

Final Decision on the Proposed Access Arrangement for the South West Interconnected Network

Submitted by Western Power

2 March 2007

Economic Regulation Authority



WESTERN AUSTRALIA

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1. Introduction and Final Decision

1. Western Power Corporation (**Western Power**) is the owner and operator of the South West Interconnected Network (**SWIN**). The SWIN is the largest and most significant interconnected electricity system in Western Australia in terms of its geographical span, the amount of electricity it transmits and distributes and the number of users and end consumers. It contains more than 140 major substations, 6,000 km of transmission lines (66 kV and greater) and over 64,000 km of high voltage distribution lines (33 kV and lower).
2. The Authority understands that the SWIN is interconnected with two other electricity systems to form the South West Interconnected System (**SWIS**):¹
 - a 132 kV transmission network owned by Southern Cross Energy, which runs between Boulder and Kambalda; and
 - a 900 metre transmission line owned by International Power Mitsui LLP at Kwinana.
3. The *Electricity Networks Access Code 2004* (**Access Code**) provides a framework for third party access to electricity transmission and distribution networks.
4. The objective of the Access Code is set out in section 2.1 of the Access Code:
 - 2.1 The objective of this Code ("**Code objective**") is to promote the economically efficient:
 - 1) investment in; and
 - 2) operation of and use of,
networks and services of networks in Western Australia in order to promote competition in markets upstream and downstream of the networks.
5. Under section 4.1 of the Access Code, a service provider of a covered network must submit a proposed access arrangement and access arrangement information to the Economic Regulation Authority (**Authority**) for the Authority's assessment and approval. A service provider submitting a proposed access arrangement and access arrangement information must also submit proposed Technical Rules under Chapter 12 of the Access Code, to be processed in parallel with the proposed access arrangement.
6. On 24 August 2005, Western Power (then Western Power Corporation's Networks Business Unit) submitted its proposed access arrangement and access arrangement information and Technical Rules for its regulated transmission and distribution networks in the SWIN to the Authority. Western Power's proposed access arrangement, access arrangement information and Technical Rules were published on the Authority's web site on 31 August 2005.²

¹ These other electricity systems satisfy the definition of "network infrastructure facilities" in the *Electricity Industry Act 2004*.

² www.era.wa.gov.au/electricity/proposedAccessArrangement.cfm

7. The Authority has considered the proposed access arrangement under the principles set out in the Access Code.
8. On 21 March 2006, the Authority issued a Draft Decision in accordance with the requirements of section 4.12 of the Access Code. The Draft Decision of the Authority was to not approve the proposed access arrangement on the grounds that it did not satisfy the requirements of the Access Code. The Authority set out 193 amendments that the Authority would require to be made to the proposed access arrangement before the proposed access arrangement would be approved.
9. At the same time as it issued the Draft Decision, the Authority invited submissions on the Draft Decision, with a requirement to lodge submissions by 20 April 2006. On 29 March 2006, the Authority issued a notice extending the deadline for submissions to 19 May 2006.
10. Submissions on the Draft Decision were received from the following parties:
 - Western Power;
 - Alinta Sales Pty Ltd;
 - Perth Energy Pty Ltd;
 - Synergy;
 - Newmont Australia Limited;
 - Office of Energy;
 - Verve Energy; and
 - Western Australian Sustainable Energy Association Inc.
11. The submission made by Western Power included a revised proposed access arrangement, as provided for under section 4.16 of the Access Code. Western Power also submitted revised access arrangement information.
12. During the course of preparing the Final Decision, the Authority invited submissions from interested parties on:
 - revised forecasts of costs submitted to the Authority by Western Power;
 - a proposed provision (under the standard access contract for reference services) that would allow Western Power to unilaterally determine to reduce a network user's contracted capacity at a connection point;
 - the treatment of capital contributions under the proposed access arrangement; and
 - the ability of Western Power to require payment of capital contributions in the nature of "headworks" charges.³
13. A list of the parties that made submissions on each of these matters is provided in Appendix A.

³ The first of these matters was the subject of the Notice issued by the Authority on 6 October 2006 and the second, third and fourth matters the subject of the Notice of 17 January 2007.

14. With the exception of some submissions over which confidentiality has been claimed, all submissions are published on the Authority's web site, including Western Power's revised proposed access arrangement and revised access arrangement information.
15. Under section 4.17 of the Access Code, the Authority is required to consider any submissions made on the Draft Decision and to issue a Final Decision that either:
 - approves the revised proposed access arrangement; or
 - does not approve the revised proposed access arrangement, in which case the Authority must provide details of the amendments required to the revised proposed access arrangement before the Authority will approve it.
16. The Final Decision of the Authority is to not approve the revised proposed access arrangement. The detailed reasons for this Final Decision are set out in this document. The amendments that are required to be made to the revised proposed access arrangement before the Authority will approve it are listed below. For the purposes of clarity, the required amendments are also indicated in the reasons for this Final Decision at the point at which the relevant element of the revised proposed access arrangement is considered.
17. Under section 4.19 of the Access Code, Western Power may submit an amended proposed access arrangement to the Authority within 20 business days of this Final Decision.
18. As the Authority's Final Decision is to not approve Western Power's revised proposed access arrangement, the Authority will issue a further final decision in accordance with the requirements of section 4.21 of the Access Code and in accordance with the timeframes established under section 4.22. The Authority's further final decision may:
 - if an amended proposed access arrangement is submitted by Western Power, approve or not approve the amended proposed access arrangement in accordance with the requirements of sections 4.21 and 4.23 of the Access Code; or
 - if no amended proposed access arrangement is submitted by Western Power, approve or not approve the revised proposed access arrangement that is the subject of this Final Decision.
19. In the event that the further final decision of the Authority is not to approve either an amended proposed access arrangement submitted by Western Power or the revised proposed access arrangement that is the subject of this Final Decision, the Authority will proceed to draft and approve its own access arrangement in accordance with the provisions of sections 4.24 and 4.25 of the Access Code.

Required Amendments

20. Required Amendment 1

The revised proposed access arrangement should be amended to delete clause 3.4 or to amend this clause to indicate that a user or applicant may

obtain a reference service on the terms and conditions of the electricity transfer access contract.

21. Required Amendment 2

The revised proposed access arrangement should be amended to distinguish between rural-short and rural-long feeders in specification of service standard benchmarks for SAIDI and SAIFI for distribution network.

22. Required Amendment 3

The access arrangement information should be amended to include substantiated forecasts of forecast maximum demand.

23. Required Amendment 4

The revised proposed access arrangement should be amended to remove provision under sections 5.30, 5.33 and 5.41 and 5.44 for exclusion of revenues from consideration under the revenue cap, other than revenues earned from services that are excluded services or that are otherwise not covered services. Corresponding amendments should be made to remove explanatory notes on this element of the proposed price control from Appendix 8 of the revised proposed access arrangement.

24. Required Amendment 5

The revised proposed access arrangement should be amended to include, as part of the price list information, full details of calculations to verify that the component charges of reference tariffs are forecast to return the required reference service revenue for the 2006/07 year.

25. Required Amendment 6

The price list provided as Appendix 5 of the revised proposed access arrangement should be amended to include charges made in respect of the provision and operation of connection assets for reference services A11 (Transmission Exit Service) and B2 (Transmission Entry Service) except for the charges are determined by negotiation and subject to confidentiality.

26. Required Amendment 7

The price list provided as Appendix 5 of the revised proposed access arrangement should be amended to reflect an implementation of the price control that, as far as practical, smooths changes in reference tariffs across the access arrangement period.

27. Required Amendment 8

Clause 5.6 of the revised proposed access arrangement should be amended to state the methodology to be applied by Western Power to determine the amount to be added to target revenue to reflect unforeseen force majeure events.

28. Required Amendment 9

Clause 5.10 of the revised proposed access arrangement should be amended to state the methodology to be applied by Western Power to determine the amount to be added to target revenue to reflect changes in the Technical Rules.

29. Required Amendment 10

The revised proposed access arrangement or access arrangement information should be amended so that the investment adjustment mechanism is applied to new facilities investment undertaken for augmentation of the distribution system under the regional power improvement program and state underground power program. The investment adjustment mechanism should not be applied to investment in information technology assets.

30. Required Amendment 11

The revised proposed access arrangement should be amended to remove provision under clause 5.52 for exclusion of new facilities investment from consideration under the investment adjustment mechanism, other than where the relevant new facilities investment occurs for the provision of excluded services or other services that are not covered services.

31. Required Amendment 12

Clause 8.1(a)(iii) of the revised proposed access arrangement should be amended to remove the role of the Authority in determining whether a trigger event has occurred.

32. Required Amendment 13

The revised proposed access arrangement should be amended to either delete clause 3.2 of the electricity transfer access contract, relating to the ability of Western Power to unilaterally determine to reduce a user's contracted capacity, or to amend clause 3.2 to make any such determination subject to agreement with the affected user.

33. Required Amendment 14

The revised proposed access arrangement should be amended so that clause 3.5(c)(i) of the electricity transfer access contract includes the circumstance of a user relocating contracted capacity between connection points in accordance with clause 6 of the transfer and relocation policy.

34. Required Amendment 15

The revised proposed access arrangement should be amended to delete clause 3.7 of the electricity transfer access contract, relating to reduced demand payments.

35. Required Amendment 16

Section 6.1(a) of the revised electricity transfer access contract should be amended so that the obligation on a user to nominate a person as the controller of a connection point applies only where:

- (i) generating plant with installed capacity exceeding 30 kVA is connected at the connection point;
- (ii) connection assets for the connection point are operated at 66 kV or greater; or
- (iii) the rating of the largest motor connected at the connection point is greater than 0.4 per cent of the three phase short circuit fault level at the attachment point.

36. Required Amendment 17

The revised proposed access arrangement should be amended so that the applications and queuing policy indicates that Western Power *must* accept an electricity transfer application to increase contracted capacity if it forms the view as a reasonable and prudent person that:

- (i) accepting the capacity increase would not be likely to impede the ability of Western Power to provide a covered service sought in an access application lodged by another applicant; and
- (ii) it is not likely that an augmentation would be required to provide the capacity increase.

37. Required Amendment 18

The revised applications and queuing policy should be amended so that:

- (i) clause 7.1(e) requires Western Power to use reasonable endeavours to make an access offer within the later of 5 business days of receiving the electricity transfer application or within 5 business days of an access offer being signed for any associated connection contract; and
- (ii) clause 7.1(f) requires Western Power to use reasonable endeavours to make an access offer within the later of 10 business days of receiving the electricity transfer application or within 5 business days of an access offer being signed for any associated connection contract.

38. Required Amendment 19

The revised applications and queuing policy should be amended to clearly indicate that the queuing provisions of the policy apply generally to access to spare capacity at locations on the network more generally.

39. Required Amendment 20

The revised proposed access arrangement should be amended to delete clause 3.8 of the applications and queuing policy, relating to the requirement that an applicant must not apply for a greater capacity than is reasonably

required by the facilities and equipment connected or to be connected at the connection point.

40. Required Amendment 21

The revised applications and queuing policy should be amended to provide for a change in the identity of the applicant, for electricity transfer applications to be amended or withdrawn and for appropriate changes to, or refunds of, lodgement fees where an electricity transfer application is amended or withdrawn.

41. Required Amendment 22

The revised capital contributions policy should be amended so that the capital contributions policy is applied in accordance with the requirements of sections 5.14 and 5.14A of the Access Code for works associated with supply extension schemes, residential pole to pillar connections, public-road street lighting and subdivisions.

42. Required Amendment 23

The revised capital contributions policy should be amended to clearly indicate that capital contributions under the terms of clause 8 of the revised capital contributions policy will only be required to the extent consistent with sections 5.14 and 5.14A of the Access Code.

43. Required Amendment 24

The revised capital contributions policy should be amended to include a general provision for capital contributions to be made by provision in-kind, subject to agreement by Western Power.

44. Required Amendment 25

The revised capital contributions policy should be amended so that rebate provisions applying to capital contributions made in respect of a supply extension scheme are consistent with the extension and expansion policy for the SWIN.

45. Required Amendment 26

The revised capital contributions policy should be amended to provide for the period over which rebate provisions to be consistent with any relevant provisions of the extension and expansion policy, or otherwise to be negotiated between Western Power and the contributing applicant or user where the value of the contribution is in excess of \$100,000.

2. Content of an Access Arrangement

46. The required content of an access arrangement is specified in chapter 5 of the Access Code. Section 5.1 specifies that an access arrangement must:
- specify one or more reference services;
 - include a standard access contract for each reference service;
 - include service standard benchmarks for each reference service;
 - include a price control;
 - include pricing methods;
 - include a current price list and a description of the pricing years for the access arrangement;
 - include an applications and queuing policy;
 - include a capital contributions policy;
 - include a transfer and relocation policy;
 - if required, include efficiency and innovation benchmarks;
 - include provisions dealing with supplementary matters; and
 - include provisions dealing with:
 - the submission of proposed revisions to the access arrangement, including specification of a revisions submission date and target revisions commencement date; and
 - trigger events that require the service provider to submit proposed provisions to the access arrangement.
47. This Final Decision deals with the Authority’s assessment of Western Power’s revised proposed access arrangement against the requirements of the Access Code. This assessment is organised to address relevant matters in the following order.
- The “introduction” and “definitions” sections of the access arrangement, which are additional to the elements of an access arrangement required under section 5.1.
 - Reference services and service standard benchmarks, including assessment of forecasts of demand for the reference services.
 - Reference tariffs and price control, including the determination of total costs and target revenue relating to the provision of covered services and reference services, the actual reference tariffs determined for the first year of the access arrangement period and the price control that governs changes to reference tariffs over the period, and the mechanisms that affect the determination of target revenue in the next access arrangement period.
 - Efficiency and innovation benchmarks applying to the provision of covered services.
 - Various supplementary matters to the provision of covered services that are required to be addressed in the access arrangement.

- Standard access contracts for reference services.
- The applications and queuing policy.
- The capital contributions policy.
- The transfer and relocation policy.

3. Introduction and Definitions to the Access Arrangement

Access Code Requirements

48. Western Power has set out information in “introduction” and “definitions” sections of its proposed and revised proposed access arrangements that is relevant to the understanding of the particular elements of the access arrangement.
49. Information presented in an access arrangement that is of a general or introductory nature does not fall within the scope of the elements of an access arrangement required under chapter 5 of the Access Code. Accordingly, the Authority assessed the content of the introduction and definitions sections against considerations of consistency with, and ease of understanding of, the substantive elements of the proposed and revised proposed access arrangements.

Proposed Access Arrangement

50. Western Power incorporated into its proposed access arrangement an introduction which included the proposed purpose, start date, revisions submission and commencement dates and listed the elements that comprise the proposed access arrangement. A section in this introduction described the access arrangement’s relationship to the proposed Technical Rules and access arrangement information.⁴ Another section indicated how definitions are to be interpreted throughout the proposed access arrangement.⁵

Draft Decision

51. In its Draft Decision, the Authority determined that the information presented in the introduction section of the proposed access arrangement was ambiguous in respect of the indication of the network assets to which the access arrangement applies and included errors in the cross-referencing of appendices of the proposed access arrangement.

⁴ Proposed access arrangement, clauses 1.8 and 1.9.

⁵ Proposed access arrangement, clause 2.

52. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 1

Western Power to amend clause 1.1 of its proposed access arrangement to reference only those portions of the SWIS it owns and operates and to define SWIS and SWIN.

Draft Decision Amendment 2

Western Power to amend clauses 1.7(c) and (d) of its proposed access arrangement to correctly list the placement of appendices.

