 'wilful default' (which was set out in Western Power's first response to the Draft Decision), provided Western Power adds a new paragraph (b) to the definition of 'wilful default', as required by this Required Amendment.</p>	<p>A new clause 3.6(e) and a definition for 'wilful default' (including the required new paragraph (b)) have been included in the ETAC in accordance with this Required Amendment.</p>
<p><b>Required Amendment 5 (Draft Decision Required Amendment 5)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 3.7 of the electricity transfer access contract is clear on whether schedule 3 and, where relevant, the metering database, is to be updated only by Western Power, or by either Western Power or the user.</p>	<p>Amendment accepted.</p> <p>Paragraph 165 of the Final Decision explains that the Authority accepts that Western Power's proposed clause 3.7 (which was set out in Western Power's first response to the Draft Decision) addresses this Required Amendment.</p>	<p>Clause 3.7 of the ETAC has been amended in accordance with this Required Amendment.</p>
<p><b>Required Amendment 6 (Draft Decision Required Amendment 6)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 3.7 of the electricity transfer access contract requires Western Power to provide the user with such access to schedule 3 and the metering database as is reasonably required for the user to obtain information or to change relevant information.</p>	<p>Amendment accepted.</p> <p>Paragraph 165 of the Final Decision explains that the Authority accepts that Western Power's proposed clause 3.7 (which was set out in Western Power's first response to the Draft Decision) addresses this Required Amendment.</p>	<p>Clause 3.7 of the ETAC has been amended in accordance with this Required Amendment.</p>
<p><b>Required Amendment 7 (Draft Decision Required Amendment 7)</b></p> <p>The proposed access arrangement revisions should be amended so that the electricity transfer access contract indicates which records of connection point data will have precedence, to the extent of any inconsistency between schedule 3 of the electricity transfer access contract, the metering database and any connection point data contained in the price list.</p>	<p>Amendment accepted.</p> <p>Paragraph 165 of the Final Decision explains that the Authority accepts that Western Power's proposed clause 3.7 (which was set out in Western Power's first response to the Draft Decision) addresses this Required Amendment.</p>	<p>Clause 3.7 of the ETAC has been amended in accordance with this Required Amendment.</p>

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 8 (Draft Decision Required Amendment 8)</b></p> <p>The proposed access arrangement revisions should be amended to delete clause 3.8 of the electricity transfer access contract.</p>	Amendment accepted.	Clause 3.8 of the ETAC has been deleted in accordance with this Required Amendment.
<p><b>Required Amendment 9 (Draft Decision Required Amendment 9)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 6.1(a) of the electricity transfer access contract provides for the user to nominate a controller as soon as reasonably practical, but in all cases within 30 business days, after the commencement of the service.</p>	Amendment accepted.	Clause 6.1(a) of the ETAC has been amended in accordance with this Required Amendment.
<p><b>Required Amendment 10 (Draft Decision Required Amendment 10)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 6.1(e) of the electricity transfer access contract requires only that the user uses reasonable endeavours to procure that a controller enter into a connection contract with Western Power.</p>	Amendment accepted.	Clause 6.1(e) of the ETAC has been amended in accordance with this Required Amendment.
<p><b>Required Amendment 11 (Draft Decision Required Amendment 11)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 6.2(a) of the electricity transfer access contract is made subject to a provision that, for a connection point other than as contemplated by clause 6.1 of the electricity transfer access contract, the user is not required to commence, maintain or continue legal proceedings to procure compliance of a controller with obligations under the access contract, unless Western Power provides an indemnity for all of the user's costs of and relating to such proceedings.</p>	Amendment accepted.	Clauses 6.2(f) and (g) of the ETAC have been amended in accordance with this Required Amendment.
<p><b>Required Amendment 12 (Draft Decision Required Amendment 12)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 7.1 of the electricity transfer access contract includes a provision dealing with the determination of amounts payable by the user where there is a change in the charges payable under a reference tariff during a billing period. The provision must represent a reasonable balance between the interests of the user and Western Power.</p>	Amendment accepted.  Paragraph 234 of the Final Decision explains that the Authority accepts that Western Power's amendment to clause 7.1(a) (which was set out in Western Power's first response to the Draft Decision) addresses this Required Amendment.	Clause 7.1(a) of the ETAC has been amended in accordance with this Required Amendment.
<p><b>Required Amendment 13 (Draft Decision Required Amendment 13)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 10 of the electricity transfer access contract:</p> <ul style="list-style-type: none"> <li>• clearly applies only in respect of a contribution to be made by the user; and</li> <li>• applies where the requirement for security has been determined in accordance with the contributions policy.</li> </ul>	Amendment accepted.	Clause 10 of the ETAC has been amended in accordance with this Required Amendment.

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 14 (Draft Decision Required Amendment 14)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 12.1 of the electricity transfer access contract states only that Western Power and the user must each comply with the Technical Rules.</p>	<p>Amendment accepted.</p> <p>Paragraph 293 of the Final Decision explains that the Authority accepts that Western Power's proposed clause 12.1 (which was set out in Western Power's first response to the Draft Decision) addresses this Required Amendment.</p>	<p>Clause 12.1 of the ETAC has been amended in accordance with this Required Amendment.</p>

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 15 (Draft Decision Required Amendment 15)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 12.2 of the electricity transfer access contract provides that an act or omission of the user that causes Western Power to incur extra costs for compliance with the Technical Rules only causes the user to be liable for those costs where:</p> <ul style="list-style-type: none"> <li>the act or omission of the user is in breach of the access contract; and</li> <li>Western Power has not already recovered, and will not recover, the costs from another party.</li> </ul>	<p>Amendment addressed.</p> <p>Western Power has adopted the drafting set out in the Required Amendment, with the exception of the words "and will not recover". However, as noted below, Western Power has addressed the Authority's intent regarding double recovery (as set out in paragraph 302 of the Final Decision), by including a new paragraph (f) in clause 12.2.</p> <p>Western Power agrees with the intent behind the Authority's Required Amendment that double recovery should not occur (as set out in paragraph 302 of the Final Decision), although Western Power notes that the scope for double recovery would be low at law. However, Western Power is concerned that the additional words 'will not recover', which the Authority now requires be added to clause 12.2(c), imply an onus on Western Power to actually seek to recover the costs from another party.</p> <p>Western Power is of the view that the additional words 'will not recover' may limit the User's liability to the extent the User may not be liable where Western Power has a potential right (no matter how speculative or remote) to be paid its costs by any other person. It would be unreasonable for a user to avoid liability that it has caused simply because there is a chance that another party may have some contributory liability at law.</p> <p>Western Power considers that the Authority's intent to avoid double recovery could be addressed without the inclusion of the additional words 'will not recover'. This intent can be met by instead adding a new provision which provides that if Western Power (without being obliged to do so) recovers the costs from another party in circumstances where the User has already paid them then Western Power is obliged to refund the costs paid by the User. Western Power has added new clause 12.2(f) to this effect.</p> <p>Western Power considers that this new paragraph addresses the Authority's intent as set out in paragraph 302 of the Final Decision.</p>	<p>Clause 12.2(c) of the ETAC has been amended, and clause 12.2(f) has been added to the ETAC, to address the matters which prompted the Authority to include Required Amendment 15.</p>

