GRIFFIN ENERGY PTY LTD
A Member of the Griffin Group
A.C.N. 002 015 545

15th Floor
28 The Esplanade
Perth, Western Australia, 6000

Telephone: (08) 9261 2800
Facsimile: (08) 9486 7330

8 February 2007

Mr Robert Pullella
Executive Director – Competition, Markets and Electricity
Economic Regulation Authority
PO Box 8469
Perth Business Centre
PERTH WA 6849

Email: public_consultation@era.wa.gov.au

Dear Mr Pullella

RE: Submission on Western Power's Revised Proposed Access Arrangement

Griffin Energy welcomes the opportunity to comment on the following three matters identified by the Economic Regulatory Authority (the Authority):

1. Reductions in Contracted Capacity;
2. Treatment of Capital Contributions; and
3. Headworks Charges.

The common issue among these matters is that of capital contributions in the SWIS. Generally, Griffin believes that in the shift to the newly imposed regulatory arrangements, the treatment of capital contributions has created uncertainty. As a newly developed market seeking to promote competition (and efficient investment) in markets both upstream and downstream from the regulated network, it is important to view the 'shared network' as necessary infrastructure servicing existing demand and new load growth. The cost of *connecting to* rather than *augmenting* this network (via capital contributions) should form the basis of locational price signals. This would be consistent with recent decisions on transmission investment in the NEM[1].

1. Reductions in Contracted Capacity

The Authority invites submissions addressing the right being sought by Western Power to unilaterally determine to reduce contracted capacity of a network user.

[1] AEMC 'Rule Proposal Report for Transmission Pricing for Prescribed Transmission Services'.

Griffin agrees with the conclusions in the Parsons Brinckerhoff report that firm connection-point capacity rights is an important aspect of the local market design. It also agrees that capacity rights for the shared network should be implied from contracted connection-point capacity, but is not an explicit right[2]. Griffin believes that this implied right is not tradable and resides with the asset. The right should be extinguished once the asset is no longer accessing the shared network.

Network capacity is currently in short supply and it is not unreasonable to suggest that anticompetitive behaviour, such as a market participant knowingly withholding unused capacity, could impact other participants. While there exists legal recourse to address such a situation, as outlined in the Authority's Call for Submissions, the length of time required to prosecute such behaviour would have a similar effect to the behaviour itself. As such, the concept of a unilateral determination on the use of contracted capacity is reasonable.

As for its consistency with the Access Code, there are competing objectives between ensuring economically efficient investment in the network and promoting competition in upstream and downstream markets. Efficient investment clearly will not be achieved if portions of the network are underutilised through anticompetitive behaviour, but competition in upstream generation markets may be stymied through a lack of certainty in contracted capacity rights.

While Griffin believes that as the network operator, Western Power has an obligation to maximise the efficient use of the network, we suggest that unilateral decision making on contracted capacity requirements should be referred to an independent third party, such as the Authority.

An associated issue, not addressed in the Authority's Call for Submissions, is that of Western Power's queuing policy and the potential for inefficient outcomes through spurious or anticompetitive behaviour relating to it. Western Power has proposed a similar unilateral control over deciding whether applications in the queue may be bypassed. Griffin believes this issue warrants the same attention as the matter raised above, where access applications are a proxy for future potential contracted capacity, rather than actual contracted capacity. While Griffin agrees that a bypass mechanism is sensible, uncertainty in the queuing policy brought about by the unilateral application of this power may lead to less efficient investment decisions. Griffin believes that an appeals mechanism, through an independent third party, to contest Western Power's queuing hierarchy would promote more certainty.

2. Treatment of Capital Contributions

The Authority invites submissions on Western Power's proposed treatment of capital contributions within their asset base.

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[2] While Griffin agrees that firm capacity rights for the shared network do not exist, it is illogical for a network user to be required to directly fund shared network augmentations (deep connection costs) without being granted explicit rights to a commercial return from the contribution. This would seem at odds with the recent decision by the AEMC concerning shallow versus deep connection charges in their Rule Proposal Report for Transmission Pricing for Prescribed Transmission Services (page 41), where *"generation investment does not 'cause' new transmission investment to be undertaken. Shared transmission investment is primarily undertaken to serve the needs of reliable supply to loads"*.

Shallow connection assets, funded by capital contributions, are essentially paid-for assets (to the extent the capital contribution covers the total cost of the connection). This is the cost to a generator to connect to the shared network. Griffin believes that such capital contributions, paid by a market participant in lieu of future network charges levied on the asset(s) specific to the contribution, should not be allowed in the network operator's capital base[3]. Only shared network assets, *where the full cost of the assets plus a rate of return, as determined by the regulator, is recouped through user network charges*, should be included in the asset base.

It is Griffin's view, consistent with the recent decision by the AEMC concerning shallow versus deep connection charges, that capital contributions for shared network assets is at odds with the current market design and the objectives of the Access Code.

3. Headworks Charges

The Authority invites responses to the submission from the Office of Energy on the mechanism of headworks charges.

Griffin supports the concept of a headworks charge, especially in the instance where large lumpy investments are required at the extremities of the network. The cost of extending the network is often very large, and may present a barrier to otherwise efficient economic activity. Where it can be shown that prudent investment, beyond the initial capacity requirement of the user instigating the investment, may be utilised by other users in time, then the cost of the investment should be spread across future new users. This will lead to better economies, less cost (per kVA per user) and more efficient investment decisions.

Griffin suggests some caution at adopting such an approach. Allocating costs to new users should not impact the firm rights of existing users. Through instigating an initial network investment, a user should be guaranteed firm contracted connection-point capacity rights over the connection assets.

While Griffin believes there is merit in the concept of a headworks charge, we do not believe there has been sufficient detail on how such a mechanism would be implemented at this (late) stage of the assessment process. Griffin would welcome further detail, however stresses the importance of reaching a timely determination on the current Revised Access Arrangements.

Griffin Energy will be happy to discuss our comments with the Authority and we look forward to the Authority's determination on the matters raised.

Yours Sincerely,

Shane Cremin
Market Development Manager

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[3] However allowances should be made for ongoing expenditure to maintain these assets.