Submissions from Interested Parties

53. No submissions were received from interested parties.

Revised Proposed Access Arrangement

54. Western Power has incorporated the following revisions in the introduction sections of the revised proposed access arrangement:

- 1.1 This document is the ~~Access Arrangement~~ [revised proposed Access Arrangement \("Access Arrangement"\)](#) setting out the terms and conditions under which Western Power will provide users and applicants with access to the ~~South West Interconnected System (SWIS)~~ [South West Interconnected Network \(SWIN\)](#). [The SWIN is the portion of the South West Interconnected System \(SWIS\) that is owned and operated by Western Power. The SWIN is a covered network from the Code commencement date, unless coverage has subsequently been revoked under section 3.30 of the Code.](#)
- 1.2 The Code was established by the Minister for Energy for the State of Western Australia, under section 104(1) of the Electricity Industry Act 2004, and came into operation on 30 November 2004. This Access Arrangement has been prepared in accordance with the Code [and is submitted in accordance with section 4.16 of the Code.](#)
- 1.3 This Access Arrangement is lodged by Western Power on ~~19 May 2006~~ [24 August 2005](#) for review and approval by the Authority in accordance with the processes and criteria set out in the Code.
- ...
- 1.7 This Access Arrangement comprises this document together with:
- (a) the Applications and Queuing Policy attached at Appendix 1;
 - (b) the Transfer and Relocation Policy attached at Appendix 2;
 - ~~(c) the Standard Access Contract attached at Appendix 3;~~
 - ~~(d)~~ [\(c\) the Capital Contributions Policy attached at Appendix 3;](#)
 - [\(d\) the Standard Access Contract, termed the Electricity Transfer Access Contract attached at Appendix 4;](#)
 - (e) the price list attached at Appendix 5, which describes the reference tariff payable under an access contract for each reference service;
 - (f) [the price list information attached at Appendix 6, which explains how Western Power derived the elements of the proposed price list; and demonstrates that the price list complies with the Access Arrangement](#) ~~a document attached at Appendix 6, titled "Revenue and Average Price Path for the Transmission and Distribution Network Businesses", which~~

~~presents details of Western Power's price control and supporting calculations; and;~~

- (g) ~~the details of the reference services offered by Western Power attached at Appendix 7; and an explanatory paper attached at Appendix 7, titled "Revenue and Average Price Path for the Transmission and Distribution Network Businesses", which presents details of Western Power's price control and supporting calculations; and~~
- (h) ~~explanatory notes regarding the price control arrangements attached at Appendix 8 a list attached at Appendix 8 of projects that are defined as qualifying capital expenditure in accordance with section 5.26(c) of this Access Arrangement.~~

...

- 1.9 Western Power's amended access arrangement information is submitted by Western Power on [19 May 2006](#) ~~24 August 2005~~, alongside this Access Arrangement [in accordance with section 4.4 of the Code](#). The [amended](#) access arrangement information does not form part of this Access Arrangement.

...

- 2.2 In each of [the](#) Appendices [to](#) ~~1, 2, 3, 4 and 6~~ of this Access Arrangement, a separate glossary of terms is provided where appropriate, and the definitions contained in those separate glossaries apply to the relevant appendix, unless the context requires otherwise.

Final Decision

- 55. Draft Decision Amendment 1 required that Western Power amend clause 1.1 of its proposed access arrangement to reference only those portions of the SWIS it owns and operates and to define SWIS and SWIN.
- 56. The Authority is satisfied that the revisions incorporated in clause 1.1 of the revised proposed access arrangement incorporate Draft Decision Amendment 1.
- 57. Draft Decision Amendment 2 required that Western Power amend clauses 1.7(c) and (d) of its proposed access arrangement to correctly list the placement of appendices.
- 58. The Authority is satisfied that the revisions incorporated in clause 1.7 of the revised proposed access arrangement incorporate Draft Decision Amendment 2.
- 59. Western Power has incorporated additional revisions to clauses 1 and 2 of the revised proposed access arrangement that are not in response to any amendments required under the Draft Decision (particularly clauses 1.2, 1.3, 1.7, 1.9 and 2.2). The Authority considers that the revisions incorporated in clauses 1 and 2 of the revised proposed access arrangement that are not in response to any amendments required under the Draft Decision are of an editorial nature and do not constitute material changes from the proposed access arrangement.
- 60. The Authority is satisfied that the introduction and definitions of the revised proposed access arrangement are consistent with the Access Code and the Code objective.

4. Reference Services and Service Standards

4.1. Reference Services

Access Code Requirements

61. Section 5.1(a) of the Access Code requires that an access arrangement specify one or more reference services.
62. The requirements for reference services are set out in section 5.2 of the Access Code:
 - 5.2 An access arrangement must:
 - (a) specify at least one reference service; and
 - (b) specify a reference service for each covered service that is likely to be sought by either or both of:
 - (i) a significant number of users and applicants; or
 - (ii) a substantial proportion of the market for services in the covered network;
 - and
 - (c) to the extent reasonably practicable, specify reference services in such a manner that a user or applicant is able to acquire by way of one or more reference services only those elements of a covered service that the user or applicant wishes to acquire; and
 - (d) for the covered network that is covered under section 3.1 – specify one or more reference services such that there is both:
 - (i) a reference service which enables a user or applicant to acquire an entry service at a connection point without a need to acquire a corresponding exit service at another connection point; and
 - (ii) a reference service which enables a user or applicant to acquire an exit service at a connection point without a need to acquire a corresponding entry service at another connection point.
63. The Access Code defines a number of terms that are relevant to the Authority's assessment of Western Power's proposed reference services:
 - "Service" means a covered service or an excluded service.
 - "Covered service" means a service in relation to the transportation of electricity by means of a covered network, including:
 - a connection service; or
 - an entry service or exit service; or
 - a network use of system service; or
 - a common service; or
 - a service ancillary to a service listed in paragraphs (a) to (d) above.

- “Entry service” means a covered service provided by a service provider at an entry point under which the user may transfer electricity into the network at the entry point.
- “Exit service” means a covered service provided by a service provider at an exit point under which the user may transfer electricity out of the network at the exit point.
- “Excluded service” means a service in relation to the transportation of electricity by means of a covered network, including:
 - a connection service; or
 - an entry service or exit service; or
 - a network use of system service; or
 - a common service; or
 - a service ancillary to a service listed in paragraphs (a) to (d) above,

which meets the following criteria:

- the supply of the service is subject to effective competition, and
 - the cost of the service is able to be excluded from consideration for price control purposes without departing from the Code objective.
- “Reference service” means a covered service designated as a reference service in an access arrangement under section 5.1(a) for which there is a reference tariff, a standard access contract and service standard benchmarks.
 - “Non-reference service” means a covered service that is not a reference service.
 - “Reference tariff” means the tariff specified in a price list for a reference service.
64. The designation of any service as an excluded service is subject to determination by the Authority under section 6.33 of the Access Code. Other than as determined by the Authority, all services are covered services.

Proposed Access Arrangement

65. Western Power’s proposed reference services were described in clauses 3.3 to 3.5 of its proposed access arrangement and described further in chapter 2 of part D of its proposed access arrangement information.
66. Western Power proposed 13 reference services.
- Ten reference services relating to loads connected to the distribution network:
 - RT1 Anytime Energy (Residential);
 - RT2 Anytime Energy (Business);

- RT3 Time of Use Energy (Small);
 - RT4 Time of Use Energy (Large);
 - RT5 High Voltage Metered Demand;
 - RT6 Low Voltage Metered Demand;
 - RT7 High Voltage Contract Maximum Demand;
 - RT8 Low Voltage Contract Maximum Demand;
 - RT9 Street lighting; and
 - RT10 Unmetered Supplies.
- One reference service for generators directly connected to the distribution network:
 - RT11 Distribution Entry Service.
 - Two reference services for users directly connected to the transmission network:
 - TRT1 Transmission Exit Service; and
 - TRT2 Transmission Entry Service.
67. Western Power determined the proposed reference services to be similar to the services currently offered and the structures of transmission and distribution tariffs. Statements made in the access arrangement information suggest that Western Power appeared to prefer this approach to the specification of reference services because:
- ...the existing Western Power tariffs reflect the services that a significant proportion of the company's customers want, without 'bundling' services together in a manner that requires customers to acquire services that they do not want. On this basis, Western Power's view is that its existing tariffs provide a reasonable basis for defining reference services.⁶
68. The original access arrangement information indicated that the proposed reference services are to be provided under the terms and conditions set out in the standard access contract with service standard benchmarks defined for the reference services.
69. Western Power also identified the following "non-tariff services" (presumably non-reference services) in its access arrangement information:
- non-standard meter reading services;
 - relocation of assets for customer (poles, pillars);
 - service disconnects/reconnects at customer request;
 - quotations and construction of new assets;
 - high load escorts;
 - inspection services;

⁶ Original access arrangement information, page 132.

- connection services, transfer fees; and
 - other miscellaneous network services as notified to customers from time to time.
70. Western Power proposed that the non-tariff services should be treated as non-reference services, on the basis that:
- the service is not directly related to access provision; and therefore
 - it is not possible or practical to set service standard benchmarks in relation to these services or to provide them in accordance with a standard access contract.⁷

Draft Decision

71. The Authority determined that Western Power's proposed access arrangement information reasonably distinguishes between the two broad types of services (covered services and excluded services) as envisaged by the Access Code. That is, all services are covered services except for services that the Authority determines or approves as excluded services on the basis that those services meet the requirements for them to be treated as excluded services:
- the supply of the service is subject to effective competition; and
 - the cost of the service is able to be excluded from consideration for price control purposes without departing from the Code objective.⁸
72. The Authority determined that Western Power's proposed access arrangement information also reasonably distinguishes between the two types of covered services (reference services and non-reference services). Reference services are those services identified in an access arrangement as having a reference tariff, a standard access contract and service standard benchmarks. Non-reference services are those covered services that are not reference services. Accordingly, the proposed access arrangement was considered by the Authority to be consistent with the Access Code in respect of the categorisation of services into reference services and non-reference services (as the two sub-sets of covered services), and excluded services.
73. Notwithstanding these matters, the Authority determined that Western Power's proposed access arrangement did not meet the requirements of section 5.2 of the Access Code, for the following reasons.
- The proposed access arrangement does not adequately describe the proposed reference services. In particular, the proposed reference services were described only by the particular tariff that would apply, and not by the nature of the service itself.
 - The proposed reference services do not correspond to the particular types of covered services specified under the Access Code (a connection service, an entry service or exit service, a network use of

⁷ Original access arrangement information, page 134.

⁸ Access Code, sections 1.3, 6.33 – 6.36.

system service, a common service or a service ancillary to these services), as required by section 5.2(b) of the Access Code.

- The proposed reference services are in the nature of bundled services and do not allow a user or applicant to acquire, by way of one or more reference services, particular elements of a covered service that the user or applicant wishes to acquire.
 - While “street lighting” and “un-metered supplies” are proposed as reference services, the access arrangement does not include reference tariffs, standard access contracts or service standard benchmarks for these services, as required by the Access Code.
 - The Authority considered that Western Power had provided no justification for the proposed reference services in terms of substantiating information to indicate that the proposed reference services comply with the criteria of section 5.2(a) of the Access Code.
74. The Authority determined that Western Power should provide further information on the proposed reference services, enabling the Authority to properly assess whether the proposed reference services met the requirements of section 5.2 of the Code.
75. Western Power also included in its proposed access arrangement a list of “non-tariff” services, which would be non-reference services under the Access Code. The Authority was not satisfied that Western Power had adequately demonstrated the justification for these services being provided as non-reference services rather than reference services.
76. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 3

Western Power to identify its reference services so as to make clear specifically what services will be provided to customers. These reference services should be distinguished from Western Power’s reference tariffs, albeit that there should be a reference tariff associated with each reference service.

Draft Decision Amendment 4

Western Power to propose standard access contracts for RT9 (Street lighting) and RT10 (Unmetered Supplies).

Draft Decision Amendment 5

Western Power to confirm its non-reference services and explain how they meet the Access Code requirements.

Submissions from Interested Parties on the Draft Decision

77. Alinta Sales Pty Ltd submitted:

Alinta considers that a connection service is a covered service that is likely to be sought by a significant number of users and applicants or a substantial portion of the market for services in the SWIN. A connection service provides the user with a right to physically connect facilities and equipment to the SWIN. Alinta considers that it is reasonable to assume that any generator of a reasonable capacity would require a connection service. Alinta considers that the ERA should require Western Power to include a connection service as a reference service in the access arrangement.

Revised Proposed Access Arrangement

78. Western Power has incorporated revisions in the revised proposed access arrangement to provide new “titles” of reference services (clauses 3.5 to 3.6) and cross-referencing (at clause 3.7) of descriptive information on the reference services in Appendix 7 to the revised proposed access arrangement. Relevant changes incorporated in the revised proposed access arrangement are as follows.

3.43.3 Reference services are provided to users in accordance with the terms and conditions of their respective access contracts.

3.53.4 Western Power offers 11 reference services at network exit points:

<u>1. Anytime Energy (Residential) Exit Service</u>	<u>A1</u>
<u>2. Anytime Energy (Business) Exit Service</u>	<u>A2</u>
<u>3. Time of Use Energy (Small) Exit Service</u>	<u>A3</u>
<u>4. Time of Use Energy (Large) Exit Service</u>	<u>A4</u>
<u>5. High Voltage Metered Demand Exit Service</u>	<u>A5</u>
<u>6. Low Voltage Metered Demand Exit Service</u>	<u>A6</u>
<u>7. High Voltage Contract Maximum Demand Exit Service</u>	<u>A7</u>
<u>8. Low Voltage Contract Maximum Demand Exit Service</u>	<u>A8</u>
<u>9. Streetlighting Exit Service</u>	<u>A9</u>
<u>10. Un-Metered Supplies Exit Service</u>	<u>A10</u>
<u>11. Transmission Exit Service</u>	<u>A11</u>
1. Anytime Energy (Residential)	RT11
2. Anytime Energy (Business)	RT2
3. Time of Use Energy (Small)	RT3
4. Time of Use Energy (Large)	RT4
5. High Voltage Metered Demand	RT5
6. Low Voltage Metered Demand	RT6
7. High Voltage Contract Maximum Demand	RT7
8. Low Voltage Contract Maximum Demand	RT8
9. Street lighting	RT9
10. Unmetered Supplies	RT10

3.6 Western Power offers two entry services as reference services:

<u>1. Distribution Entry Service</u>	<u>B1</u>
<u>2. Transmission Entry Service</u>	<u>B2</u>

~~3.4~~ Western Power offers one reference service for generators directly connected to the distribution network:

1. Distribution Entry Service	RT11
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~~3.5~~ Western Power offers two reference services to users directly connected to the transmission network. These reference services are:

1. Transmission Exit Service	TRT1
2. Transmission Entry Service	TRT2

[3.7 Appendix 7 of this Access Arrangement provides details of each reference service, including:](#)

- [a description of the reference service;](#)
- [user eligibility criteria;](#)
- [the applicable reference tariff;](#)
- [the applicable standard access contract; and](#)
- [the applicable service standard benchmark.](#)

79. As an example of the nature of information provided for each reference service in Appendix 7 of the revised proposed access arrangement, the information provided for reference service A1 is as follows.