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 16 (Draft Decision Required Amendment 16)</b></p> <p>The proposed access arrangement revisions should be amended such that the calculation of liability under clause 19.5 of the electricity transfer access contract is limited to a cap on liabilities with the effect that the maximum liability of both the user and the indemnifier collectively to Western Power is limited to an amount of \$80 million in the aggregate, except that the liabilities for access charges and liabilities described in clause 20 are not counted for the purpose of both the user's and the indemnifier's collective maximum liability.</p>	<p>Amendment accepted.</p> <p>Paragraph 316 of the Final Decision explains that the Authority accepts that Western Power's proposed clause 19.5 (which was set out in Western Power's first response to the Draft Decision) addresses this Required Amendment.</p>	<p>Clause 19.5 of the ETAC has been amended in accordance with this Required Amendment.</p>
<p><b>Required Amendment 17 (Draft Decision Required Amendment 17)</b></p> <p>The proposed access arrangement revisions should be amended to delete clause 19.5(c) of the electricity transfer access contract.</p>	<p>Amendment accepted.</p>	<p>Clause 19.5(c) of the ETAC has been deleted in accordance with this Required Amendment.</p>
<p><b>Required Amendment 18 (Draft Decision Required Amendment 18)</b></p> <p>The proposed access arrangement revisions should be amended so that Part 1(a)(i)A of schedule 5 of the electricity transfer access contract provides for the insurance requirement to be limited in the aggregate to \$50 million in each 12 months or the maximum liability under clause 19.5 of the electricity transfer access contract, whichever is the greater.</p>	<p>Amendment accepted.</p> <p>Paragraph 338 of the Final Decision explains that the Authority accepts that Western Power's amendment to Part 1(a)(i)(A) of schedule 5 of the ETAC (which was set out in Western Power's first response to the Draft Decision) addresses this Required Amendment.</p>	<p>Part 1(a)(i)A of schedule 5 of the ETAC has been amended in accordance with this Required Amendment.</p>
<p><b>Required Amendment 19 (Draft Decision Required Amendment 19)</b></p> <p>The proposed access arrangement revisions should be amended so that the requirements for workers compensation, motor vehicle and third-party property insurance under Part 1(a)(ii) and Part 1(a)(iii) of schedule 5 of the electricity transfer access contract apply only where these insurances are reasonably requested by Western Power.</p>	<p>Amendment accepted.</p>	<p>Part 1(a)(ii) and Part 1(a)(iii) of schedule 5 of the ETAC have been amended in accordance with this Required Amendment.</p>
<p><b>Required Amendment 20 (Draft Decision Required Amendment 20)</b></p> <p>The proposed access arrangement revisions should be amended so that clause 29.3(b) of the electricity transfer access contract requires that Western Power act reasonably in determining a location for a meeting for resolution of a dispute.</p>	<p>Amendment accepted.</p>	<p>Clause 29.3(b) of the ETAC has been amended in accordance with this Required Amendment.</p>
<p><b>Required Amendment 21 (Draft Decision Required Amendment 21)</b></p> <p>The proposed access arrangement revisions should be amended so that clause 33.1 of the electricity transfer access contract extends the requirement for confidentiality of information to encompass information exchanged in negotiations preceding the contract and information about, or relating to, a proposed controller.</p>	<p>Amendment accepted.</p>	<p>Clause 33.1 of the ETAC has been amended in accordance with this Required Amendment.</p>

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Miscellaneous matters relating to the ETAC that were not the subject of Required Amendments</b></p> <p><b>(a) Clause 9 of the ETAC</b></p> <p>In its first submission on the Draft Decision, Western Power proposed a change to clause 9 of the ETAC (which provides for Western Power to require a user to provide security against the user's obligations under a contract for a network service).</p> <p>At paragraph 273 of the Final Decision the Authority did not allow Western Power's proposed changes to clause 9 of the ETAC to:</p> <ul style="list-style-type: none"> <li>• remove the option of providing a parent company guarantee as security; and</li> <li>• increase the investment grade credit ratings.</li> </ul>	<p>Disallowance accepted.</p>	<p>Western Power has removed these proposed changes to clause 9 of the ETAC, in accordance with the requirements of paragraph 273 of the Final Decision</p>
<p><b>(b) Proposed clause 31.4 of the ETAC</b></p> <p>In its first submission on the Draft Decision, Western Power proposed a change to clause 31 of the ETAC (which comprises provisions for the user to assign its interests under the access contract to another party). In particular, Western Power proposed the inclusion of clause 31.4, being a 'change in control provision'. At paragraph 363 of the Final Decision the Authority did not allow Western Power's proposed inclusion of clause 31.4.</p>	<p>Disallowance accepted.</p>	<p>Western Power has removed the proposed clause from the ETAC in accordance with the requirements of paragraph 363 of the Final Decision.</p>
<p><b>Required Amendment 22 (Draft Decision Required Amendment 22)</b></p> <p>The proposed access arrangement revisions should be amended to include service standard benchmarks for:</p> <ul style="list-style-type: none"> <li>• loss of supply event frequency, specified as a number of loss of supply events in a one year period with benchmarks specified for events of low and high duration measured as system minutes interrupted; and</li> <li>• average outage duration, measured in minutes.</li> </ul>	<p>Amendment accepted.</p> <p>Paragraph 400 of the Final Decision explains that the Authority accepts Western Power's response to this Required Amendment as set out in Attachment A to Western Power's second submission on the Draft Decision.</p> <p>The access arrangement has been amended to give effect to the Required Amendment.</p>	<p>The tables set out in paragraph 398 of the Final Decision have been incorporated into section 3.21 of the access arrangement.</p>



Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation																
<p><b>Required Amendment 23 (Draft Decision Required Amendment 23)</b></p> <p>The proposed access arrangement revisions should be amended such that definitions of SAIDI and SAIFI:</p> <ul style="list-style-type: none"> <li>do not make provision for the exclusion of single customer interruptions;</li> <li>exclude reference to definitions as definitions adopted by the Institute of Electrical and Electronics Engineers' (IEEE) in specification of "major event days".</li> </ul>	<p>Amendment addressed.</p> <p>Western Power accepts the exclusion of single customer interruptions, but would prefer to retain the reference to the IEEE 1366 definition of major event days for clarity and consistency. In paragraph 409 of the Final Decision, the Authority suggests that national consistency would be promoted if the IEEE definition of major event days were excluded. However, Western Power notes that it has previously adopted the IEEE definition in reporting its historic data. In addition, the Australian Energy Regulator has adopted the IEEE definition in its Service Target Performance Incentive Scheme. To achieve consistency with its own historic data including licence reporting, and in keeping with the AER's approach, Western Power proposes to retain the reference to the IEEE definition of major events days. Western Power acknowledges the need to separately address the detailed licence reporting requirements with the Authority.</p>	<p>Sections 3.16 and 3.17 of the access arrangement have been amended in accordance with Western Power's response to this Required Amendment.</p>																
<p><b>Required Amendment 24' (Draft Decision Required Amendment 25)</b></p> <p>The proposed access arrangement revisions should be amended to reflect a forecast of non-capital costs as follows (real \$ million at 30 June 2009):</p> <table border="1" data-bbox="203 932 734 1070"> <thead> <tr> <th></th> <th>2009/10</th> <th>2010/11</th> <th>2011/12</th> </tr> </thead> <tbody> <tr> <td><b>Transmission:</b></td> <td>75.46</td> <td>96.32</td> <td>103.40</td> </tr> <tr> <td><b>Distribution:</b></td> <td>280.84</td> <td>357.11</td> <td>414.11</td> </tr> <tr> <td><b>Total:</b></td> <td>356.29</td> <td>453.43</td> <td>517.51</td> </tr> </tbody> </table>		2009/10	2010/11	2011/12	<b>Transmission:</b>	75.46	96.32	103.40	<b>Distribution:</b>	280.84	357.11	414.11	<b>Total:</b>	356.29	453.43	517.51	<p>Amendment accepted.</p> <p>Paragraphs 561; 598; and 654 explain that the Authority has accepted Western Power's forecasts of non capital costs as set out in Attachment D ("Supplementary Report: Capital and operating expenditure, 2009/10 to 2011/12") of Western Power's second submission in response to the Draft Decision, with the exception of \$11 million, comprising \$6.3 million of forecast business support costs and \$4.7 million of corrective maintenance costs. .</p>	<p>The calculation of Western Power's target revenue adopts the forecasts of non-capital costs set out in this Required Amendment.</p>
	2009/10	2010/11	2011/12															
<b>Transmission:</b>	75.46	96.32	103.40															
<b>Distribution:</b>	280.84	357.11	414.11															
<b>Total:</b>	356.29	453.43	517.51															

<sup>7</sup> In accordance with the Corrigenda issued by the Authority on 18 December 2009.

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation																
<p><b>Required Amendment 25 (Draft Decision Required Amendment 26)</b></p> <p>The proposed access arrangement revisions should be amended so that the total amounts of new facilities investment added to the capital base are as follows (real \$ million at 30 June 2009):</p> <table border="1" data-bbox="203 395 1115 560"> <thead> <tr> <th></th> <th>2006/07</th> <th>2007/08</th> <th>2008/09</th> </tr> </thead> <tbody> <tr> <td><b>Transmission:</b></td> <td>265.85</td> <td>274.87</td> <td>280.64</td> </tr> <tr> <td><b>Distribution:</b></td> <td>394.80</td> <td>426.70</td> <td>581.50</td> </tr> <tr> <td><b>Total:</b></td> <td>660.65</td> <td>701.56</td> <td>862.15</td> </tr> </tbody> </table>		2006/07	2007/08	2008/09	<b>Transmission:</b>	265.85	274.87	280.64	<b>Distribution:</b>	394.80	426.70	581.50	<b>Total:</b>	660.65	701.56	862.15	<p>Amendment accepted.</p> <p>As noted in section 1 of this document, Western Power does not consider that the extent of the write down adopted by the Authority in its Final Decision can be substantiated with the available information. Nevertheless, in the interests of achieving a timely approval of the access arrangement, Western Power accepts the Authority's decision on the new facilities investment for the first access arrangement period.</p>	<p>Section 6.1 of the access arrangement has been amended to reflect this Required Amendment. The calculation of Western Power's target revenue reflects the amended capital base. Sections 6.2 and 6.3 of the access arrangement are no longer required and have been deleted.</p>
	2006/07	2007/08	2008/09															
<b>Transmission:</b>	265.85	274.87	280.64															
<b>Distribution:</b>	394.80	426.70	581.50															
<b>Total:</b>	660.65	701.56	862.15															
<p><b>Required Amendment 26 (Draft Decision Required Amendment 27)</b></p> <p>The proposed access arrangement revisions should be amended to add the value of any revenues from disposal of assets in the first access arrangement period to the value of redundant assets applied in calculation of the capital base at the commencement of the second access arrangement period.</p>	<p>Amendment accepted.</p>	<p>The calculation of Western Power's target revenue accords with this Required Amendment.</p>																
<p><b>Required Amendment 27 (Draft Decision Required Amendment 28)</b></p> <p>The proposed access arrangement revisions should be amended to reflect a forecast of new facilities investment for the second access arrangement period as set out by Western Power in its submission to the Authority dated 10 September 2009.</p>	<p>Amendment accepted.</p> <p>As noted in section 1.3 of this document, Western Power's second response to the Draft Decision, dated 10 September 2010, revised its previous expenditure forecasts to strike the optimum balance of expenditure priorities and consequential risks, within the affordability constraints imposed by economic conditions. Western Power welcomes the Authority's acceptance of its forecast capital expenditure for the forthcoming access arrangement period.</p>	<p>In accordance with this Required Amendment, the calculation of Western Power's target revenue adopts the forecasts of new facilities investment set out in Attachment D ("Supplementary Report: Capital and operating expenditure, 2009/10 to 2011/12") of Western Power's second submission in response to the Draft Decision dated 10 September 2009.</p>																

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation																
<p><b>Required Amendment 28 (Draft Decision Required Amendment 29)</b></p> <p>The target revenue should be revised to reflect a real pre-tax WACC value of 7.98 per cent.</p>	<p>Amendment accepted.</p> <p>As noted in section 1.5 of this document, the Authority calculated that a pre-tax real WACC value of 7.98% is consistent with the AER's WACC determination; and lies within the reasonable range of values (of 6.77% to 8.15% pre-tax real),</p>	<p>Section 5.36, 5.46 and 7.1 of the access arrangement specifies that the WACC for Western Power's covered network is 7.98% real pre-tax.</p> <p>The calculation of Western Power's target revenue reflects the adoption of a real pre-tax WACC of 7.98%.</p>																
<p><b>Required Amendment 29 (Draft Decision Required Amendment 30)</b></p> <p>The target revenue should be revised to reflect an allowance for a cost of working capital as follows (real \$ million at 30 June 2009):</p> <table border="1" data-bbox="206 735 797 887"> <thead> <tr> <th></th> <th>2009/10</th> <th>2010/11</th> <th>2011/12</th> </tr> </thead> <tbody> <tr> <td><b>Transmission:</b></td> <td>19.25</td> <td>10.47</td> <td>12.59</td> </tr> <tr> <td><b>Distribution:</b></td> <td>42.32</td> <td>45.54</td> <td>53.12</td> </tr> <tr> <td><b>Total:</b></td> <td>61.57</td> <td>56.00</td> <td>65.71</td> </tr> </tbody> </table>		2009/10	2010/11	2011/12	<b>Transmission:</b>	19.25	10.47	12.59	<b>Distribution:</b>	42.32	45.54	53.12	<b>Total:</b>	61.57	56.00	65.71	<p>Amendment accepted.</p>	<p>The calculation of Western Power's target revenue reflects an allowance for a cost of working capital as set out in this Required Amendment.</p>
	2009/10	2010/11	2011/12															
<b>Transmission:</b>	19.25	10.47	12.59															
<b>Distribution:</b>	42.32	45.54	53.12															
<b>Total:</b>	61.57	56.00	65.71															

