

SUBMISSION

FROM

THE OFFICE OF HON PAUL LLEWELLYN MLC

TO THE

ECONOMIC REGULATION AUTHORITY

ON

**MATTERS RELATING TO WESTERN POWER'S REVISED PROPOSED
ACCESS ARRANGEMENT FOR THE SOUTH WEST INTERCONNECTED
NETWORK**

8 FEBRUARY 2007

Introduction

In considering submissions regarding Western Power's Revised Proposed Access Arrangement for the South West Interconnected Network (SWIN) the Economic Regulation Authority (ERA) must look at its objective of economic efficiency along with its objective to promote outcomes that are in the public interest provided for in S 26 (1) (a) of the *Economic Regulation Act 2003*.

The Act provides:

26. Authority to have regard to certain matters

(1) In performing its functions, other than the functions described in section 25(c) and (d), the Authority must have regard to

(a) the need to promote regulatory outcomes that are in the public interest;

Australia's emissions are the highest in the world on a per capita basis, with 60% of these coming from electricity generation. In Western Australia emissions increased by 2.8% per year between 1990 and 2002, and are projected to rise 39% between 1990 and 2008. As part of the process of electricity reform in Western Australia it is imperative that the long term goal to reduce greenhouse emissions from the sector is kept at the fore of the ERA's considerations when examining their objectives of economic efficiency and the public interest.

In the rapidly changing electricity sector, diligent contract management should include recognition of potential government policy changes such as emissions trading, greenhouse targets or renewable energy targets.

Hon Paul Llewellyn MLC currently has a Private Members' Bill before Parliament, *The (Western Australian Renewable Energy Targets) Amendment Bill 2005 (WARET)*, which has been passed in the Upper House and awaits debate in the Legislative Assembly. When passed, this legislation will provide the certainty that investors need to invest in renewable energy projects in Western Australia.

A major objective of Chapter 9 of the *Electricity Networks Access Code 2005* is to minimise delays to projects, administrative and regulatory costs, and any other barriers to the entry of generators and consumers into the electricity market (Ch 9.1 (c)).

In particular, access arrangements for the South West Interconnected Network need to remain supportive of renewable energy initiatives. This office supports accessibility, affordability and efficiency of contracted capacity from the SWIN, however we do not support the construction of any new coal-fired electricity generation facilities. The access regime should facilitate the uptake of renewable energy generation, and aim towards energy efficient and distribution generation outcomes in preference to network augmentations.

1. Reductions in Contract Capacity

This office does not support Western Power (WP)'s proposed standard access contract for transmission and distribution services, which would allow WP to unilaterally decide to reduce a network user's contracted capacity at a connection point on the SWIN, subject to specified conditions.

This needs to be assessed in the context of the following requirements of the Access Code:

S5.3 of the Code (in summary):

- Standard access contract must be reasonable and sufficiently detailed and complete to form the basis of a commercially workable access contract, and enable the user/applicant to determine the value represented by the reference service at the reference tariff.

And Objective (S2.1) (in summary):

- Should promote economically efficient investment in, and operation and use of, the networks and services of networks in WA in order to promote competition on markets upstream and downstream of networks.

This office submits that the proposal does not conform to the requirements under section 5.3 of the Access Code and the Code objective (see section 2.1 of the Access Code).

1.1 Barriers to Access

- a) Section 5.3 of the Access Code requires an access contract to be commercially workable. There is a need for users and generators to have firm connection point contracted capacity. WP's proposed access contract does not support this requirement.
- b) The proposed ability for WP to reduce a user's unused contracted capacity could introduce a level of inflexibility for some users and/or generators who may need to contract excess capacity to cater for future needs. This may especially affect renewable energy and small generators who may have to increase capacity significantly over time. Unused capacity may therefore not necessarily be anti-competitive behaviour but planning for the future.
- c) Conditions should not hinder, constrain or preclude contracting of sufficient capacity to complete a project. WP's proposal could present constraints to users in managing their contracts.

1.2 Disincentive for Renewable Energy Suppliers

The proposal could be seen as imposing discriminatory conditions for potential renewable energy generators (contra to Part 9 of Code). The intermittent and fluctuating nature of some types of renewable energy generation in particular, means that planners may not be able to estimate the medium and long-term upper level capacity requirements for these projects.

1.3 Regulatory Function

Given the current changing policy environment on greenhouse emissions there is a possibility that fossil fuel generators could, in the future, become stranded assets in the form of capacity contracts. This may require regulators to reduce unused capacity in these circumstances. In addition, it is important that unnecessary network augmentations are not brought on by the unavailability of unused capacity for new entrants.

We make the following specific comments with regard to regulatory function:

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- a) The regulatory function surrounding unused contracted capacity is and should remain appropriately the role of the regulatory body, that is the ERA, and in some circumstances, the State Government.
- b) Any anti-competitive behaviour would most appropriately be dealt with by the regulator not the service provider. WP is not a regulatory body nor has the relevant provisions in the Code to support this function.
- c) In the event that the relevant provisions in the Code do not capture unused capacity, the regulator should have some authority to reallocate the unused capacity. There could be no guarantee that WP would re-direct capacity to areas of greatest need, such as fringe-of-grid growth areas, which are severely limited by the current distribution arrangements.

2. Treatment of Capital Contributions and Headworks Charges

It is essential that the capital contribution requirements under the access arrangement facilitate and encourage the establishment of renewable energy generation opportunities. The capital contributions in WP's proposal could reduce the capability for investment in and incentive to expand the SWIN, which could create a prohibitive environment for renewable energy initiatives. This is therefore contrary to the Code.

2.1 Flexibility

We note that while the Code does not prevent alternative treatments of capital contributions such as the levying of 'headworks' charges as suggested by the Office of Energy; neither does WP's proposal provide for any such alternative treatments of the capital contributions.

2.2 Equity

We submit that where the Regulatory Test has been diligently applied and augmentation of the networks is the superior option, headwork costs would be better spread across the network of users. We share the Office of Energy's concern that fringe-of-grid or off-grid, particularly renewable energy projects, would be disadvantaged by WP's proposed treatment of capital contributions.

2.3 Renewable Energy

The access arrangement proposed by WP may provide disincentives for small to medium renewable energy generation mechanisms and could prelude their entry in to the market. This environment may result in an inequitable enhancement of the network by inhibiting the entry of small and renewable generators to the network. This could pose particular problems for communities existing at the grid extremities, whose current power provision is unstable. This would undermine the code and create a prohibitive environment for renewable energy resources.

In conclusion, this office does not support Western Power's revised proposed access arrangement for the SWIN on the grounds that it could create reductions in contract capacity for and barriers to access by network users, a disincentive for renewable energy suppliers, and unacceptable impacts on regulatory function. We further submit that the proposed treatment of capital contributions and headworks charges could significantly disadvantage renewable energy initiatives and regional communities.