Reference Service Name:	Reference Service A1 – Anytime Energy (Residential) Exit Service
Reference Service Description:	An <i>exit service</i> combined with a <i>connection service</i> and a standard meter service at an <i>exit point</i> on the low voltage (415 volts or less) <i>distribution system</i> .
Eligibility:	<i>Users</i> are eligible to use this <i>service</i> if: <ol style="list-style-type: none"> 1. The <i>exit point</i> is located at a residential premise or a premise occupied by a voluntary/charitable organisation; 2. A single register accumulation meter is installed at the <i>exit point</i>; and 3. The <i>consumer’s facilities and equipment</i> comply with the Technical Rules, the WA Electrical Requirements and AS 3000.
Applicable Reference Tariff:	“RT1” in the <i>Price List</i> published in Appendix 5 of the <i>Access Arrangement</i>
Applicable Standard Access Contract:	“Electricity Transfer Access Contract” published in Appendix 4 of the <i>Access Arrangement</i>
Applicable Service Standard Benchmarks:	Refer to Section 3.18 and 3.19 of the <i>Access Arrangement</i>

80. Western Power has included in its revised proposed access arrangement a reference to non-reference services in a new clause 3.3 of the revised proposed access arrangement and included a list of non-reference services as a new clause 3.12:

[3.3 This section also provides information in relation to non-reference services.](#)

...

[3.12 The table below lists the non-reference services provided by Western Power.](#)

Non Reference Service

[Relocation of Transmission assets at the request of a user](#)

[Relocation of Distribution assets at the request of a user](#)

[Electricity Network Planning Studies](#)

[Re-inspection of a customer's facilities and equipment by a Western Power Inspector](#)

[Rental of properties \(including commercial & residential\) that are in the capital base](#)

[Profit on sale of assets](#)

[Establishment and removal of a Temporary Builders Supply](#)

[Planning for and providing an escort for movement of high loads](#)

[Temporary removal of overhead service lead for work at a customer's premises](#)

[Insulate and make safe aerial conductors](#)

[Disconnection/Reconnection of overhead service leads or underground consumer mains at a customer's request](#)

[User Network Switching Services at the request of a user \(on Western Power's asset\)](#)

[Jointly Owned Asset works](#)

[Provide expertise to enable work to be undertaken in the vicinity of power lines](#)

[Sale of network schematics](#)

[Services fees for Access Applications & Access Contracts](#)

[Costs recovered from asset damage due to a car accident, graffiti or vandalism](#)

[Extended metering services provided under the Metering Code Service Level Agreement](#)

[Access Billing Services Fees](#)

[Transition Access Services](#)

[Standby Access Services](#)

[Capital Works Application Fees](#)

81. In its revised access arrangement information, Western Power indicates that it has interpreted the requirements of the Access Code as being that a particular service should be categorised as a non-reference service where:
- the service is not directly related to access provision; and
 - it is not possible or practical to set service standard benchmarks in relation to these services or to provide them in accordance with a standard access contract.⁹
82. Included in the proposed list of non-reference services is “profit on sale of assets”. This is a source of revenue that is not a “service” *per se*, in that it does not relate directly to the transportation of electricity. It is, however, a source of revenue that falls under the price control under Western Power’s proposed treatment of asset disposals (section 5.2.6 of this Final Decision).
83. Western Power has incorporated the following new clause 3.4 in the revised proposed access arrangement:
- [3.4 Reference services are provided to users in accordance with the terms and conditions of their respective access contracts.](#)

⁹ Revised access arrangement information, section 2.3.

Final Decision

84. Draft Decision Amendment 3 required that Western Power identify its reference services so as to make clear specifically what services will be provided to customers, and that these reference services be distinguished from Western Power's reference tariffs, albeit that there should be a reference tariff associated with each reference service.
85. With Western Power having provided additional descriptive information on the proposed reference services, the Authority has undertaken an assessment of whether the proposed reference services meet the requirements for reference services as set out in section 5.2 of the Code.
86. Section 5.2(a) of the Access Code requires that an access arrangement specify at least one reference service. The revised proposed access arrangement meets this requirement.
87. Section 5.2(b) of the Access Code requires that an access arrangement specify a reference service for each covered service that is likely to be sought by either or both of a significant number of users or applicants, or a substantial proportion of the market for services in the covered network.
88. Western Power has defined its reference services as entry and exit services for the transmission and distribution networks, with a range of exit services for the distribution network defined by the nature of the user, the nature of the meter, the annual electricity consumption of the user and the peak demand of the user. The reference services described by Western Power services cover a range of circumstances of users of transmission and distribution services.
89. The Authority has considered whether any other covered services should be reference services. Alinta Sales Pty Ltd has submitted that the Authority should require a connection service to be included in the access arrangement as a reference service for reason that a connection service is a covered service that is likely to be sought by a significant part of the market, being a service that is likely to be sought by any generator of reasonable capacity.
90. In its Draft Decision, the Authority noted that Western Power had included in its proposed access arrangement a standard access contract for connection services (the "connection access contract"), but did not include connection services as reference services. The Authority indicated that it would be open to Western Power to propose a connection service as a reference service and specify a related standard access contract, but the Authority did not require this.¹⁰
91. The reference tariffs indicated in Western Power's revised proposed price list (refer to section 5.3.2 of this Final Decision) include charges in respect of connection assets for three reference services: the distribution entry service (B1), the transmission entry service (B2) and the transmission exit service (A11). While it is not explicit in the descriptions of reference services in Appendix 7 of the revised proposed access arrangement, the inclusion of connection charges in the reference tariffs for these services indicates that connection services are part of these reference services. As it is not physically

¹⁰ Draft Decision, paragraph 1367.

possible to utilise any of these reference services without the connection assets and services, the Authority considers that it is appropriate for the relevant entry and exit services to be bundled with connection services in this manner. Accordingly, the Authority does not consider that it is necessary for connection services to be defined as separate reference services.

92. Taking the above matters into account, the Authority is satisfied that the proposed reference services are consistent with the requirements of the Access Code.
93. Section 5.2(c) of the Access Code requires that, to the extent reasonably practicable, reference services should be specified in such a manner that a user or applicant is able to acquire, by way of one or more reference services, only those elements of a covered service that the user or applicant wishes to acquire.
94. Western Power has specified separate reference services for the transmission and distribution networks and separate entry and exit services for each network. The Authority is satisfied that this specification of reference services is consistent with the requirements of the Access Code.
95. Section 5.2(d) of the Access Code requires that one or more reference services should be specified such that a user is able to acquire an entry service or exit service without a corresponding exit service or entry service. Western Power has specified separate reference services for the transmission and distribution networks and separate entry and exit services for each network. The Authority is satisfied that this specification of reference services is consistent with the requirements of the Access Code.
96. In addition to the explicit requirements of section 5.2 of the Access Code, the Authority is also satisfied that the descriptions of reference services provided in Appendix 7 of the revised proposed access arrangement are of sufficient detail to enable a user or applicant to understand the nature of the service being offered.
97. Taking all of the above matters into account, the Authority is satisfied that the revised proposed access arrangement incorporates Draft Decision Amendment 3 and that the specifications and descriptions of reference services in the revised proposed access arrangement are consistent with the requirements of the Access Code.
98. Draft Decision Amendment 4 required that Western Power propose standard access contracts for RT9 (Street lighting) and RT10 (Unmetered Supplies). These two services are now referred to as reference services A9 and A10, respectively, in the revised proposed access arrangement.
99. Western Power has indicated in the descriptions of these two reference services (Appendix 7 of the revised proposed access arrangement) that the standard access contract that applies to these two reference services is the electricity transfer access contract provided in Appendix 4 of the revised proposed access arrangement. The Authority is satisfied that the electricity transfer access contract is an appropriate standard access contract for these two reference services and that the revised proposed access arrangement incorporates Draft Decision Amendment 4 by indication that the standard access contract for these services is the electricity transfer access contract.

This conclusion does not imply that the Authority is satisfied that all provisions of the electricity transfer access contract meet the relevant requirements of the Access Code. Rather, the Authority's consideration of particular provisions of the electricity transfer access contract is documented in section 9 of this Final Decision.

100. Draft Decision Amendment 5 required that Western Power confirm its non-reference services and explain how the non-reference services meet the requirements of the Access Code.
101. Western Power has included a list of non-reference services in its revised proposed Access Arrangement and indicated in its revised access arrangement information (at section 2.3) the criteria that it applied in determining which services should be reference services and which should be non-reference services. The Authority is satisfied that the information provided in the revised proposed access arrangement and revised access arrangement information incorporates Draft Decision Amendment 5. The Authority notes that the Code does not require an access arrangement to include any information in respect of non-reference services and, accordingly, the Authority has not further assessed the information on non-reference services that Western Power has included in the revised proposed access arrangement.
102. In addition to the revisions to the revised proposed access arrangement made in response to Draft Decision Amendments 3, 4 and 5, the Authority has given consideration to the new clause 3.4 in the revised proposed access arrangement that states:

[3.4 Reference services are provided to users in accordance with the terms and conditions of their respective access contracts.](#)
103. The Access Code requires that the access arrangement include a standard access contract for each reference service. Through the provisions for resolution of access disputes under chapter 10 of the Access Code, an applicant may insist on obtaining a reference service on the terms and conditions set out in the standard access contract for that service.
104. Section 3.4 of the revised proposed access arrangement may be interpreted as implying that reference services are to be provided under access contracts that are peculiar to particular users rather than a user being able to enter into an access contract for a reference service on the terms and conditions set out in the relevant standard access contract. There is nothing in the Access Code that prevents a user and Western Power from negotiating terms and conditions for services that differ to the terms and conditions for reference services as set out in a standard access contract under an access arrangement. However, the Authority considers that the access arrangement should not state or imply that a user must necessarily negotiate terms and conditions for reference services rather than apply the terms and conditions of the relevant standard access contract.

105. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 1

The revised proposed access arrangement should be amended to delete clause 3.4 or to amend this clause to indicate that a user or applicant may obtain a reference service on the terms and conditions of the electricity transfer access contract.

4.2. Service Standard Benchmarks

Access Code Requirements

106. Section 5.1(c) of the Access Code requires that an access arrangement include service standard benchmarks for each reference service. “Service standards” is defined under the Code as either or both of the technical standard and reliability of delivered electricity.
107. The requirements for service standard benchmarks are set out in section 5.6 of the Access Code. A service standard benchmark must be reasonable and must be sufficiently detailed and complete to enable a user or applicant to determine the value represented by the reference service at the reference tariff.

Proposed Access Arrangement

108. Western Power proposed service standard benchmarks at sections 3.11 to 3.16 of its proposed access arrangement. Separate benchmarks were proposed for the transmission and distribution related reference services.

Transmission Network Service Standard Benchmarks

109. The service standard benchmarks for the reference services related to the transmission network (TRT1 – transmission exit service and TRT2 – transmission entry service) were based on two measures of performance:
- circuit availability – as a measure of network availability; and
 - system minutes interrupted – as a measure of the extent of interruptions to a service.
110. The proposed service standard benchmarks for the first access arrangement period are shown in Table 1.¹¹

¹¹ Proposed access arrangement, page 6.

Table 1 Western Power's proposed service standard benchmarks for transmission services

Financial year ending 30 June:	2007	2008	2009
Circuit Availability (% of total time)	98.67	98.67	98.67
System Minutes Interrupted (meshed network)	8.3	8.3	8.3

111. Western Power established the service standard benchmarks on the basis of recorded performance from 2000/01 to 2004/05, indicating average (mean) circuit availability over the five year period 98.74 per cent and average (mean) and median system minutes interrupted (for the meshed network) of 7.8 minutes and 8.3 minutes, respectively.¹²
112. Western Power proposed exclusions from the service standard benchmarks for transmission, as follows.
- All zone substation equipment including power transformers (for circuit availability).
 - Zone substation equipment connected via a radial connection (for system minutes interrupted).
 - Tee-configuration line circuits (for circuit availability).
 - Unregulated transmission assets.
 - Outages caused by a fault or event on a third party system.
 - Force majeure events.
113. Western Power provided the following rationale for the transmission service standards proposed to measure interruptions:
- Western Power proposes the use of this indicator [System Minutes Interrupted] for meshed circuits only. Radial network elements are relatively few in number and their performance is dramatically affected by even a single significant event, making the setting of a meaningful target level (and bandwidth for the service standards adjustment mechanism) somewhat meaningless.
- The final indicator applied by the ACCC (relating to transmission constraints) is not particularly meaningful in Western Power's case, given the nature and configuration of the transmission network and the location of major generating plant.
- In summary, Western Power proposes to use System Minutes Interrupted (for meshed circuits only) and Circuit Availability as the measures of the service standard benchmarks for transmission reference services under the Access Arrangement.¹³
114. Western Power's proposed service standard benchmarks for the transmission system were indicated in the access arrangement information to be associated with its forecast new facilities investment. Western Power included in its

¹² Access arrangement information, page 142, 143.

¹³ Access arrangement information, page 140.

forecast an amount of “reliability driven” new facilities investment for the transmission network of \$5.4 million over the regulatory period.¹⁴

Distribution Network Service Standard Benchmarks

115. For the distribution network Western Power proposed service standard benchmarks for System Average Interruption Duration Index (SAIDI)¹⁵ measures for “urban” and “rural” sub-network classifications (Table 2).^{16,17}

**Table 2 SAIDI service standard benchmarks
(expressed as system minutes per annum)**

Financial year ending 30 June:	2007	2008	2009
SWIS total	277	259	224
Urban sub-network	242	226	195
Rural sub-network	509	476	410

116. Western Power’s stated reasons for proposing the use of SAIDI as the sole service standard benchmark were as follows.¹⁸

- SAIDI has been the primary measure of reliability applied to the SWIS for some years, and it is well understood by all stakeholders, including end customers (by whom the concept of total interruption time per annum is most readily understood).
- SAIDI is the reliability performance measure used by Western Power in its network planning and investment evaluation processes. It is the primary network reliability performance measure used to underpin the proposed forecast expenditures. It therefore provides a sound basis against which to measure the outcomes actually produced by Western Power’s proposed expenditure program over the first access arrangement period.
- SAIDI encapsulates both interruption frequency and restoration time. It therefore provides a sound comprehensive measure of reliability performance in a convenient, single metric.
- Reliability performance monitoring using SAIDI as the performance measure is readily supported by existing data collection processes and systems.

117. The SAIDI benchmarks incorporated an improving trend over the access arrangement period, explained by Western Power as being consistent with a performance objective of a 25 per cent improvement in reliability during the period from June 2004 to June 2009.¹⁹ Associated with this improvement in

¹⁴ Access arrangement information, page 62, table 6.

¹⁵ SAIDI is defined in Table 3 below.

¹⁶ “Urban” and “rural” network are defined on page 4 of Western Power’s proposed access arrangement.

¹⁷ Access arrangement, page 4.

¹⁸ Original access arrangement information, page 145.

¹⁹ Original access arrangement information, page 146, also referred to at pages 39 and 104.

reliability was \$41.6 million of forecast new facilities investment²⁰ and approximately \$15 million of forecast non capital costs over the course of the access arrangement period.²¹

118. Western Power also indicated that a change in 2004 in the methodology for collection of interruption data has resulted in higher (worse) values of SAIDI in 2003/04 and 2004/05 than in preceding years, due to the new methodology capturing a broader range of outages and customer connection issues.²² For this reason, Western Power's proposed SAIDI benchmarks exceeded (were less stringent than) values recorded prior to 2003/04.
119. Western Power proposed to determine exclusions to its SAIDI measures based on identifying Major Event Days in accordance with IEEE standard 1366-2003²³ as adopted by the Steering Committee on National Regulatory Reporting Requirements (SCNRRR).²⁴

Draft Decision

Transmission Network Service Standard Benchmarks

120. In its Draft Decision, the Authority determined that Western Power's proposal for service standard benchmarks relating to transmission network service standards is inconsistent with section 5.6(b) of the Access Code and the Code objective for reasons outlined below.
121. First, the proposed service standard benchmarks were less stringent than the prior five year averages for the proposed measures of circuit availability and system minutes interrupted.
122. Second, Western Power proposed a set of service standard measures that is narrower than the range developed by the AER in accordance with the revenue cap framework set out in the National Electricity Rules,²⁵ and that does not include measures or reporting of network constraints.