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 30 (Draft Decision Required Amendment 31)</b></p> <p>The proposed access arrangement revisions should be amended to determine the target revenue for reference services taking into account forecast revenues from non-reference services as follows (real \$ million at 30 June 2009):</p>	<p>Amendment accepted.</p>	<p>The calculation of Western Power's target revenue for reference services takes into account forecast revenues from non-reference services as set out in this Required Amendment.</p>
<p><b>Required Amendment 31<sup>8</sup> (Draft Decision Required Amendment 32)</b></p> <p>The proposed access arrangement revisions should be amended to provide for deferral of an amount of \$64.5 million of revenue for the transmission network and \$484.2 million of revenue for the distribution network (in present value terms and in real dollar values of 30 June 2009) from the second to the third and subsequent access arrangement periods, being an amount that fully offsets the effect of the change in the treatment of capital contributions in the determination of target revenue.</p>	<p>Amendment accepted.</p> <p>Western Power has amended its access arrangement to provide for the deferral of \$64.5 million of revenue for the transmission network and \$484.2 million of revenue for the distribution network (in present value terms and in real dollar values of 30 June 2009) from the second to the third and subsequent access arrangement periods. The deferred amounts are intended to fully offset the expected effect of the change in the treatment of capital contributions in the determination of target revenue.</p> <p>For the avoidance of doubt, it should be noted that the deferred amounts reflect the estimated (rather than actual) effect of the change in the treatment of capital contributions. This is because the actual effect of the change will not be known until after all actual capital contributions for the second access arrangement period have been received. Western Power does not propose any change to the amount of deferred revenue to reflect differences between forecast and actual capital contributions.</p>	<p>Sections 5.37A and 5.48A of the access arrangement specify the amounts of transmission and distribution revenue (respectively) to be deferred from the second to the third and subsequent access arrangement periods, in accordance with this Required Amendment.</p>

<sup>8</sup> In accordance with the Corrigenda issued by the Authority on 18 December 2009.

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 32 (Draft Decision Required Amendment 33)</b></p> <p>The proposed access arrangement revisions should be amended such that clauses 3.11, 5.35 and 5.46 provide for maximum proportional changes in reference tariffs at times of revision of the price list of:</p> <ul style="list-style-type: none"> <li>• +/- (percentage change in the CPI + 13 percentage points) for the transmission network; and</li> <li>• +/- (percentage change in the CPI + 18 percentage points) for the distribution network.</li> </ul>	<p>Amendment accepted.</p> <p>Western Power is concerned that this Required Amendment provides very limited scope for tariff rebalancing. Nevertheless, given the short duration of the forthcoming access arrangement period and the level of average price increases, Western Power accepts this Required Amendment.</p>	<p>Sections 3.11, 5.35 and 5.46 of the access arrangement have been amended in accordance with the Required Amendment.</p>

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 33 (Draft Decision Required Amendment 34)</b></p> <p>The proposed access arrangement revisions should be amended to specify a gain sharing mechanism as follows.</p> <p>a) Subject to paragraph (b) of this required amendment, an above-benchmark surplus is to be calculated for each of the years 2009/10 to 2011/12 as:</p> $ABS_{2009/10} = EIB_{2009/10} - A_{2009/10}$ $ABS_{2010/11} = (EIB_{2010/11} - A_{2010/11}) - (EIB_{2009/10} - A_{2009/10})$ $ABS_{2011/12} = (EIB_{2011/12} - A_{2011/12}) - (EIB_{2010/11} - A_{2010/11}),$ <p>where</p> <p><math>ABS_t</math> is the above-benchmark surplus in year <math>t</math>,</p> <p><math>EIB_t</math> is the efficiency and innovation benchmark for year <math>t</math>, being the forecast of non-capital cost for year <math>t</math> applied in the determination of target revenue for year <math>t</math>, adjusted for inflation as appropriate and adjusted to include any relevant adjustments for unforeseen events and changes to the Technical Rules as allowed for under sections 6.6 and 6.9 of the Access Code;</p> <p><math>A_t</math> is the actual non-capital costs incurred by Western Power in year <math>t</math>, adjusted for inflation as appropriate, adjusted to include any relevant adjustments for unforeseen events and changes to the Technical Rules as allowed for under sections 6.6 and 6.9 of the Access Code and adjustments under the D-factor scheme.</p> <p>b) In any year in which an above-benchmark surplus is calculated to be a positive value but Western Power fails to meet service standard benchmarks for that year, the above-benchmark surplus for that year is deemed to be zero.</p> <p>c) Subject to paragraph (d) of this required amendment, the following amounts may be added to target revenue for one or more access arrangement periods covering the years 2012/13 to 2016/17:</p> $GSMA_{2012/13} = ABS_{2009/10} + ABS_{2010/11} + ABS_{2011/12}$ $GSMA_{2013/14} = ABS_{2009/10} + ABS_{2010/11} + ABS_{2011/12}$ $GSMA_{2014/15} = ABS_{2009/10} + ABS_{2010/11} + ABS_{2011/12}$ $GSMA_{2015/16} = ABS_{2010/11} + ABS_{2011/12}$ $GSMA_{2016/17} = ABS_{2011/12}$ <p>Where <math>GSMA_t</math> is the gain sharing mechanism adjustment to target revenue for year <math>t</math>.</p>	<p>Amendment addressed.</p> <p>Western Power has adopted the Required Amendment, but has included minor changes to the definitions of <math>EIB_t</math> and <math>A_t</math>. These drafting changes do not affect the intention of the Required Amendment, which Western Power accepts.</p>	<p>The access arrangement has been amended to implement the gain sharing mechanism specified in this Required Amendment.</p> <p>The relevant provisions are contained in sections 5.14B to 5.14E inclusive.</p>

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
d) In any year where the amount of an adjustment to target revenue determined under paragraph (c) is a negative value, the amount of the adjustment to target revenue in that year is zero.		
<p><b>Required Amendment 34 (Draft Decision Required Amendment 35)</b></p> <p>The proposed access arrangement revisions should be amended to alter the specification of the service standard adjustment mechanism at clauses 5.24A and 5.24B to:</p> <p>(a) remove the dead-bands and limits around target values of service standards; and</p> <p>(b) calculate an amount of a difference between target and actual service standards as:</p> $SSD_{2009/2010} = (SSB_{2009/10} - SSA_{2009/10})$ $SSD_{2010/2011} = (SSB_{2010/11} - SSA_{2010/11}) - (SSB_{2009/10} - SSA_{2009/10})$ $SSD_{2011/2012} = (SSB_{2011/12} - SSA_{2011/12}) - (SSB_{2010/11} - SSA_{2010/11})$ <p>Where:</p> <p><math>SSD_t</math> is the service standard difference in year <math>t</math></p> <p><math>SSB_t</math> is the service standard benchmark in year <math>t</math></p> <p><math>SSA_t</math> is the actual service standard in year <math>t</math>.</p> <p>(c) include incentive rates as specified in Attachment L of Western Power's submission of 10 September 2009.</p>	<p>Amendment addressed.</p> <p>With the exception of the Authority's requirement that Western Power's financial exposure under the SSAM should be entirely uncapped, the SSAM specified in the Required Amendment is acceptable to Western Power.</p> <p>Western Power proposes that annual penalties and bonuses relating to System Minutes Interrupted for the meshed and radial transmission networks should be capped at a total of 1% of transmission revenue for each year, on the basis that:</p> <ul style="list-style-type: none"> <li>• Western Power's financial exposure from an uncapped SSAM is unacceptably high;</li> <li>• Legal advice indicates that the exclusion for force majeure events is unlikely to provide adequate protection against this financial exposure;</li> <li>• Our insurance advisers have indicated that insuring against this financial exposure can only be achieved through non-traditional markets and that premiums will be significant;</li> <li>• Contrary to the Code objective, an uncapped scheme will provide an incentive to undertake economically inefficient investment in order to minimise the impact of highly improbable events; and</li> <li>• The regulatory precedent provided by the Australian Energy Regulator's service performance incentive scheme indicates that a capped scheme is consistent with the Code objective.</li> </ul> <p>Further detailed information to substantiate Western Power's position is set out in Attachment 1.</p>	<p>Section 5.24A of the Access Arrangement sets out the SSAM applying to the transmission network in accordance with this Required Amendment, except that annual penalties and bonuses relating to System Minutes Interrupted for the meshed and radial transmission networks should be capped at a total of 1% of transmission revenue for each year (under section 5.24A(d)).</p> <p>Section 5.24B of the Access Arrangement sets out the SSAM applying to the distribution network in accordance with this Required Amendment.</p>

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 35 (Draft Decision Required Amendment 36)</b></p> <p>The proposed access arrangement revisions should be amended to provide for the recovery of deferred revenue over the third and subsequent access arrangement periods subject to approval by the Authority and avoidance of resultant price shocks to users of reference services.</p>	<p>Amendment accepted.</p> <p>Western Power acknowledges the Authority's view that it is more appropriate to recover the deferred revenue over a longer timeframe than the period covered by AA#3. The drafting of the proposed revised access arrangement (submitted in October 2008) already allows for the recovery of the deferred revenue over a longer timeframe. Western Power has amended sections 5.37A and 5.48A to clarify that the timeframe for the recovery of deferred revenue will consider the price impact on users of reference services and will be subject to approval by the Authority in accordance with this Required Amendment.</p>	<p>Sections 3.11A, 5.37A, 5.48A and 9.19A of the access arrangement have been amended in accordance with this Required Amendment.</p>
<p><b>Required Amendment 36 (Draft Decision Required Amendment 37)</b></p> <p>The proposed access arrangement revisions should be amended to provide for operation of the D-factor scheme to be subject to demonstration, to the Authority's satisfaction, that:</p> <ul style="list-style-type: none"> <li>• any amount of operating expenditure satisfies the requirements of sections 6.40 and 6.41 of the Access Code, as relevant; and</li> <li>• any amount of capital expenditure satisfies the requirements of section 6.51A of the Access Code.</li> </ul>	<p>Amendment accepted.</p> <p>Western Power welcomes the Authority's decision to allow the D-factor scheme proposed by Western Power. The Required Amendment clarifies the matters that are relevant to the Authority's approval of expenditure relating to the deferral of capital expenditure projects or demand management initiatives. Western Power therefore supports the Required Amendment.</p>	<p>Section 5.57 of the access arrangement has been amended to give effect to the Required Amendment.</p>



Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 37 (Draft Decision Required Amendment 38)</b></p> <p>The proposed access arrangement revisions should be amended to resolve inconsistencies between clause 10 of the applications and queuing policy and clauses 3.4 and 3.5 of the electricity transfer access contract in relation to changes to covered services, including increases or decreases in contracted capacity at a connection point.</p>	Amendment accepted.	The ETAC and the applications and queuing policy have been amended to resolve inconsistencies between clause 10 of the applications and queuing policy and clauses 3.4 and 3.5 of the ETAC.
<p><b>Required Amendment 38<sup>9</sup> (Draft Decision Required Amendment 39)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 11.2 of the applications and queuing policy is amended to indicate that nothing in clause 11.2 provides Western Power with a derogation of obligations to energise connection points within the timeframes specified under clause 8.2 of the Code of Conduct for the Supply of Electricity to Small Use Customers or regulations 7 and 8 of the <i>Electricity Industry (Obligation to Connect) Regulations 2005</i>.</p>	Amendment accepted.	Clause 11.2 of the applications and queuing policy has been amended in accordance with this Required Amendment.
<p><b>Required Amendment 39 (Draft Decision Required Amendment 40)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 24.17(a) of the applications and queuing policy includes an obligation for Western Power to provide queue information in the initial response to an application to the extent that Western Power is reasonably able to do so, but in any case as part of a preliminary assessment under clause 19.3.</p>	Amendment accepted.	Clause 24.17(a) of the applications and queuing policy has been amended in accordance with this Required Amendment.

<sup>9</sup> In accordance with the Corrigenda issued by the Authority on 18 December 2009.

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 40 (Draft Decision Required Amendment 41)</b></p> <p>The proposed access arrangement revisions should be amended such that the contributions policy includes an obligation on Western Power to provide an applicant or user with details of the calculation of any contribution to be required from the applicant or user including:</p> <ul style="list-style-type: none"> <li>• where the contribution is in respect of new facilities investment, details of assessment of the new facilities investment against the requirements of the new facilities investment test and details of the calculation of the amount that does not meet the new facilities investment test;</li> <li>• where the contribution is made in respect of non-capital costs related to alternative options, details of assessment of the non-capital costs against the alternative options test and details of the calculation of the amount that does not satisfy the alternative options test;</li> <li>• details of assumptions and calculations applied in the apportionment of any forecast cost of works between the user or applicant and other users or applicants or Western Power under clause 5.4 of the contributions policy; and</li> <li>• details of the calculation of a headworks contribution under clause 6 of the contributions policy.</li> </ul>	<p>Amendment accepted.</p>	<p>A new clause 10 has been inserted in the contributions policy in accordance with this Required Amendment.</p>
<p><b>Required Amendment 41 (Draft Decision Required Amendment 42)</b></p> <p>The proposed access arrangement revisions should be amended such that the contributions policy includes definitions of "rural zone" and "mixed zone" by cross reference to definitions of these terms in clause 5.3 of the price list information.</p>	<p>Amendment accepted.</p>	<p>The contributions policy has been amended to include definitions of "rural zone" and "mixed zone" by cross reference to the definitions of these terms in clause 5.3 of the price list information.</p>