²⁰ Original access arrangement information, page 104, 110, Table 17.

²¹ Original access arrangement information, page 116, Figure 17.

²² Original access arrangement information, page 39.

²³ IEEE is the Institute of Electrical and Electronics Engineers, Inc. IEEE standard 1366 relates to electric power distribution reliability indices.

²⁴ Access arrangement, page 4. Subsequent to lodging its proposed access arrangement, Western Power advised the Authority that the [SWIS total] 2.5 Beta figure calculated for the purposes of determining Major Event Day exclusions, in accordance with the IEEE 1366-2003 methodology, was 8.66 minutes and calculated over the 24 months to June 2005 (email from Western Power, 29 September 2005.) "2.5 Beta" is the statistical measure used to determine the SAIDI threshold value, above which are considered to be Major Event Days and excluded from the SAIDI performance measure. For background refer to D.A. Kowalewski's paper entitled "A Comparable Method for Benchmarking the Reliability Performance of Electric Utilities", published in *Power Engineering Society Summer Meeting*, 2002. Western Power proposes a 3-beta approach for excluding SAIDI outcomes above a threshold determined on the basis of weather and extreme event variances within a distributor's own business region.

²⁵ National Electricity Rules pursuant to section 90 of the National Electricity Law, July 2005.

123. Third, the exclusions proposed by Western Power for the calculation of service standard indicators are not consistent with transmission standards adopted in the NEM jurisdictions, and do not meet the Access Code requirements.
124. Fourth, the service standard benchmarks proposed by Western Power are indications of performance targets rather than firm commitments to achieve defined reliability outcomes, which is inconsistent with the requirements of section 11.1 of the Access Code that:

A service provider must provide reference services at a service standard at least equivalent to the service standard benchmarks set out in the Access Arrangement and must provide non-reference services to a service standard at least equivalent to the service standard in the access contract.

125. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 6

Western Power to amend its transmission network benchmarks for circuit availability (per cent of total time) for each year of the access arrangement period to 98.74 per cent.

Draft Decision Amendment 7

Western Power to amend its transmission network benchmarks for systems minutes interrupted (all transmission network) for each year of the access arrangement period to 7.8 minutes per year.

Draft Decision Amendment 8

Western Power to amend its list of allowable exclusions:

- For circuit availability, do not include as an exclusion:
 - all zone substation equipment including power transformers; and
 - tee-configuration line circuits,
- For system minutes interrupted, do not include as an exclusion:
 - all transmission network radial connections; and
 - all zone substations connected to the transmission network via radial connections.

Draft Decision Amendment 9

Western Power to adopt as a minimum transmission network service standards of:

- transmission circuit availability;
- average outage duration;
- frequency of “off supply” events; and
- intra-regional constraints,

in accordance with the Australian Energy Regulator’s Compendium of Electricity Transmission Regulatory Guidelines, as at August 2005, for transmission network service standards. These performance measures are to be determined consistent with Schedule 1 – Definitions of Performance Measures, of the AER document. Intra-regional constraints are also to adopt reporting measures on the basis of the location, duration, frequency and time of day of the constraint.

Draft Decision Amendment 10

Western Power to apply the required service standards to all covered transmission network assets, meshed or radial, in the SWIS.

Distribution Network Service Standard Benchmarks

126. In its Draft Decision, the Authority determined that Western Power’s proposal for service standard benchmarks for the distribution network service standards is inconsistent with section 5.6(b) of the Access Code and the Code objective for reasons outlined below.
127. First, Western Power provided a rationale for proposing distribution service standards that are less comprehensive than presented in its annual report, and that do not establish standards relating to the frequency as well as the duration of outages. The Authority noted that while Western Power proposed only a single service standard benchmark for the distribution system, a broader range of service standard indicators has been included in the National Reporting Guidelines of the Utility Regulators Forum (Table 3).²⁶ A broader range of performance indicators has also been implemented for the Victorian electricity distribution systems.²⁷

Table 3 Reliability measures included in the National Reporting Guidelines of the Utility Regulators Forum

Measure/description	Index	Definition
Total number of minutes, on average, that a customer on a distribution network is without electricity in a year.	SAIDI system average interruption duration index.	The sum of the duration of each sustained customer interruption (in minutes) divided by the total number of distribution customers. SAIDI excludes momentary interruptions (one minute or less).
Average number of times a customer’s supply is interrupted per year.	SAIFI system average interruption frequency index.	The total number of sustained customer interruptions divided by the total number of distribution customers. SAIFI excludes momentary interruptions (one minute or less).
Average duration of each interruption.	CAIDI customer average interruption duration index	The sum of the duration of each sustained customer interruption (in minutes), divided by the total number of sustained customer interruptions (SAIDI divided by SAIFI). CAIDI excludes momentary interruptions (one minute or less).
Average number of momentary interruptions per customer per year.	MAIFI momentary average interruption frequency index.	The total number of customer interruptions of one minute or less, divided by the total number of distribution customers.

128. Second, Western Power’s definitions of urban and rural networks did not align with the definitions in the National Guidelines produced by the Utility

²⁶ National Regulatory Reporting for Electricity Distribution and Retailing Businesses. Utility Regulators Forum, March 2002.

²⁷ Essential Services Commission, October 2005, Electricity Distribution Price Review 2006-10, Final Decision Volume 1, Statement of Purpose and Reasons, pages 28 and 33.

Regulators Forum (Table 4),²⁸ did not include specific performance measures for the Perth CBD, and did not provide performance measures that are comparable with other electricity distribution systems.

Table 4 Feeder classifications included in the National Reporting Guidelines of the Utility Regulators Forum

Feeder category	Description
CBD	A feeder supplying predominantly commercial, high-rise buildings, supplied by a predominantly underground distribution network containing significant interconnection and redundancy when compared to urban areas
Urban	A feeder, which is not a CBD feeder, with actual maximum demand over the reporting period per total feeder route length greater than 0.3 MVA/km.
Rural-Short	A feeder which is not a CBD or urban feeder with a total feeder route length less than 200 km.
Rural-Long	A feeder which is not a CBD or urban feeder with a total feeder route length greater than 200 km.

129. Third, Western Power did not provide an explanation for most of the proposed service standard improvement occurring only at the end of the first access arrangement period, despite significant new facilities investment and non-capital costs being attributed to reliability improvements over the entire access arrangement period.
130. Fourth, Western Power specified service standard benchmarks only as aggregated values for feeder classifications, providing inadequate information to monitor performance improvements on the worst performing feeders, which are a target of expenditure for performance improvement.
131. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 11

Western Power to amend its proposed access arrangement to adopt the National Regulatory Reporting for Electricity Distribution and Retailing Businesses guidelines and definitions and include the following minimum distribution service standard feeder types:

- CBD;
- Urban;
- Rural-Short; and
- Rural-Long feeders

for each year of the first access arrangement period, as defined in the guidelines.

²⁸ National Regulatory Reporting for Electricity Distribution and Retailing Businesses. Utility Regulators Forum, March 2002.

Draft Decision Amendment 12

Western Power to amend its proposed access arrangement clause 3.13 and related clauses to adopt SWIS total SAIDI service standard benchmarks for the reference services RT1 to RT11 for the years ending 30 June 2007, 2008 and 2009 of 219, 206 and 194 SAIDI minutes per annum respectively.

Western Power to propose SAIDI service standard benchmarks for each of the CBD, Urban, Rural-Short and Rural-Long feeder classifications for each year of the first access arrangement period that are consistent with the SWIS total SAIDI service standard benchmarks.

Draft Decision Amendment 13

Western Power to propose SAIFI service standard benchmarks for each of the CBD, Urban, Rural-Short and Rural-Long feeders for each year of the first access arrangement period, commencing from the – SWIS total – value of 3.09 minutes from the Western Power 2004/05 annual report.

Draft Decision Amendment 14

Western Power to propose performance reporting on SAIDI, SAIFI, CAIDI and MAIFI for each of the CBD, Urban, Rural-Short and Rural-Long feeder classifications in the SWIS.

- The feeder type criteria to be defined and applied in accordance with the National Regulatory Reporting for Electricity Distribution and Retailing Businesses definitions.
- Permissible exclusions to be determined only in accordance with the Steering Committee on National Regulatory Reporting Requirements endorsed IEEE Standard 1366 application for the 2.5 Beta methodology for SAIDI, as proposed by Western Power, for each feeder type.
- “Raw” (unadjusted for exclusions) data to be collected as well as “adjusted” data which is net of allowable exclusions.
- The 2.5 Beta figure for each feeder type is to be separately reported as well as the SWIS Total 2.5 Beta figure.
- The nature of excluded events pursuant to the 2.5 Beta methodology to also be qualitatively described (e.g. environmental factors causing the excluded event).
- Include “Time to restore supply” statistics by feeder type for all unplanned outages.
- Include Worst Performing Feeder Program performance.

Draft Decision Amendment 15

For its Worst Performing Feeder Program, Western Power to:

- explicitly identify the 20 worst metro, 10 worst north country and 10 worst south country feeders per its proposal for this program; and
- report the current service levels on each of the 40 worst feeders prior to commencement of the first access arrangement period.

Submissions from Interested Parties

132. No submissions were received from interested parties.

Revised Proposed Access Arrangement

Service Standard Benchmarks for the Transmission Network

133. In its revised proposed access arrangement, Western Power has included amendments to the service standard benchmarks applying to the transmission reference services (Transmission Exit Service A11 and Transmission Entry Service B2). The matters addressed by the revisions are:

- extension of application of the “system minutes interrupted” performance indicator to cover the radial network as well as the meshed network;
- changes to the exclusions taken into account in calculation of the performance measures; and
- changes to the service standard benchmarks for circuit availability and system minutes interrupted.

134. The revisions incorporated in the relevant sections of the revised proposed access arrangement are indicated as follows.

3.21 In respect of the reference services [A11 and B2](#) TRT1 and TRT2 available to users directly connected to the transmission network, the service standard benchmarks are expressed in terms of Circuit Availability and System Minutes Interrupted (~~meshed network~~) as defined below:

Performance Indicator:	Circuit Availability
Unit of measure:	Percentage of total possible hours available.
Source of data:	SCADA and System Operation Databases
Definition/Formula:	$\frac{\text{No of Hours per Annum Circuits are Available} \times 100}{\text{Total Possible No. of Circuit Hours}}$ <p>Definition: The actual circuit hours available for transmission circuits divided by the total possible defined circuit hours available.</p>
Exclusions:	<ul style="list-style-type: none"> • Non-transmission primary equipment (primary equipment operating at voltages less than 66 kV, including zone substation power transformers) All zone substation equipment including power transformers • Tee configuration line circuits • Unregulated transmission assets. • Outages shown to be caused by a fault or other event on a ‘3rd party system’ e.g. intertrip signal, generator outage, customer installation. • Force majeure events. • Duration of planned outages for major construction work is to be capped at 14 days in calculating transmission line availability.
Inclusions:	<ul style="list-style-type: none"> • ‘Circuits’ includes primary transmission equipment such as overhead lines, underground cables and bulk transmission power transformers. • Circuit ‘unavailability’ to include outages from all causes including planned, forced and emergency events, including extreme events, but not including the events defined as exclusions.

Performance Indicator:	System Minutes Interrupted (for both Meshed and Radial Transmission Network)
Unit of measure:	Minutes
Source of data:	SCADA and System Operation Databases
Definition/Formula:	$\sum \frac{\text{MW Minutes of Unserved Energy}}{\text{System Peak MW}}$ <p>(for both Meshed and Radial Transmission Network separately)</p> <p>Definition:</p> <p>System Minutes Interrupted (Meshed)- The summation of MW Minutes of unserved energy at substations which are connected to the meshed transmission network (which are not radially fed) divided by the system peak MW.</p> <p>System Minutes Interrupted (Radial)- The summation of MW Minutes of unserved energy at substations which are connected to the radial transmission network divided by the system peak MW.</p>
Exclusions:	<ul style="list-style-type: none"> Zone substations that are connected to the transmission network via radial connections. Unregulated transmission assets. Outages shown to be caused by a fault or other event on a '3rd party system' e.g. intertrip signal, generator outage, customer installation. Force majeure events.
Inclusions:	<ul style="list-style-type: none"> All unserved energy due to outages on any primary transmission equipment including all overhead lines, underground cables, power transformers, static var compensators, capacitor banks, etc. including primary zone substation equipment. All unserved energy due to outages for forced and emergency events, including extreme events, but not including the events defined as exclusions.

[3.223-16](#) The service standard benchmarks for the reference services A11 and B2 available to users directly connected to the transmission network for each year of the first access arrangement period are set out in the following table.

	First access arrangement period		
	Year ending June 2007	Year ending June 2008	Year ending June 2009
Circuit Availability (% of total time)	98.298.67	98.298.67	98.298.67
System Minutes Interrupted (meshed network)	7.88.3	7.88.3	7.88.3
System Minutes Interrupted (radial network)	3.9	3.9	3.9

135. Western Power has maintained exclusions from the measure of circuit available, and has added two further exclusions: equipment operating at less than 66kV and a cap of 14 days for measures of the duration of planned outages for major construction work. The justifications for these exclusions are:
- the proposed exclusions are generally consistent with typical transmission system configurations, and provide a reasonable level of consistency across jurisdictions, to enable valid comparison of reported performance;
 - transmission networks regulated by the AER under the National Electricity Rules do not include sub transmission networks, and the Access Code's definition of transmission system includes networks operating at voltages of 66 kV and above;
 - zone substation equipment was specifically excluded since Western Power has historically not classified this as transmission equipment; however that classification is now not consistent with the definitions set out in the Access Code;
 - tee lines were excluded due to problems in data reporting and recording; and
 - the AER has approved exclusion of outages from planned major construction work for other transmission network service providers – the AER's predecessor (the ACCC) found that outages relating to major line works should be treated as excluded events under its revenue cap decisions and has agreed that the time associated with these outages should be capped at 14 days in calculating transmission line availability.
136. Western Power has submitted that it agrees to gather data for tee lines within 12 months of the approval of the access arrangement (once reporting mechanisms have been developed and implemented) with a view to having tee lines included in the circuit availability benchmark in the next access arrangement period.
137. Western Power has further submitted that the reduction in the service standard benchmark for service availability from 98.67 to 98.2 has been made after consideration of a range of factors that were not taken into account in establishing the values of benchmarks presented in the proposed access arrangement:
- the impact that the planned network construction program (to extend and expand the system to meet projected load growth) will have on the availability of existing circuits;
 - planned major construction has recently required, and will continue to require, significant planned outages to facilitate this construction work;
 - in undertaking construction works, Western Power will continue to plan to manage circuit availability in an efficient and prudent manner, balancing the requirements of minimising costs of restoring circuits unnecessarily, against ensuring that system security and supply reliability are not compromised during construction outages; and
 - measurement data on circuit availability over the first 9 months of 2005/06 that indicate the effect of recent major construction work on circuit availability, reducing circuit availability from between 98.82 and

99.06 per cent over 2002/03 to 2004/05 to 98.22 per cent in the first nine months of 2005/06.²⁹

Service Standard Benchmarks for the Distribution Network

138. In the revised proposed access arrangement, Western Power has incorporated revisions to the service standard benchmarks applying to the distribution reference services (reference services A1 to A10 and B1), as set out below.

3.113-15 For the *reference services A1 to A10 and B1* ~~RT1 to RT14~~ the *service standard benchmarks* are expressed in terms of System Average Interruption Duration Index (SAIDI) and System Average Interruption Frequency Index (SAIFI).

3.123-16 SAIDI is defined as follows:

Performance Indicator:	System Average Interruption Duration Index (SAIDI)
Unit of measure:	System minutes per annum
Definition:	Over a 12 month period, the sum of the duration of each sustained (greater than 1 minute) customer interruption (in minutes) attributable solely to distribution (after exclusions) divided by the average of the total number of connected <i>consumers</i> at the beginning and end of the period.
Exclusions:	<ul style="list-style-type: none"> Major event days in accordance with IEEE1366-2003 definitions as adopted by Steering Committee on National Regulatory Reporting Requirements (SCNRRR). Outages shown to be caused by a fault or other event on the transmission system or a third party system (for instance, without limitation outages caused by an intertrip signal, generator unavailability or a customer installation). <i>Force majeure</i> events.

²⁹ Western Power, Response to the Required Amendments, Part A, section 3.1.

3.17 SAIFI is defined as follows:

<u>Performance Indicator:</u>	<u>System Average Interruption Frequency Index (SAIFI)</u>
<u>Unit of measure:</u>	<u>Supply interruptions per annum</u>
<u>Definition:</u>	<u>Over a 12 month period, the total number of sustained (greater than 1 minute) customer interruptions (number) attributable solely to distribution (after exclusions) divided by the average of the total number of connected consumers at the beginning and end of the period.</u>
<u>Exclusions:</u>	<ul style="list-style-type: none"> • <u>Major event days in accordance with IEEE1366-2003 definitions as adopted by Steering Committee on National Regulatory Reporting Requirements (SCNRRR).</u> • <u>Outages shown to be caused by a fault or other event on the transmission system or a third party system (for instance, without limitation outages caused by an intertrip signal, generator unavailability or a customer installation)..</u> • <u>Force majeure events.</u>

3.18-13 The service standard benchmarks expressed in terms of SAIDI for the reference services A1 to A10 and B1-RT1 to RT11 for each year of the first access arrangement period are shown in the following table:

	<u>SWIN total</u>	<u>Urban</u>	<u>Rural</u>	<u>CBD</u>
<u>June 2007</u>	<u>277</u>	<u>244</u>	<u>509</u>	<u>21.4</u>
<u>June 2008</u>	<u>259</u>	<u>229</u>	<u>476</u>	<u>20.0</u>
<u>June 2009</u>	<u>224</u>	<u>197</u>	<u>410</u>	<u>17.3</u>

	SAIDI service standard benchmarks (expressed as system minutes per annum)		
	Year ending June 2007	Year ending June 2008	Year ending June 2009
SWIS total	277	259	224
Urban sub-network	242	226	195
Rural sub-network	509	476	410

3.19 [The service standard benchmarks expressed in terms of SAIFI for the reference services A1 to A10 and B1 for each year of the first access arrangement period are shown in the following table:](#)

	SWIN total	Urban	Rural	CBD
June 2007	3.44	3.38	4.12	0.32
June 2008	3.22	3.16	3.85	0.30
June 2009	2.78	2.72	3.32	0.26

~~3.203-14 For the purpose of this *Access Arrangement*, the definition of CBD and urban feeder classifications is consistent with those applied in the *National Regulatory Reporting for Electricity Distribution and Retailing Businesses*. The rural feeder classification follows similar principles but represents an amalgamation of what is defined as *Rural Short* and *Rural Long* in the *guidelines*. The definition of the urban and rural sub-networks is consistent with those applied in the *Code of Conduct for the Supply of Electricity to Small Use Customers*. The urban sub-network includes the Perth metropolitan area plus the major towns of Geraldton, Bunbury, Albany and Kalgoorlie. All other areas within the SWIS are classified as the rural sub-network.~~

Final Decision

General Approach to the Authority’s Consideration of Service Standard Benchmarks

139. The relevant requirements of section 5.6 of the Access Code are that a service standard benchmark must be reasonable and must be sufficiently detailed and complete to enable a user or applicant to determine the value represented by the reference service at the reference tariff.
140. In considering the amendments made to the proposed access arrangement in respect of service standard benchmarks, the Authority has considered a range of matters including the requirements of the Access Code; recent historical records of service quality; the particular circumstances of Western Power that are relevant to determining appropriate values of service standard benchmarks; the service standard benchmarks established in other jurisdictions; the ability and incentives of Western Power to achieve service standard benchmarks established for the first access arrangement period; and the particular measures that have been proposed by Western Power to improve service standards during the first access arrangement period.
141. In order to satisfy the requirements of the Access Code, the Authority considers that service standard benchmarks must be established at values that are reasonable forecasts of the values of the relevant service standards that are likely to be achieved during the access arrangement period. As a general principle, the Authority considers that recent historical measures of service standards provide an appropriate starting point for determining service standard benchmarks for the access arrangement period. However, as the benchmarks need to be a forecast for the access arrangement period, historical measures need be adjusted for factors considered likely to cause service standards to vary from historical measures during the access arrangement period. These factors may include, for example, planned

- disruptions to networks and/or services, and new investment or changes to maintenance activities that directly or indirectly improve service quality.
142. A particular circumstance of Western Power that is relevant to determining service standard benchmarks is the restructuring and reform of the electricity industry in Western Australia, including the commencement of the current regulatory regime and the introduction under this regulatory regime of service standard benchmarks that are tied to the regulation of access prices.
143. For most electricity transmission and distribution businesses in the eastern states of Australia, economic regulation under the framework of the national electricity market commenced in the mid to late 1990s. Service standard benchmarks and incentive schemes for improved service standards have been progressively introduced. For electricity distribution businesses in Victoria, for example, “service level targets” and an incentive scheme for improvement in service levels were first established in 2000 (for the 2001 to 2005 period) based on measurement of performance levels in the period subsequent to privatisation of the distribution businesses in 1995.³⁰ Service level targets were revised at a regulatory re-set in 2005 (for the 2006 to 2010 period) taking into account substantial improvements in service levels over the 2001 to 2005 period.³¹ Regulation of service levels of the electricity distribution businesses in Victoria is typical of the introduction of service standard benchmarks and incentive schemes in the eastern-states jurisdictions: an initial period of rigorous monitoring of service standards and only subsequent establishment of service standard benchmarks and incentive schemes.
144. For a number of elements of the service standard benchmarks that were required by the Authority’s Draft Decision to be implemented for the SWIN, Western Power contends that its ability to implement the required service standard benchmarks is limited by the systems that it has in place to make the necessary measurements of service quality, and limited information on historical performance. The Authority considers that the current situation of Western Power is consistent with past experience in other Australian jurisdictions and, accordingly, the Authority considers that an objective for the current access arrangement period should be to ensure that service standards are measured so as to enable a more rigorous determination of service standard benchmarks for the second access arrangement period.
145. Incentives for Western Power to endeavour to achieve high levels of service standards over the first access arrangement period are determined and influenced by a number of factors. Of particular relevance in the first access arrangement period is the absence in the access arrangement of a service standard adjustment mechanism (addressed at section 5.4.6 of this Final Decision). The absence of a service standard adjustment mechanism means that Western Power may have a lesser incentive to achieve improvements in service standards than may be the case if it was to be rewarded for out-

³⁰ Office of the Regulator-General, Victoria, September 2000, Final Decision, Electricity Distribution Price Determination 2001-05.

³¹ Essential Services Commission, October 2005, Final Decision, Electricity Distribution Price Review 2006-10.

performance of benchmarks, or penalised for under-performance relative to benchmarks.³²

146. The absence of direct financial incentive to achieve improvements in service standards may, however, be countered by incentives arising from other mechanisms, in particular:

- section 10 of the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005* requires that Western Power, so far as is reasonably practicable, ensure that the supply of electricity to a customer is maintained and the occurrence and duration of interruptions is kept to a minimum;
- section 13 of the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005* establishes service standard benchmarks for SAIDI independently of the access arrangement and requires Western Power to meet these standards so far as is reasonably practical;³³
- section 19 of the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005* includes provision for mandatory compensation payments of \$80 to be made to customers experiencing continuous interruptions of greater than 12 hours in length;
- government and public scrutiny of service standards achieved by Western Power is made possible by requirements on the Authority to monitor and publish performance of Western Power against service standard benchmarks, and by requirements under schedule 1 of the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005* for Western Power to publish reports on compliance with conditions and standards under that Code including the number of premises of small use customers to which the supply of electricity has been interrupted for more than 12 hours continuously, or more than a permitted number of times (9 times for CBD and urban areas and 16 times for other areas); and
- Chapter 11 of the Access Code explicitly contemplates that non-compliance with service standard benchmarks is a matter that may

³² The prospect of a service standard adjustment mechanism being introduced in the second access arrangement period, with benchmarks for this mechanism determined on the basis of performance over the first period, would provide an incentive for Western Power to achieve relatively poor measures of service standards in the first access arrangement period, making it easier for Western Power to out-perform the service standard benchmarks established for the second period. This incentive is, however, independent of the setting of service standard benchmarks for the first access arrangement period. The setting of service standard benchmarks for the first access arrangement period does not in any way compel Western Power to try and achieve the benchmarks. That is, the setting of more demanding service standard benchmarks for the first access arrangement period would not serve to motivate or cause better performance of Western Power and thus avoid the incentive problem that arises as a result of the prospect of introduction of a service standard adjustment mechanism in the second access arrangement period.

³³ These standards are Perth CBD – 30; Urban areas other than Perth CBD – 160; and any other area of the State – 290. With the exception of the Perth CBD, these standards are more stringent than the service standard benchmarks proposed by Western Power under the revised proposed access arrangement.

attract civil penalties under section 118(2) of the *Electricity Industry Act 2004*.³⁴

147. Finally, the Authority notes that Western Power has established particular objectives for improvement in service standards over the course of the first access arrangement period and allowances are made in forecasts of new facilities investment and non-capital costs for this purpose.
148. Taking account of the above considerations, the Authority's assessment of the service standard benchmarks set out in the revised proposed access arrangement, and Western Power's response to the requirements of the Draft Decision, are set out below.

Service Standard Benchmarks for the Transmission Network

149. Draft Decision Amendment 6 required that Western Power amend its transmission network benchmarks for circuit availability (per cent of total time) for each year of the access arrangement period from 98.67 per cent to 98.74 per cent.
150. Western Power has not incorporated this required amendment in the revised proposed access arrangement. Rather, Western Power has reduced the service standard benchmarks for circuit availability from 98.67 per cent to 98.2 per cent. Western Power has submitted that this change to the level of the service standard benchmark reflects the effect of construction works (and associated disconnection of circuits) undertaken to meet expected growth of loads that are expected throughout the access arrangement period. Western Power further submits that a higher service standard benchmark for circuit availability could only be achieved if it were to implement inefficient practices (such as restoring circuits overnight or having a greater number of maintenance teams) that would improve the measures of circuit availability but would give rise to greater costs without necessarily any outweighing benefit in improved performance of the transmission network and in provision of transmission services.
151. The Authority has considered the submission from Western Power and notes that actual performance data on circuit availability and system minutes interrupted for the transmission network suggest that the lower service standard benchmark for circuit availability (that is consistent with the measured value in 2005/06) does not necessarily result in disruptions to services, as measured by system minutes interrupted (Table 5, below). The historical performance data indicates an improvement in the level of interruptions despite a reduction in recorded circuit availability. The Authority also notes that while the measured value of circuit availability for 2005/06 is low, Western Power has indicated that this incorporates a high level of planned unavailability (1.792 per cent), while unplanned unavailability has been low (0.110 per cent).

³⁴ At present, the only penalty under the Electricity Industry (Access Code Enforcement) Regulations 2005 is for failing to report under section 11.3. There are no penalties at present for breach of service standard benchmarks.

Table 5 Measured circuit availability and system minutes interrupted for the Western Power transmission network³⁵

Service Standard	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06
Circuit availability (% of total possible hours available)	n.a.	n.a.	98.82	99.06	98.96	98.10
System minutes interrupted - meshed network	6.5	7.8	10.8	7.9	5.8	4.7
System minutes interrupted - radial network	3.4	4.4	8.3	1.7	1.5	0.9

152. The Authority considers that the proposed service standard benchmark for circuit availability of 98.2 per cent is consistent with the requirements of the Access Code in that the Authority is satisfied that this is the reasonable expectation of the value of the benchmark given the circumstances that will prevail for the access arrangement period. The Authority expects that, as the relatively low value of circuit availability arises from planned interruptions, the interruptions may be managed by Western Power to limit disruption to services, and to require a higher service standard benchmark would result in higher costs without, necessarily, fewer disruptions to transmission services. Accordingly, the Authority therefore does not maintain the requirement established under Draft Decision Amendment 6 for the access arrangement to incorporate a service standard benchmark for circuit availability of 98.74 per cent.
153. Draft Decision Amendment 7 required that Western Power amend its transmission network benchmarks for systems minutes interrupted (all transmission network) for each year of the access arrangement period to 7.8 minutes per year. Western Power has incorporated this required amendment in its revised proposed access arrangement.
154. Draft Decision Amendment 8 required that Western Power amend its list of allowable exclusions from measures of performance standards. The first part of Draft Decision Amendment 8 related to measures of circuit availability and required that the allowable exclusions be revised to not include all zone substation equipment including transformers and tee-configuration line circuits. The second part of Draft Decision Amendment 8 related to measures of system minutes interrupted and required that allowable exclusions be revised to not include network radial connections and zone substations connected to the transmission network via radial connections.
155. Western Power has not incorporated the first part of Draft Decision Amendment 8 in the revised proposed access arrangement. The exclusions from the measure of circuit availability still incorporate zone substation power transformers and tee-configuration line circuits. In addition, Western Power

³⁵ Revised access arrangement information, pages 145, 146; Figures for 2005/06 were provided by Western Power to the Authority in separate correspondence dated 31 July 2006.

- has incorporated an additional exclusion from the measure of circuit availability, being that the duration of planned outages for major construction work is to be capped at 14 days in calculating transmission line availability.
156. Western Power has indicated that these exclusions are consistent with performance standards implemented elsewhere for transmission systems, consistent with definitions of transmission assets either under the Access Code or according to conventions adopted by Western Power, and/or consistent with Western Power's current ability to include relevant parts of the network in measures of circuit availability.
 157. The Authority considers that, in principle, methods and exclusions in measurement of circuit availability for the SWIN should be consistent with the methods implemented for transmission systems throughout Australia, assisting users of the transmission services to determine the value of the service. Accordingly, the Authority is prepared to accept the additional exclusion from the measure of circuit availability that has been proposed by Western Power (the duration of planned outages for major construction work being capped at 14 days) as this is consistent with the measurement of circuit availability for transmission systems in the National Electricity Market.
 158. The Authority maintains the position taken in its Draft Decision that there should not be any exclusion for zone substations connected to the transmission network via radial connections, nor for tee-configuration line circuits. However, the Authority also recognises that there are practical considerations in implementing performance measures, particularly for the first access arrangement period. Taking this into account, the Authority is prepared to accept that, for the first access arrangement period, the exclusions proposed by Western Power are reasonable and consistent with the requirements of the Access Code. The Authority expects, however, that consideration will be given to whether these exclusions remain reasonable when the access arrangement is revised.
 159. Western Power has incorporated the second part of Draft Decision Amendment 8 in its revised proposed access arrangement. The performance standard for system minutes interrupted applies to both the meshed and radial transmission networks. Western Power has included a performance standard benchmark for system minutes interrupted for the radial networks of 3.9 minutes. This is indicated by Western Power to be the average of recorded system minutes interrupted for the radial network over the period 2000/01 to 2004/05.³⁶
 160. The Authority accepts that the use of historical performance data to set the service standard benchmark for the radial network is consistent with the requirements of section 5.6 of the Code, and also consistent with methodology used to determine the service standard benchmark for system minutes interrupted applied to the meshed network. The Authority is therefore satisfied that the revised proposed access arrangement adequately incorporates the requirement for a service standard benchmark for system minutes interrupted for the radial network.