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 42 (Draft Decision Required Amendment 43)</b></p> <p>The proposed access arrangement revisions should be amended such that clause 6 of the contributions policy sets out:</p> <ul style="list-style-type: none"> <li>the method or calculation and assumptions applied in determining the amount of costs to be recovered by headworks contributions;</li> <li>the method or calculation and assumptions applied in determining the allocation of costs across a forecast of connections to the network and determining the magnitude of headworks contributions;</li> <li>the procedures or methods applied by Western Power to ensure that headworks contributions will, in the long term, recover no more than Western Power's costs of the headworks; and</li> <li>a mechanism, which may involve a system of accounting records, to ensure that any amount of the costs of headworks recovered by headworks contributions are not also recovered, or sought to be recovered, through other contributions or through tariffs for services.</li> </ul>	Amendment accepted.	<p>A new appendix 9 titled "Distribution Headworks Methodology" has been inserted in the Access Arrangement which addresses the requirements of the first 3 dot points of this Required Amendment.</p> <p>The existing clause 6.2(c) in combination with an amended clause 6.2(b) of the contributions policy addresses the requirements of the fourth dot point.</p>
<p><b>Required Amendment 43 (Draft Decision Required Amendment 44)</b></p> <p>The proposed access arrangement revisions should be amended to delete the proposed clause 2(c)(iii) of the contributions policy that seeks to allow Western Power to require a contribution in respect of non-capital costs required in response to a connection application, where the non-capital costs associated with such works are costs which would not be incurred by a service provider efficiently minimising costs.</p>	Amendment accepted.	Proposed clause 2(c)(iii) of the contributions policy has been deleted in accordance with this Required Amendment.
<p><b>Required Amendment 44 (Draft Decision Required Amendment 45)</b></p> <p>The proposed access arrangement revisions should be amended such that the contributions policy only allows for contributions in respect of non-capital costs incurred in the implementation of an alternative option where:</p> <ul style="list-style-type: none"> <li>Western Power is able to clearly demonstrate that the costs were not included, and could not reasonably have been included, in forecasts of non-capital costs taken into account in setting the price control; and</li> <li>the conditions of section 6.41(b) of the Access Code are not satisfied.</li> </ul>	Amendment accepted.	<p>A new clause 2(c)(iii) has been inserted in this policy to address the requirement of the first dot point of this Required Amendment.</p> <p>To address the second dot point of this Required Amendment, clause 2(c)(ii) has been amended to refer to section 6.41(b) of the Code rather than the whole of the "alternative options test".</p>

Final Decision Required Amendment (and corresponding Draft Decision Required Amendment)	Western Power's response	Cross reference to access arrangement documentation
<p><b>Required Amendment 45 (Draft Decision Required Amendment 46)</b></p> <p>The proposed access arrangement revisions should be amended to delete provisions proposed under clause 4.3 of the contributions policy that allow for security to be required for a total period of greater than two years where forecast costs with respect to a connection application are less than \$15,000,000.</p>	<p>Amendment accepted.</p>	<p>A revised clause 4.3 has been inserted in the contributions policy in accordance with this Required Amendment.</p>

## 5. SUPPORTING INFORMATION

The table below lists the detailed supporting information provided in the attached documents.

Attachment	Subject
1.	Western Power's detailed response to Required Amendment 34
2.	Completed revenue model
3.	Pro-forma regulatory financial statements
4.	Pro-forma forecast statements
5.	Cross references to information contained in Western Power's October 2008 submission and Western Powers' responses to the Authority's July 2009 Draft Decision.

**ATTACHMENT 1: WESTERN POWER'S DETAILED RESPONSE TO  
REQUIRED AMENDMENT 34**

## **Western Power's detailed response to Required Amendment 34**

### **1. Introduction and Overview**

The Authority's Required Amendment 34 sets out a number of revisions to Western Power's proposed Service Standard Adjustment Mechanism (SSAM) in sections 5.24A and B of the Access Arrangement. With the exception of the Authority's requirement that Western Power's financial exposure under the SSAM should be entirely uncapped, the SSAM specified in the Required Amendment is acceptable to Western Power.

This attachment explains Western Power's reasons for not accepting an entirely uncapped SSAM, and instead proposes that annual penalties and bonuses relating to System Minutes Interrupted for the meshed and radial transmission networks should be capped at a total of 1% of transmission revenue for each year. In particular, Western Power notes that:

- Western Power's financial exposure from an uncapped SSAM is unacceptably high;
- Legal advice indicates that the exclusion for force majeure events is unlikely to provide adequate protection against this financial exposure;
- Our insurers have indicated that insuring against this financial exposure can only be achieved through non-traditional markets and that premiums will be significant;
- Contrary to the Code objective, an uncapped scheme will provide an incentive to undertake economically inefficient investment in order to minimise the impact of highly improbable events; and
- The regulatory precedent provided by the Australian Energy Regulator's service performance incentive scheme indicates that a capped scheme is consistent with the Code objective.

### **2. Western Power's comments on Required Amendment 34**

In its access arrangement revisions and in its second submission in response to the Draft Decision, Western Power proposed that:

- For the SSAM that will apply to the transmission network, the dead-bands would be removed, and the limits would be retained, which have the effect of limiting the total revenue at risk at approximately one per cent of target revenue. Western Power noted that this is consistent with the service target performance incentive scheme (STPIS) applied by the AER to transmission businesses.
- For the SSAM that will apply to the distribution network, the dead-bands and limits would be removed, but the total revenue at risk would be capped at one per cent of target revenue. Western Power noted that this is consistent with the STPIS applied by the AER to distribution businesses.

The Authority's reasoning in relation to the capping of Western Power's financial exposure under the SSAM is set out in paragraphs 1150 and 1151 of the Final Decision as follows:

“Under the proposed access arrangement revisions, all of the measures of services standards for the transmission and distribution networks exclude force majeure events, which the Authority considers would include extreme weather events. For this reason, the Authority considers that the inclusion of limits on the values of service standards that may attract penalties and rewards under the service standard adjustment mechanisms are not a necessary protection for Western Power.

On the matter of a cap on the total amounts of revenue at risk under the service standard adjustment mechanisms, the Authority also considers that a cap is not consistent with the Code objective in circumstances where Western Power is protected from the effects of extreme events by exclusions from the measures of service standards, as is the case under the proposed access arrangement revisions. Moreover, the incentive rates under the service standard adjustment mechanism that will apply for the second access arrangement period are relatively low, and the risk to Western Power of penalties in excess of one per cent of revenue is small – requiring all service standards to depart from the benchmarks by considerable margins (in the order of 20 per cent).”