³⁶ Western Power, Response to the Required Amendments, Part A, section 3.3.2.

161. Draft Decision Amendment 9 required that Western Power adopt a range of further performance measures as service standard benchmarks (circuit availability, average outage duration, frequency of off-supply events and inter-regional constraints), consistent with performance measures established by the AER for regulated transmission systems in the National Electricity Market.
162. With the exception of the requirement to include circuit availability as a service standard benchmark (which was already included under the proposed access arrangement), Western Power has not incorporated these further performance standard benchmarks in the revised proposed access arrangement.
163. The principal reason stated by Western Power for not including service standard benchmarks for average outage duration and frequency of off-supply events is that there is a lack of historical data to establish benchmarks.³⁷ As discussed above, the Authority considers that the objective for the first access arrangement period should be to ensure that service standards are measured so as to enable a more rigorous determination of a potentially wider set of service standard benchmarks for the second access arrangement period. This is consistent with the introduction of service standards in other Australian jurisdictions at the time of electricity industry reform. The Authority notes in this regard that Western Power has stated an intention in its submission to the Authority to undertake the necessary work during the first access arrangement period to determine performance standard benchmarks for the required performance measures.³⁸ Accordingly, the Authority expects that performance standard benchmarks for average outage duration and frequency of off-supply events will be able to be established for the second access arrangement period.
164. Western Power has also submitted that it is not practically possible to report on inter-regional transmission constraints and that such information is not currently necessary in operation of the wholesale electricity market in Western Australia that, unlike the NEM, does not incorporate constraint equations in dispatch operations.³⁹ The Authority accepts that this is the case in the current state of the wholesale electricity market in Western Australia and that a requirement to report on inter-regional constraints is not necessary at the current time.
165. Taking Western Power's submission and the above matters into account, the Authority will not persist with the requirement for the access arrangement to include the further performance standard benchmarks set out in the Draft Decision Amendment 9. The Authority notes that Western Power has indicated that it will commence measurement during the first access arrangement period of average outage duration and frequency of off-supply events, and the Authority expects that service standard benchmarks for these measures will be able to be established for the second access arrangement period.
166. Draft Decision Amendment 10 required that Western Power apply the required service standards to all covered transmission network assets, meshed or radial, in the SWIS.

³⁷ Western Power, Response to the Required Amendments, Part A, section 3.4.

³⁸ Western Power, Response to the Required Amendments, Part A, section 3.4.

³⁹ Western Power, Response to the Required Amendments, Part A, section 3.4.

167. In its revised proposed access arrangement, Western Power has provided a service standard benchmark for system minutes interrupted for the radial network as well as the meshed network. Taking into account the Authority's considerations of Western Power's responses to Draft Decision Amendments 8 and 9 (paragraphs 155 to 165, above), the Authority is satisfied that the revised proposed access arrangement incorporates Draft Decision Amendment 10.

Service Standard Benchmarks for the Distribution Network

168. Draft Decision Amendment 11 required that the access arrangement specify service standard benchmarks for distribution feeder types as defined in the guidelines "National Regulatory Reporting for Electricity Distribution and Retailing Businesses", and including CBD, urban, rural-short and rural-long feeder types.
169. Western Power has incorporated amendments in its revised proposed access arrangement to include CBD feeders as a feeder type to which performance standards are applied, but not to differentiate between rural-short and rural-long feeders. Definitions of the CBD, urban and rural feeders are established by cross-reference to the publication National Regulatory Reporting for Electricity Distribution and Retailing Businesses.
170. Western Power has indicated that it has not differentiated between rural-short and rural-long feeders due to the necessary costs (approximately \$200,000) and time requirements (several months) for implementation.⁴⁰ Western Power has made a further verbal submission to the Authority that service standard benchmarks should be established in accordance with requirements for reporting of service standards under the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*. This Code (at section 13) sets out system average interruption duration index (SAIDI) service standards based on geographical categories of customers (Perth CBD, urban other than Perth CBD and any other area of the state) rather than the feeder types. Requirements for reporting in accordance with this Code are part of Western Power's licence conditions.
171. The difference between rural-short and rural-long feeders is that long feeders are subject to a relatively high level of variability in reliability. As a result, separate reporting of performance measures for the two categories of feeders would be likely to improve the relevance and usefulness of performance measures for both feeder categories. In particular, distinguishing between the short and long feeders would limit potential for relatively poor performance on long feeders to be masked by better performance on short feeders. However, Western Power indicates that the distinction between rural-long and rural-short feeders does not correlate well with the geographical location of electricity customers. That is, provision of electricity services by rural-short or rural-long feeders does not necessarily correlate to less remote and more remote rural areas, respectively. Accordingly, Western Power contends that the establishment of service standard benchmarks according to geographical regions is more relevant to users and electricity customers than benchmarks established for feeder types.

⁴⁰ Western Power, Response to the Required Amendments, Part A, section 3.6.

172. The requirement of the Access Code that is relevant in consideration of service standard benchmarks is the requirement of section 5.6 that service standard benchmarks enable a user or applicant to determine the value represented by the reference service at the reference tariff. The Authority does not accept Western Power's submission that the specification of service standard benchmarks for a single geographical category of customers in rural areas better meets the requirements of the Access Code than the specification of service standard benchmarks for the two categories of rural-short and rural long feeders. Accordingly, the Authority maintains the requirement for the access arrangement to be amended to distinguish between the two categories of feeders in the specification of service standard benchmarks.
173. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 2

The revised proposed access arrangement should be amended to distinguish between rural-short and rural-long feeders in specification of service standard benchmarks for SAIDI and SAIFI for distribution network.

174. Draft Decision Amendment 12 required that Western Power amend the service standard benchmarks for the SAIFI measure for the SWIN (in total) to lower (more stringent) values, and to propose measures for the various feeder categories consistent with these lower values. The requirement for lower benchmarks was based on the consideration by the Authority that benchmarks should be based on recent historical trends in SAIDI measures rather than just the value obtained for the last year before the benchmarks were proposed.
175. Western Power has not incorporated Draft Decision Amendment 12 in the revised proposed access arrangement and has maintained the SAIDI benchmarks at the values included in the proposed access arrangement. Western Power has submitted that the values as originally proposed are consistent with:
- recent historical performance (the year to June 2004); and
 - the planned 25 per cent improvement over the first access arrangement period, with most of the improvement occurring in the last year of the access arrangement period in accordance with an expectation that there is a time lag between investment in improved service reliability and that improvement being evident in measures of reliability.
176. Western Power has also indicated that a change in the methods used to compile the SAIDI measures makes earlier historical data of limited value in establishing benchmarks.⁴¹
177. The Authority has reconsidered the rationale behind the SAIDI benchmarks proposed by Western Power taking into account the requirements of section 5.6 of the Access Code (that a service standard benchmark must be

⁴¹ Western Power, Response to the Required Amendments, Part A, section 3.7.

reasonable and must be sufficiently detailed and complete to enable a user or applicant to determine the value represented by the reference service at the reference tariff). The Authority is satisfied that, taking into account the change in methods used to compile SAIDI measures, that it is appropriate to base the SAIDI standards on the measure for 2003/04 as proposed by Western Power. In coming to this conclusion, the Authority has also taken into account that Western Power has not included a service standards adjustment mechanism in the revised proposed access arrangement (section 5.4.6 of this Final Decision) and, accordingly, Western Power would not gain by specifying service standard benchmarks for the first access arrangement period that are less stringent than it expects to achieve. Accordingly, the Authority has determined not to persist with the requirement for the access arrangement to include lower SAIDI benchmarks. The Authority notes, however, that Western Power's performance in the first access arrangement period will be monitored and publicly reported in accordance with conditions of Western Power's licence and with the requirements of chapter 11 of the Access Code. This performance will be taken into account in setting service standard benchmarks for the second access arrangement period and in establishing a service standard adjustment mechanism.

178. Western Power has specified SAIDI performance benchmarks for CBD, urban and rural feeders. The Authority is satisfied that the revised proposed access arrangement incorporates the requirement under Draft Decision Amendment 12 to provide SAIDI benchmarks for feeder categories.
179. Draft Decision Amendment 13 required that Western Power include in the access arrangement service standard benchmarks for SAIFI, for each of the feeder categories and consistent with the value of 3.09 stated for the total SWIN in Western Powers 2004/05 annual report.
180. Western Power has incorporated Draft Decision Amendment 13 in the revised proposed access arrangement to the extent of incorporating service standard benchmarks for SAIFI for the urban, rural and CBD feeders. Western Power has not, however, established the benchmark values consistent with a value of 3.09 for the total SWIN. Rather, Western Power has established the benchmark values consistent with a recorded SAIFI value for the entire SWIN of 3.70 for the year ending June 2004 and a 25 per cent improvement by the end of the first access arrangement period. Western Power submits that the value of 3.70 is consistent with the value of 3.09 stated for the total SWIN in Western Powers 2004/05 annual report, but is derived with a different method for compiling the SAIFI measures.⁴²
181. The Authority has reconsidered the basis for establishing SAIFI values and, for the same reasons as set out in respect of SAIDI values (paragraph 177, above), the Authority is satisfied that the SAIFI values incorporated in the revised proposed access arrangement address the reasons for Draft Decision Amendment 13.
182. Draft Decision Amendment 14 required that Western Power propose performance reporting on performance measures including SAIDI, SAIFI, CAIDI and MAIFI, with this reporting to include information on interruption events excluded from the measures, "time-to-restore-supply" data and

⁴² Western Power, Response to the Required Amendments, Part A, section 3.8.

information on “worst-performing” feeders. The Authority indicated that it had powers to require reporting on these pursuant to section 11.5 of the Access Code (providing for the Authority to engage in consultation with users and consumers in respect of service standard performance) and conditions of Western Power’s distribution and transmission licences.

183. Draft Decision Amendment 15 imposed further requirements in respect of reporting on worst-performing feeders.
184. Western Power has not incorporated Draft Decision Amendments 14 and 15 in the revised proposed access arrangement. Western Power has submitted that it accepts the requirement to report on SAIDI, SAIFI, CAIDI and the worst-performing feeders. Western Power further submits that it is not practically possible at the current time to report on MAIFI, and any requirement to report on MAIFI should only be imposed after consideration has been given to the value of this performance indicator as a measure of service quality, and the potential interactions between measures of MAIFI and other performance indicators.⁴³
185. On reconsideration of the requirements under Draft Decision Amendments 14 and 15, the Authority accepts that reporting requirements for service levels are not required by the Access Code as an element of an access arrangement. Accordingly, the Authority has determined not to persist with these requirements in this Final Decision. However, in accordance with the provisions of sections 11.2 to 11.5 of the Access Code, the Authority will obtain information from Western Power on its performance against the service standards and publish reports on this performance.

4.3. Demand Forecasts

Access Code Requirements

186. Section 4.3(d) of the Access Code requires that the access arrangement information include “information detailing and supporting the service provider’s assumptions about system capacity and volumes”.
187. Section 7.3(a) of the Code establishes an objective for the determination of reference tariffs (pricing methods) that the reference tariffs recover the forward-looking efficient costs of providing reference services. Forecasts of demand for services are necessary to determine whether the reference tariffs proposed by a service provider meet this objective.

Proposed Access Arrangement

188. Western Power provided energy forecasts for both its transmission and distribution networks in its original access arrangement information.
189. Western Power commissioned National Institute of Economics & Industry Research (**NIEIR**) to review Western Power’s forecasts of energy and demand for the transmission network for each year of the forthcoming access arrangement (2006-07 to 2008-09 inclusive). This same consultant was also

⁴³ Western Power, Response to the Required Amendments, Part A, section 3.9.

involved in the preparation of the Independent Market Operator's 2005 generation forecast.⁴⁴ NIEIR's report to Western Power was provided as part of the access arrangement information.⁴⁵

Transmission Energy Forecasts

190. Western Power's transmission energy forecast as set out in its access arrangement information is reproduced, in part, in Table 6.⁴⁶

Table 6 Western Power's forecast transmission energy (proposed access arrangement)⁴⁷

Financial year	Energy forecast (GWh)
2004-05	14,372
2005-06	14,844
2006-07	15,388
2007-08	15,954
2008-09	16,368
2009-10	16,938
Average growth (per cent)	
2004-05 to 2013-14	3.3

Distribution Energy Forecasts

191. Western Power's distribution energy forecast as set out in its original access arrangement information is reproduced in Table 7.⁴⁸

Table 7 Western Power's forecast distribution energy sales (proposed access arrangement)⁴⁹

Financial year	Forecast sales (GWh)
2004-05	11,591
2005-06	11,971
2006-07	12,410
2007-08	12,867
2008-09	13,200

192. Western Power noted at the time of submission of its proposed access arrangement that forecasts of energy demand are also produced by the

⁴⁴ Independent Market Operator (2005b), *Statement of Opportunities South West Interconnected System* (also referred to as the 2005 SOO).

⁴⁵ Access Arrangement Information Appendix 3: National Institute of Economic and Industry Research, March 2005, Verification of Western Power Corporation forecasts of demand and energy for the Access Arrangement for the SWIN, A report for Western Power Corporation.

⁴⁶ Original access arrangement information, appendix 3, Table 3.2.

⁴⁷ Original access arrangement information, page 48.

⁴⁸ Original access arrangement information, appendix 3, Table 3.2.

⁴⁹ Reproduced from the original access arrangement information, page 102.

Independent Market Operator and, at that time, Western Power had not been able to reconcile its forecasts with the forecasts of the Independent Market Operator. Western Power indicated, however, that updated forecasts are expected to become available during the period of assessment of the proposed access arrangement, and that up-to-date forecasts will be applied during assessment of the proposed access arrangement.⁵⁰

Draft Decision

193. Following the publication of the Authority's issues paper, which noted an inconsistency between the forecasts which had been developed by Western Power Networks and published in the 2004 Generation System Review and those published by the Independent Market Operator in the 2005 Statement of Opportunities, the Independent Market Operator provided a submission to the Authority addressing potential reasons for differences between its and Western Power's forecasts.
194. In its submission, the Independent Market Operator provided forecasts revised and corrected subsequent to the 2005 Statement of Opportunities. The Authority determined in its Draft Decision that the Independent Market Operator's revised energy forecasts should be applied in determination of reference tariffs under the access arrangement.
195. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 16

Western Power to revise its forecast transmission energy, having regard to the Independent Market Operator's submission "sent out energy forecasts" for the period 2006/07 to 2008/09 at the expected growth rates in accordance with Table 6 [of the Draft Decision].

Draft Decision Amendment 17

Western Power to revise its maximum demand forecasts.

Draft Decision Amendment 18

Western Power to revise its forecast distribution energy sales in light of the reduction in forecast sent out energy.

Draft Decision Amendment 19

Western Power to revise the reference tariffs applicable to the reference services to reflect the changes in transmission and distribution energy forecasts.

Submissions from Interested Parties on the Draft Decision

196. No submissions were received from interested parties.

Revised Proposed Access Arrangement

197. In its revised access arrangement information,⁵¹ Western Power has presented forecasts of transmission energy (energy sent out) that are the

⁵⁰ Original access arrangement information, page 49.

⁵¹ Revised access arrangement information, page 47.

same as forecasts produced by the Independent Market Operator for the 2005 Statement of Opportunities report (as corrected in October 2005)⁵² (Table 8).

Table 8 Western Power's forecast transmission energy (revised access arrangement information)

Year	Forecast (GWh)
2005-06	14,777
2006-07	15,208
2007-08	15,595
2008-09	15,874

198. Western Power has not presented forecasts for maximum demand in its revised access arrangement information.

199. In its revised access arrangement information,⁵³ Western Power has presented forecasts of distribution energy sales derived from extrapolation of actual energy sales in 2004/05 at the rate of increase in transmission energy (energy sent out) (Table 9).

Table 9 Western Power's forecast energy sales from the distribution system (revised access arrangement information)

Year	Forecast (GWh)
2004-05 (actual)	11,740
2005-06	12,071
2006-07	12,423
2007-08	12,740
2008-09	12,967

Final Decision

200. Draft Decision Amendment 16 required Western Power to revise its forecast of transmission energy, having regard to the Independent Market Operator's submission on "sent out energy forecasts" for the period 2006/07 to 2008/09. Consequent to this, Draft Decision Amendment 18 required Western Power to revise its forecast distribution energy sales in light of the reduction in forecast sent out energy.

201. In its revised access arrangement information, Western Power has presented forecasts of transmission energy (energy sent out) and energy sales from the distribution system that are either directly taken from the Independent Market Operator's 2005 Statement of Opportunities report (transmission energy) or calculated based on growth rates assumed in this report (energy sales from

⁵² Independent Market Operator, July 2005, Statement of Opportunities South West Interconnected System; Independent Market Operator, October 2005, Electricity Forecasts – Correction.

⁵³ Revised access arrangement information, page 101.

the distribution system). Accordingly, the Authority is satisfied that the revised access arrangement information incorporates Draft Decision Amendments 16 and 18.

202. Draft Decision Amendment 17 required Western Power to revise its maximum demand forecasts.
203. Western Power has not presented forecasts of maximum demand in its revised access arrangement information and, consequently, has not incorporated Draft Decision Amendment 17 in the revised access arrangement information.
204. The Authority notes that the Access Code does not explicitly require a service provider to provide a forecast of maximum demand. The Authority notes also that the price list information included as part of Western Power's revised proposed access arrangement (Appendix 6) indicates that maximum demand of particular customer classes is used for the purposes of allocating costs to customer classes and determining reference tariffs, but that the forecasts of maximum demand applied for this purpose would be substantially more detailed (disaggregated) than might be included in the access arrangement information. However, the Authority considers that requiring the access arrangement information to include a "total" forecast of maximum demand informs consideration of other elements of the access arrangement, including forecasts of new facilities investment. Accordingly, the Authority considers that the demand forecasts should be included in the access arrangement information.
205. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 3

The access arrangement information should be amended to include substantiated forecasts of forecast maximum demand.

206. Draft Decision Amendment 19 required Western Power to revise the reference tariffs applicable to the reference services to reflect the changes in transmission and distribution energy forecasts.
207. Under its revised proposed access arrangement, Western Power has proposed a revenue cap form of price control (examined in detail in section 5.3 of this Final Decision). In accordance with the Authority's Draft Decision, Western Power has made provision in the revised proposed access arrangement (at clause 8.1) for the Authority to approve price lists prior to the start of each pricing year, involving verification that proposed prices comply with the price control. This requires that the Authority be provided with detailed demand forecasts for the first year of the access arrangement period, including forecasts of demand for each component charge of reference tariffs, as part of the price list information. These requirements are addressed at section 5.3.2 of this Final Decision.
208. The Authority accepts that some elements of the demand forecast may necessarily be held to be commercially sensitive and required to be kept confidential. The Authority is willing to accommodate any reasonable requirements for confidentiality in Western Power's submission of forecasts.

5. Reference Tariffs and Price Control

5.1. Introduction

209. For each reference service specified in the access arrangement, there must be a reference tariff established under the access arrangement.
210. The Access Code requires that reference tariffs are established or constrained by a mechanism termed a “price control”, which specifies the level of tariffs either directly, or indirectly through constraints on the level of overall revenue able to be earned by the service provider.
211. The specific requirements and objectives for the price control are set out in sections 6.1 to 6.3 to the Access Code:
- 6.1 Subject to section 6.3, an access arrangement may contain any form of price control provided it meets the objectives set out in section 6.4 and otherwise complies with this Chapter 6.
 - 6.2 Without limiting the forms of price control that may be adopted, price control may set target revenue:
 - (a) by reference to the service provider’s approved total costs; or
 - (b) by setting tariffs with reference to:
 - (i) tariffs in previous access arrangement periods; and
 - (ii) changes to costs and productivity growth in the electricity industry;
 - or
 - (c) using a combination of the methods described in sections 6.2(a) and 6.2(b).
 - 6.3 The first access arrangement must contain the form of price control described in section 6.2(a).
212. Sections 6.4 and 6.5 of the Access Code set out the objectives that must be met by a price control.
- 6.4 The price control in an access arrangement must have the objectives of:
 - (a) giving the service provider an opportunity to earn revenue (“target revenue”) for the access arrangement period from the provision of covered services as follows:
 - (i) an amount that meets the forward-looking and efficient costs of providing covered services, including a return on investment commensurate with the commercial risks involved;

plus:
 - (ii) for access arrangements other than the first access arrangement, an amount in excess of the revenue referred to in section 6.4(a)(i), to the extent necessary to reward the service provider for efficiency gains and innovation beyond the efficiency and innovation benchmarks in a previous access arrangement;

plus:
 - (iii) an amount (if any) determined under section 6.6 [adjustments for unforeseen events];

- plus:
 - (iv) an amount (if any) determined under section 6.9 [adjustments for technical rule changes];
 - plus:
 - (v) an amount (if any) determined under an investment adjustment mechanism (see sections 6.13 to 6.18);
 - plus:
 - (vi) an amount (if any) determined under a service standards adjustment mechanism (see sections 6.29 to 6.32);
 - and
 - (b) enabling a user to predict the likely annual changes in target revenue during the access arrangement period; and
 - (c) avoiding price shocks (that is, sudden material tariff adjustments between succeeding years).
- 6.5 The amount determined in seeking to achieve the objective specified in section 6.4(a)(i) is a target, not a ceiling or a floor.
213. The definition and implementation of a price control occurs in a number of steps, comprising:
- the determination of target revenue, being an amount that meets the forward-looking and efficient costs of providing covered services;
 - the determination of reference tariffs consistent with the requirement to allow the service provider an opportunity to earn that revenue;
 - the determination of the form of the price control, which determines how tariffs may change over the access arrangement period.
214. The following sections of this Final Decision document the Authority's assessment of Western Power's proposed reference tariffs and price control.
215. The first consideration in this assessment is the determination of target revenue.
216. Section 6.4(a) of the Access Code requires that the price control must give the service provider an opportunity to earn revenue (**target revenue**) for the access arrangement period from the provision of covered services. For the first access arrangement period, the target revenue is an amount that meets the forward-looking and efficient costs of providing covered services, including a return on investment commensurate with the commercial risks involved.
217. The calculation of the service provider's costs is addressed by subchapter 6.2 of the Access Code, which contemplates the determination of costs as a sum of a tariff equalisation contribution, non-capital costs and capital-related costs.
218. A tariff equalisation contribution is an amount of money that Western Power is required to contribute to the "tariff equalisation fund" under Part 9A of the *Electricity Industry Act 2004*. Section 6.37A of the Code provides for the amount of a tariff equalisation contribution to be added to the target revenue.
219. Non-capital costs are defined under the Access Code as:

... in relation to covered services provided by a service provider by means of a covered network for a period of time, means all costs incurred in providing the covered services for the period of time which are not capital-related costs, including those operating, maintenance and administrative costs which are not capital-related costs.

220. Section 6.40 of the Access Code requires that the non-capital costs component of approved total costs must include only those non-capital costs that would be incurred by a service provider efficiently minimising costs.
221. Section 6.43 of the Access Code requires that the capital-related costs component of approved total costs be calculated by:
- (a) determining a capital base under sections 6.44 to 6.63; and
 - (b) calculating a return on the capital base of the covered network by applying the weighted average cost of capital calculated under section 6.64 to the capital base; and
 - (c) calculating the depreciation of the capital base under section 6.70.
222. Consistent with the requirements of the Access Code, Western Power determined a level of target revenue by a “building-block” approach whereby the target revenue is calculated as the sum of components of the total cost to Western Power of providing covered services. The elements of this calculation are addressed in the following sections of this Final Decision in the order of:
- tariff equalisation contributions;
 - non-capital costs;
 - capital base;
 - new facilities investment;
 - treatment of capital contributions;
 - treatment of redundant assets;
 - depreciation allowances;
 - the weighted average cost of capital;
 - a return on working capital; and
 - the determination of the target revenue from these elements.
223. The determination of reference tariffs is then addressed, involving assessment of Western Power’s structure of reference tariffs and explicit or implicit allocation of target revenue across reference and non-reference services and the structure of reference tariffs (the “pricing methods”) and the specification of reference tariffs (the “price list” and “price list information”).
224. Western Power’s proposed form of price control is then addressed, involving assessment of the manner in which Western Power has proposed that tariffs may be changed from year to year over the access arrangement period.
225. Finally, attention is given to a number of elements of the price control under an access arrangement that will affect the determination of tariffs in the next access arrangement period. These elements are:
- adjustments of target revenue requirements for unforeseen events;

- adjustments of target revenue requirements for changes in the Technical Rules;
- investment adjustment mechanism;
- gain sharing mechanism; and
- service standards adjustment mechanism.

5.2. Total Costs and Target Revenue

5.2.1. Tariff Equalisation Contribution

Access Code Requirements

226. Section 6.37A of the Access Code provides for tariff equalisation contributions to be added to target revenue:⁵⁴

6.37A If the service provider for the covered network that is covered under section 3.1 is or will be required, by a notice made under section 129D(2) of the Act, to pay a tariff equalisation contribution into the Tariff Equalisation Fund during an access arrangement period, then an amount may be added to the target revenue for the covered network for the access arrangement period, which amount—

- (a) must not exceed the total of the tariff equalisation contributions which are or will be required to be paid under the notice, including any amount that was payable or paid before the commencement of the access arrangement period; and
- (b) must be separately identified as being under this section 6.37A.

Proposed Access Arrangement

227. The provision for tariff equalisation contributions to be added to target revenue arose through amendments to the Access Code in November 2005 subsequent to submission by Western Power of its proposed access arrangement. As such, Western Power did not propose any amount of tariff equalisation contributions as part of the target revenue for its proposed access arrangement.

Draft Decision

228. In its Draft Decision, the Authority noted that the provision for including tariff equalisation contributions in target revenue did not exist at the time Western Power submitted its proposed access arrangement. The Authority also noted that, at the time of the Draft Decision, the Treasurer had not determined values of the tariff equalisation contribution for the first access arrangement period. The Authority did, however, recognise that the value of tariff equalisation contributions for each year of the access arrangement period were likely to be determined prior to issue of a Final Decision and that this value would be

⁵⁴ Section 6.37A was inserted into the Access Code by amendments of November 2005 (Western Australian Government Gazette No. 207, 8 November 2005, pages 5529 – 5531) and revised by amendments in December 2006 (Western Australian Government Gazette No. 206, 8 December 2006, pages 5400 – 5402).

included in target revenue and reference tariffs. Accordingly, the Authority included an estimate of the likely value of tariff equalisation contributions (\$60 million for each year of the access arrangement period) in the determination of target revenue.

Submissions from Interested Parties on the Draft Decision

229. No submissions were received from interested parties.

Revised Proposed Access Arrangement

230. In its revised access arrangement information, Western Power has indicated that it has included a tariff equalisation contribution amount of \$177.7 million for the access arrangement period in real dollar values as at 30 June 2006.⁵⁵ Western Power's financial model used for the calculation of the total revenue requirement indicates that this value has been derived from a total value of \$213.3 million allocated across the three years of the access arrangement period and converted to real values according to an assumption that the nominal values are in dollar values on the last day of each year and an annual inflation rate of 3.08 per cent. The nominal and real values and Western Power's allocation of the total values across the three years of the access arrangement period is indicated in Table 10.

Table 10 Western Power's proposed value of the tariff equalisation contribution

	Year			Total
	2006/07	2007/08	2008/09	
Nominal values (\$ million)	69.7	71.6	72.0	213.3
Real values (\$ million, dollar values of 30 June 2006)	67.8	67.9	66.5	177.7

⁵⁵ Revised access arrangement information, page 15.

Final Decision

231. Subsequent to issue of the Draft Decision, the Treasurer has determined the amount of the tariff equalisation contributions for the period from the commencement of the access arrangement to 30 June 2009.⁵⁶ The value of the tariff equalisation contribution for this period was specified in nominal values as:

$$TEC = ((365 - x) \times \$190,959.00) + \$143,600,000.00$$

where

x = the number of days between 1 July 2006 and the access arrangement commencement date. For the avoidance of doubt, if the access arrangement commencement date is 1 July 2006, then $x = 0$.

232. In September 2006, the Treasurer made a revised determination of the tariff equalisation contribution.⁵⁷ The value of the tariff equalisation contribution for this period was specified as \$213,300,000 for the period commencing on 19 September 2006 and ending on 30 June 2009.
233. The nominal value of the tariff equalisation contribution proposed by Western Power is consistent with the value determined by the Treasurer in the determination of September 2006.

5.2.2. Non-Capital Costs

Access Code Requirements

234. Section 6.40 of the Access Code requires that the non-capital costs component of approved total costs must include only those non-capital costs that would be incurred by a service provider efficiently minimising costs.
235. Sections 6.41 and 6.42 of the Access Code provide for the non-capital costs component of target revenue to include the non-capital costs of an “alternative option” of providing covered services, subject to certain conditions being met:
- 6.41 Where, in order to maximise the net benefit after considering alternative options, a service provider pursues an alternative option in order to provide covered services, the non-capital costs component of approved total costs for a covered network may include non-capital costs incurred in relation to the alternative option (“alternative option costs”) if:
- (a) the alternative option costs do not exceed the amount of alternative option costs that would be incurred by a service provider efficiently minimising costs; and
 - (b) at least one of the following conditions is satisfied:
 - (i) the additional revenue for the alternative option is expected to at least recover the alternative option costs; or

⁵⁶ Western Australian Government Gazette No. 53, 31 March 2006, page 1171.

⁵⁷ Western Australian Government Gazette No. 159, 19 September 2006, page 3715.

- (ii) the alternative option provides a net benefit in the covered network over a reasonable period of time that justifies higher reference tariffs; or
- (iii) the alternative option is necessary to maintain the safety or reliability of the covered network or its ability to provide contracted covered services.

6.42 For the purposes of section 6.41(b)(i) “additional revenue” for an alternative option means:

- (a) the present value (calculated at the rate of return over a reasonable period) of the increased tariff income reasonably anticipated to arise from the increased sale of covered services on the network to one or more users (where “increased sale of covered services” means sale of covered services which would not have occurred had the alternative option not been undertaken); minus
- (b) the present value (calculated at the rate of return over the same period) of the best reasonable forecast of the increase in non-capital costs (other than alternative option costs) directly attributable to the increased sale of the covered services (being the covered services referred to in the expression “increased sale of covered services” in section 6.42(a)),

where the “rate of return” is a rate of return determined by the Authority in accordance with the Code objective and in a manner consistent with this Chapter 6, which may be the rate of return most recently approved by the Authority for use in the price control for the covered network under this Chapter 6.

Proposed Access Arrangement

236. For its proposed access arrangement, Western Power incorporated forecasts of non-capital costs for the transmission and distribution networks as indicated in Table 11 and Table 12, respectively.

Table 11 Western Power’s forecast non-capital costs for the transmission network (proposed access arrangement, nominal \$ million)⁵⁸

	2006/07	2007/08	2008/09
Maintenance Strategy	4.0	4.1	4.2
Preventative Condition	6.0	6.1	6.2
Preventative Routine	8.1	8.3	8.5
Corrective Deferred	2.1	1.9	1.9
Corrective Emergency	1.0	0.9	0.9
Maintenance (Total)	21.2	21.3	21.7
SCADA & Communications	5.4	5.6	5.7
Network Operations	12.1	13.3	13.2
IT&T	6.6	7.3	7.8
Network Support	31.6	35.5	40.6
Total Non-Capital Costs	76.9	82.9	89.0

⁵⁸ Western Power’s response to the section 51 request dated 16 November 2005.