Following the publication of the Final Decision, Western Power has undertaken further analysis of its exposure under the SSAM specified in Required Amendment 34. Before turning to this analysis Western Power notes (in response to the comments contained in paragraph 1151) that:

- The provision of a cap on Western Power’s financial exposure under the SSAM would be harmless even if one accepts the Authority’s views that Western Power is protected from the effects of extreme events by force majeure provisions, and Western Power’s exposure under the SSAM is limited by virtue of the incentive rates that apply.
- Under the Authority’s view of Western Power’s exposure (noted immediately above) it does not seem logical that the provision of a cap on Western Power’s exposure would be contrary to the Code objective. Specifically, the Authority’s view implies that the proposed cap would not affect the operation of the SSAM, which in turn implies that the inclusion of a cap could not be inconsistent with the Code.

In fact, contrary to the Authority’s view Western Power’s further analysis indicates that the potential loss of revenue due to transmission outages is a serious financial risk to the company.

It is acknowledged that the definition of transmission service standards makes provision for exclusions of highly unusual events (say, 1-in-20 year events) via the operation of “force majeure” provisions. Western Power is concerned, however, that the definition of force majeure is very subjective, and therefore is open to differing interpretations when applied to particular events.

The operation of transmission systems is highly complex, and occasionally, major transmission system malfunctions can arise from highly unusual events which are not predictable. In rare circumstances, a simple localised fault event can unexpectedly cascade into a major system event. For example, a recent event in the US resulted in 50 million customers being without supply for many hours, following a chain of events initiated by a transmission line fault caused by an overgrown tree. Under normal circumstances the initiating event would most likely cause a fault but no customer interruptions, however in this particular case, the resulting cascade failure led to very widespread supply interruptions.



Similarly, a major transmission outage occurred on the SWIS in 1994 as a result of the occurrence of widespread heavy fog following a long dry period. The outage affected the 330 kV lines supplying Perth, and it resulted in an almost complete blackout of the SWIS for approximately 220 minutes. Applying the incentive rate under the proposed SSAM for System Minutes Interrupted of \$75,000 per 0.1 of System Minutes Interrupted, the penalty for this single event would have been approximately \$165 million. For comparative purposes, it is noted that Western Power's net profit after tax for 2008/09 was \$126.2 million.

By any measure, Western Power's potential financial exposure would be extreme.

In the circumstances, it is debatable (particularly with "the benefit of hindsight") as to whether this event would have been classified as a force majeure event under the SSAM.

Western Power has sought legal advice in relation to this matter. That advice<sup>10</sup> suggests that Western Power faces an unacceptably high level of financial risk, given the uncertainty regarding the operation of the force majeure provisions under the SSAM. In particular, the legal advice is that:

- The scope of what is a 'force majeure' event or an 'extreme event' is unclear.
- There may be circumstances where an event seemingly beyond the control of Western Power is nonetheless questioned as to whether it is an event of force majeure, for example, where overhanging trees form part of a complex matrix of circumstances causative of a system interruption.
- Exposure to potentially unlimited liability is likely to raise serious implications for obtaining adequate insurance coverage.

This legal advice is consistent with the rules and practices applying in the Australian National Electricity Market. In this regard, it is particularly noteworthy that the transmission determinations which have been completed by the AER since the introduction of its STPIS have all included a total cap on revenue at risk of 1%, divided up amongst the various service components, which included collars and caps without dead-bands. These constraints on financial outcomes apply even though an exclusion regime applies to remove the impact of extreme events. The revenue at risk for loss of supply events (frequency and duration) in each of the AER's determinations are as follows:

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<sup>10</sup> A copy of the advice will be provided to the Authority under separate cover.

AER Determination	Revenue at risk for loss of supply events
TransGrid Transmission Determination 2009–10 to 2013–14	0.55%
ElectraNet Transmission Determination 2008–09 to 2012–13	0.5%
Transend Transmission Determination 2009–10 to 2013–14	0.55%

The purpose of the SSAM (and similarly, the AER's STPIS) is to provide incentives to the network business to meet or exceed the service standard benchmarks. The incentive rates proposed for Western Power's SSAM (which have been accepted by the Authority) provide a tangible financial incentive to the company to achieve the service standard benchmarks. Moreover, under Required Amendment 33 (which Western Power proposes to accept) the gain sharing mechanism will deem any positive above-benchmark surplus to be zero in a year that Western Power fails to meet service standard benchmarks for that year. This feature of the gain sharing mechanism has the effect of strengthening the incentives for Western Power to achieve the service standard benchmarks.

Given these considerations, and having regard to the nature of the extreme events which could result in Western Power facing an extreme financial exposure under the SSAM, no economic purpose is served by exposing Western Power to uncapped liabilities for network performance. Indeed, in light of the uncertainty regarding the operation of force majeure relief, exposing the company to an uncapped financial liability under the SSAM may ultimately lead to inefficient outcomes. For instance, in order to mitigate the financial risks it faces:

- Western Power may be incentivised to undertake additional investment that is unduly focused on minimising the impact of highly improbable events (such as the fog that led to widespread outages in 1994). Such an outcome would lead to customers bearing costs in excess of efficient levels, and this would be inconsistent with the Code objective. Such investment would not be so strongly incentivised if Western Power's financial liability were capped at an appropriate level.
- Western Power would seek to insure against the risk. Preliminary discussions with our insurance advisers indicate that non-traditional insurance would need to be utilised and would be subject to a full actuarial review prior to any undertaking to provide cover. Initial advice is that the first \$15M would need to be self insured, and the external premium for insurance cover up to \$200M would be in the order of \$8M annually.

In this context, it is important to note that Western Power's submissions in response to the Draft Decision, including the forecast expenditures as approved by the Authority in the Final Decision, are based on an assumption that transmission revenue at risk would be capped at 1%. If Western Power's exposure under the SSAM were to be uncapped, then there would be a reasonable case for re-visiting (and increasing) the capital expenditure and operating expenditure forecasts for the forthcoming access

arrangement period, to ensure that Western Power is provided with adequate expenditure allowances to meet the costs of mitigating the associated risk.

In light of the additional information set out above, Western Power believes there is a very strong case for the Authority to re-consider its position in relation to the capping of liability under the SSAM, and to adopt an approach to capping Western Power's exposure which is more consistent with the approach applied by the AER. As demonstrated above:

- The SSAM proposed by Western Power provides effective incentives for the company to achieve its service standard benchmarks. Western Power's proposed SSAM (which caps the company's financial exposure) is therefore consistent with the Code objective.
- An uncapped SSAM may well deliver higher-cost outcomes that are inconsistent with the Code objective.

### **3. Western Power's proposed approach for addressing the Required Amendment**

Given the information set out above, and having regard also to the Authority's preference for Western Power's exposure under the SSAM to be uncapped, Western Power proposes that the SSAM should specify a cap only on the System Minutes Interrupted (meshed and radial) indicator, and that this cap should be set at +/-1.0% of transmission revenue.

This proposal would leave Western Power's financial exposure uncapped under the remaining performance measures within the SSAM – in accordance with the Authority's preference – whilst capping at a reasonable level Western Power's exposure to potentially extreme outcomes under the System Minutes Interrupted measure.

Western Power's proposal not only provides a SSAM that is more consistent with regulatory precedent and good regulatory practice elsewhere in Australia; it also demonstrably meets the Code objective.

## **ATTACHMENT 2: REVENUE MODEL**

## **ATTACHMENT 3: PRO FORMA REGULATORY FINANCIAL STATEMENTS**

## **ATTACHMENT 4: PRO FORMA FORECAST STATEMENTS**

**ATTACHMENT 5: CROSS REFERENCES TO INFORMATION  
CONTAINED IN WESTERN POWER OCTOBER 2008 SUBMISSION  
AND WESTERN POWER RESPONSE TO THE AUTHORITY'S JULY  
2009 DRAFT DECISION.**

## **Cross references to information contained in Western Power October 2008 submission and Western Power response to the Authority's July 2009 Draft Decision.**

Stakeholders are invited to refer to the October 2008 access arrangement information in respect of the following information:

### **Cross-reference to information contained in 1 October 2008 Access Arrangement Information**

Part A, section 2	This section provides background information regarding the development and purpose of the Code.
Part A, section 3	This section provides high-level background information on Western Power and the operation of its network business. It also includes a map of Western Power's network and a high-level description of its network assets. Western Power's recent initiatives to improve performance both in relation to cost and service are also discussed. High-level information is also provided in relation to the challenges facing the company in the forthcoming access arrangement period.
Part A, section 4	This section provides an overview of Western Power's network planning and investment processes, which drive the company's expenditure plans.
Part A, section 5	This section provides a brief overview of Western Power's strategic works delivery framework, along with the internal governance and organisational arrangements that will support the delivery framework. These organisational developments provide greater assurance that the substantially increased works program will be delivered efficiently and in a timely manner.
Part A, section 6	This section provides useful information regarding Western Power's recent service performance in relation to the transmission and distribution networks.
Parts B and C, section 2	This section explains Western Power's forecasting methodology for demand and energy on the transmission and distribution network.
Part B, section 3	This section explains Western Power's approach to forecasting generation capacity and generation connection requirements.
Part B, sections 6 and 7	These sections discuss the Code provisions relating to the regulatory asset base and the cost of capital.
Part D, section 2	This section discusses the Code provisions relating to reference services and sets out Western Power's proposed approach for the forthcoming access arrangement period.
Part D, section 3	This section discusses the Code provisions relating to service standard benchmarks, and sets out Western Power's proposed approach.



Part D, section 4	This section discusses the Code provisions relating to price control and Western Power's proposed approach in relation to the form of control; unforeseen events; the investment adjustment mechanism; technical rule changes; the gain sharing mechanism; the service standard adjustment mechanism; and the D-factor scheme.
Part D, section 5	This section discusses the Code provisions relating to pricing methods, Western Power's approach to prudent discounting and discounts to distributed generation.
Part D, sections 6, 7, 8 and 9	These sections discuss the Code provisions and Western Power's approach to the applications and queuing policy; contributions policy; standard access contract; and transfer and relocation policy.
Part D, section 10	This section discusses the Code provisions relating to Trigger Events and Western Power's proposed approach.
Part D, section 11	This section addresses the Code requirement in relation to supplementary matters.

In addition to providing the above information in its initial October 2008 proposed revisions, Western Power provided further detailed explanatory information and analysis in responding to the Draft Decision. An overview of the information presented in the three submissions made by Western Power in response to the Draft Decision is provided below.

Western Power's first submission (dated 13 August 2009) addressed those Required Amendments relating to the policies and contracts, which together determine the terms and conditions of access to Western Power's network. These relevant policies and contracts include:

- the Applications and Queuing Policy, which provides a framework for processing applications for an access contract in an orderly and fair manner, especially where network capacity is scarce;
- the Transfer and Relocation Policy, which specifies a user's rights to transfer its access rights to another person and to relocate capacity from one connection point in its access contract to another connection point in its access contract; and
- the Standard Access Contract (termed the Electricity Transfer Access Contract or ETAC), which describes the standard terms and conditions on which Western Power will offer a user access to its network.

Western Power's first submission included a number of supporting attachments, including a marked up ETAC showing the revisions that Western Power proposed to make in order to address the relevant Required Amendments. This submission is available on the Authority's website.

Western Power's second submission (dated 10 September 2009) in response to the Draft Decision principally focused on the Required Amendments that raised more complex and challenging revenue-related issues. The table below provides a summary of the information included in the attachments to the second submission. Each attachment explained why Western Power could not fully accept the relevant Required Amendment as drafted, and proposed an alternative approach of addressing

the underlying issue or concern raised by the Authority. The following table provides an overview of the information contained in the attachments to Western Power's second submission, which is also available from the Authority's website.

**Cross-reference to information provided in Western Power's second submission in response to the Draft Decision**

Attachment A	Addressed the establishment of new transmission service standard benchmarks.
Attachment B	Addressed revised definitions of SAIDI and SAIFI.
Attachment C	Addressed service standard benchmarks for SAIDI and SAIFI for customers served by the 15 per cent of worst performing feeders.
Attachment D	Presented Western Power's amended operating and capital expenditure plans in light of the Draft Decision and the latest available information.
Attachments E and F	Relate to the exclusion of certain capital expenditure from the capital base through the Authority's application of the New Facilities Investment Test.
Attachment G and H	Addressed the value of the real pre-tax WACC, and presented KPMG's report.
Attachments I and J	Addressed the deferral of revenue from the second to the third and subsequent access arrangement periods, and presented NERA's report on matters relating to revenue deferral.
Attachment K	Addressed issues relating to the design of the gain sharing mechanism.
Attachment L	Addressed issues relating to the design of the service standard adjustment mechanism.
Attachment M	Addressed issues relating to Western Power's proposed D-factor scheme.
Attachment N	Addressed issues relating to Western Power's proposed contributions policy.
Attachment O	Explained the revenue and tariff outcomes that would be delivered if the Authority were to accept Western Power's response to the Draft Decision.
Attachment P	Explained the relationship between network expenditure and service performance, and concluded that service targets should be lower than those initially proposed by Western Power in its October 2008 submission.

Western Power's third submission (dated 5 October 2009) in response to the Draft Decision addressed Required Amendment 1, which required Western Power to provide one or more reference services to allow small-scale renewable generation to export onto the distribution network. Western Power's third submission included a report from Network Advisory Services, which analysed the issues arising and recommended a particular approach. As noted above, this submission is also available from the Authority's website.