Table 12 Western Power's forecast non-capital costs for the distribution network (proposed access arrangement, nominal \$ million)⁵⁹

	2006/07	2007/08	2008/09
Maintenance Strategy	6.3	6.3	6.4
Preventative Condition	13.5	13.8	14.3
Preventative Routine	23.3	23.9	24.8
Corrective Deferred	11.9	11.1	10.9
Corrective Emergency	22.4	21.0	20.5
Maintenance (Total)	77.3	76.0	76.8
Reliability	4.5	4.5	4.5
SCADA & Communications	0.9	0.9	0.9
Network Operations	8.5	8.8	9.2
IT&T	11.2	12.8	15.1
Metering	14.4	14.4	15.9
Call Centre	6.6	6.9	7.2
Network Support	33.0	37.4	37.3
Total Non-Capital Costs	156.2	161.6	166.9

237. In its access arrangement information, Western Power provided historical data on non-capital costs.

238. The forecast of non-capital costs for the transmission network over the access arrangement period constituted an increase from actual costs of approximately \$60 million in 2003/04 to forecast costs of approximately \$89 million in 2008/09.⁶⁰ Of this, maintenance expenditure remains reasonably constant, while transmission operating expenditure increases by 46 per cent. Western Power attributed this increase to:

- relaxation of previous budget constraints;
- costs incurred in facilitation of market reform;
- costs incurred in asset replacement due to the advancing age of Western Power's transmission network;
- facilitating the connection of additional generation capacity;
- compliance with more onerous statutory obligations;
- further work required regarding the optimisation of asset maintenance expenditure; and
- forecast increases to insurance costs.

239. The forecast of non-capital costs for the distribution network over the access arrangement period represents an increase from actual costs of approximately \$116 million in 2003/04 to forecast costs of approximately \$167 million in

⁵⁹ Western Power's response to the section 51 request dated 16 November 2005.

⁶⁰ Original access arrangement information, pages 64-69.

2008/09. Western Power attributed this increase to similar drivers as for the non-capital costs of the transmission network, as well as:⁶¹

- additional activities to increase reliability;
- increased maintenance expenditures consistent with whole of life efficiencies;
- increasing scale of the distribution network;
- increasing resource and contractor costs;
- increased costs of metering services; and
- attribution of call centre costs under a service agreement with the retail business of Western Power (prior to the disaggregation).

Draft Decision

240. In the Draft Decision, the Authority indicated that it was not satisfied that the forecast of non-capital costs met the requirements of section 6.40 of the Access Code.
241. In relation to forecast non-capital costs for the transmission network, the Authority determined that:
- system-management costs of \$2.1 million in 2006/07 and \$2.3 million in each of 2007/08 and 2008/09 should not be included in the forecast costs as these amounts are recoverable from electricity market participants under the funding provisions of the Market Rules; and
 - costs of network support in each year of the access arrangement period should be adjusted to the level of costs (in real terms) forecast by Western Power for the 2005/06 financial year.
242. In relation to forecast non-capital costs for the distribution network, the Authority determined that Western Power has not adequately demonstrated that increases in costs for network operations and distribution-network support are reasonable. The Authority determined that the forecast costs in these categories and for each year of the access arrangement period, should be adjusted to the level of costs (in real terms) forecast by Western Power for the 2005/06 financial year.
243. The Authority accordingly determined revised forecasts of non-capital costs for the transmission and distribution networks as indicated in Table 13 and Table 14.

⁶¹ Original access arrangement information, pages 112-117.

Table 13 Authority's Draft Decision assessment of non-capital costs for Western Power's transmission network (real \$ million, dollar values of 30 June 2006)

Financial year ending:	30 June 2007	30 June 2008	30 June 2009
Maintenance Strategy	3.90	3.91	3.92
Preventative Condition	5.82	5.78	5.77
Preventative Routine	7.93	7.89	7.89
Corrective Deferred	2.07	1.81	1.72
Corrective Emergency	0.95	0.86	0.81
SCADA & Communications	5.27	5.29	5.30
Network Operations	9.79	10.42	10.10
IT&T	6.40	6.92	7.24
Network Support	28.34	28.52	28.59
Total Non-Capital Costs	70.48	71.37	71.33

Table 14 Authority's Draft Decision assessment of non-capital costs for Western Power's distribution network (real \$ million, dollar values of 30 June 2006)

Financial year ending:	30 June 2007	30 June 2008	30 June 2009
Maintenance Strategy	6.11	6.00	5.93
Preventative Condition	13.14	13.13	13.22
Preventative Routine	22.67	22.67	22.95
Corrective Deferred	11.57	10.55	10.06
Corrective Emergency	21.87	19.92	18.99
Reliability	4.36	4.28	4.19
SCADA & Communications	0.85	0.86	0.87
Network Operations	7.20	7.20	7.20
IT&T	10.91	12.15	14.00
Metering	13.99	13.64	14.72
Call Centre	6.40	6.52	6.67
Network Support	25.10	25.10	25.10
Total Non-Capital Costs	144.16	142.01	143.90

244. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 50

Western Power to amend its proposed access arrangement to adopt the transmission network operations and maintenance expenditure, in real terms, by expenditure type, in accordance with Table 36 of [the] Draft Decision [Table 13 in this Final Decision].

Draft Decision Amendment 51

Western Power to amend its proposed access arrangement to adopt the distribution network operations and maintenance expenditure, in real terms, by expenditure type, in accordance with Table 37 of [the] Draft Decision [Table 14 in this Final Decision].

Submissions from Interested Parties on the Draft Decision

245. No submissions were received from interested parties.

Revised Proposed Access Arrangement

246. For its revised proposed access arrangement, Western Power has incorporated revised forecasts of non-capital costs in the determination of target revenue.

247. The revised forecasts of non-capital costs for the transmission network are set out in Table 15 to Table 18.

Table 15 Western Power's original and revised forecast of non-capital costs for the transmission network (revised proposed access arrangement, nominal \$ million)⁶²

	2006/07		2007/08		2008/09	
	Original	Revised	Original	Revised	Original	Revised
Maintenance Strategy	4.0	4.0	4.1	4.1	4.2	4.2
Preventative Condition	6.0	6.1	6.1	6.2	6.2	6.4
Preventative Routine	8.1	8.4	8.3	8.6	8.5	8.8
Corrective Deferred	2.1	2.3	1.9	2.1	1.9	2.0
Corrective Emergency	1.0	1.0	0.9	0.9	0.9	0.9
Maintenance (Total)	21.2	21.8	21.3	21.9	21.7	22.4
SCADA & Communications	5.4	5.4	5.6	5.6	5.7	5.7
Miscellaneous network services	–	4.2	–	4.4	–	4.5
Network Operations	12.1	10.0	13.3	11.0	13.2	10.9
IT&T	6.6	7.5	7.3	8.2	7.8	8.8
Network Support	31.6	13.6	35.5	15.2	40.6	15.5
Total Non-Capital Costs	76.9	62.6	82.9	66.3	89.0	67.8

⁶² Revised access arrangement information, Appendix 11.

Table 16 Authority's Draft Decision and Western Power's revised forecast of non-capital costs for the transmission network (revised proposed access arrangement, real \$ million, dollar values of 30 June 2006)⁶³

	2006/07		2007/08		2008/09	
	Dft Dec	Revised	Dft Dec	Revised	Dft Dec	Revised
Maintenance Strategy	3.90	3.90	3.91	3.89	3.92	3.91
Preventative Condition	5.82	5.94	5.78	5.91	5.77	5.91
Preventative Routine	7.93	8.16	7.89	8.14	7.89	8.17
Corrective Deferred	2.07	2.23	1.81	1.96	1.72	1.88
Corrective Emergency	0.95	0.99	0.86	0.89	0.81	0.85
Maintenance (Total)	20.67	21.21	20.25	20.80	20.11	20.72
SCADA & Communications	5.27	5.26	5.29	5.28	5.30	5.28
Miscellaneous network services	–	4.13	–	4.13	–	4.13
Network Operations	9.79	9.73	10.42	10.43	10.10	10.07
IT&T	6.40	7.31	6.92	7.80	7.24	8.10
Network Support	28.34	13.25	28.52	14.38	28.59	14.31
Total Non-Capital Costs	70.48	60.89	71.37	62.82	71.33	62.61

⁶³ Draft Decision; Revised access arrangement information, Appendix 11.

Table 17 Western Power's original and revised forecasts of non-capital costs for the distribution network (revised proposed access arrangement, nominal \$ million)⁶⁴

	2006/07		2007/08		2008/09	
	Original	Revised	Original	Revised	Original	Revised
Maintenance Strategy	6.3	6.3	6.3	6.3	6.4	6.3
Preventative Condition	13.5	23.0	13.8	23.3	14.3	22.8
Preventative Routine	23.3	30.3	23.9	30.9	24.8	31.8
Corrective Deferred	11.9	12.4	11.1	11.6	10.9	11.4
Corrective Emergency	22.4	27.4	21.0	25.9	20.5	25.4
Maintenance (Total)	77.3	99.3	76.0	98.0	76.8	98.7
Reliability	4.5	4.5	4.5	4.5	4.5	4.5
SCADA & Communications	0.9	0.9	0.9	0.9	0.9	0.9
Miscellaneous network services	–	2.0	–	2.0	–	2.1
Network Operations	8.5	8.8	8.8	9.3	9.2	9.7
IT&T	11.2	13.3	12.8	14.9	15.1	18.8
Metering	14.4	14.4	14.4	14.4	15.9	15.9
Call Centre	6.6	6.6	6.9	6.9	7.2	7.2
Network Support	33.0	45.8	37.4	50.1	37.3	53.5
Total Non-Capital Costs	156.2	195.5	161.6	200.9	166.9	210.3

⁶⁴ Revised access arrangement information, Appendix 11.

Table 18 Authority's Draft Decision and Western Power's revised forecasts of non-capital costs for the distribution network (revised proposed access arrangement, real \$ million, dollar values of 30 June 2006)⁶⁵

	2006/07		2007/08		2008/09	
	Dft Dec	Revised	Dft Dec	Revised	Dft Dec	Revised
Maintenance Strategy	6.11	6.10	6.00	5.94	5.93	5.79
Preventative Condition	13.14	22.35	13.13	22.10	13.22	21.04
Preventative Routine	22.67	29.46	22.67	29.28	12.95	29.39
Corrective Deferred	11.57	12.06	10.55	11.03	10.06	10.52
Corrective Emergency	21.87	26.63	19.92	24.55	18.99	23.50
Maintenance (Total)	75.36	96.59	72.27	92.90	61.15	90.24
Reliability	4.36	4.35	4.28	4.27	4.49	4.18
SCADA & Communications	0.85	0.84	0.86	0.86	0.87	0.86
Miscellaneous network services		1.94		1.94		1.94
Network Operations	7.20	8.60	7.20	8.80	7.20	8.97
IT&T	10.91	12.90	12.15	14.11	14.00	17.38
Metering	13.99	13.96	13.64	13.61	14.72	14.68
Call Centre	6.40	6.38	6.52	6.50	6.67	6.66
Network Support	25.10	44.59	25.10	47.53	25.10	49.44
Total Non-Capital Costs	144.16	190.16	142.01	190.51	143.90	194.36

248. Western Power's revised forecasts of non-capital costs presented as part of the revised proposed access arrangement are significantly different to the original forecasts in five cost categories, as follows.

- Maintenance costs, for which there are increases in forecast costs of about \$0.6 million per year (0.5 per cent) for the transmission network and about \$22 million per year (28 per cent) for the distribution network. Western Power indicates that the increases in forecast maintenance costs reflect revised (and higher) forecasts of costs for vegetation management, pole inspections, insulator siliconing, service connection inspections, globe replacement for streetlights, pole top inspections and line patrols, pole maintenance, "dial before you dig" services, graffiti cleanup and emergency maintenance.⁶⁶
- Miscellaneous network services, for which there was no cost allowance made in original forecasts and allowance has been made in the revised forecasts of about \$4.5 million per year for the transmission network and \$2 million per year for the distribution network.
- Network operations, for which there has been a decrease in forecast costs of between \$2.1 million and \$2.3 million per year (20 per cent) for the transmission network and an increase in forecast costs of between \$0.3 million and \$0.6 million per year (0.5 per cent) for the distribution

⁶⁵ Draft Decision; Revised access arrangement information, Appendix 11.

⁶⁶ Western Power, Response to the Required Amendments, Part A, pages 50 – 54.

network. Western Power indicates that the increases in forecast costs for the distribution network reflect an increase over forecast actual costs for 2005/06 to reflect the costs of government-mandated reforms to the electricity industry and increased operating costs associated with additional SCADA assets.⁶⁷

- IT&T, for which there are increases of about \$0.9 million per year (12 per cent) for the transmission network and \$2.1 million to \$3.7 million per year (19 to 25 per cent) for the distribution network.
- Network support, for which there is a reduction in total costs of between about \$5 million and \$7 million in each year (8 to 10 per cent), and a redistribution of costs from the transmission network to the distribution network, with decreases of between \$18 million and \$25 million in each year (57 to 62 per cent) for the transmission network and increases of between \$13 million and \$18 million in each year (34 to 48 per cent) for the distribution network. Western Power indicates that the redistribution of costs between the transmission and distribution networks reflects a decision to allocate a large part of these costs based on labour and materials costs for each of the networks, rather than on the even-sharing basis that was applied for the purposes of the proposed access arrangement.⁶⁸

249. Western Power also provided updated estimates of actual non capital costs in the 2005/06 year as indicated in Table 19 and Table 20.

Table 19 Western Power estimates of actual non-capital costs for the transmission network in 2005/06 (nominal \$ million)

	Estimate of August 2005	Estimate of July 2006
Maintenance Strategy	3.9	3.6
Preventative Condition	6.2	10.0
Preventative Routine	8.7	10.1
Corrective Deferred	2.0	4.0
Corrective Emergency	1.0	1.4
Maintenance (Total)	21.9	29.1
SCADA & Communications	5.3	3.2
Miscellaneous network services	0	6.4
Network Operations	9.5	9.5
IT&T	6.2	6.3
Network Support	28.3	15.1
Total Non-Capital Costs	71.2	69.6

⁶⁷ Western Power, Response to the Required Amendments, Part A pages 48 – 50.

⁶⁸ Western Power, Response to the Required Amendments, Part A pages 44 – 48.

Table 20 Western Power estimates of actual non-capital costs for the distribution network in 2005/06 (nominal \$ million)

	Estimate of August 2005	Estimate of July 2006
Maintenance Strategy	5.8	5.3
Preventative Condition	18.4	18.7
Preventative Routine	23.8	28.1
Corrective Deferred	15.1	18.4
Corrective Emergency	27.5	34.9
Maintenance (Total)	90.5	105.3
Reliability	3.7	2.1
SCADA & Communications	0.8	0.8
Miscellaneous network services	0	2.0
Network Operations	7.2	8.5
IT&T	10.5	10.7
Metering	11.7	15.9
Call Centre	5.7	5.7
Network Support	25.1	45.4
Total Non-Capital Costs	155.2	196.4

250. On 26 September 2006, Western Power provided to the Authority further revised forecasts of non-capital costs. The revised forecasts are shown in Table 21 and Table 22, together with the earlier forecasts provided with the revised proposed access arrangement.

Table 21 Western Power's revised forecasts of non-capital costs for the transmission network presented on 19 May 2006 and 26 September 2006 (real \$ million, dollar values of 30 June 2006)

	2006/07		2007/08		2008/09	
	May 2006	Sept 2006	May 2006	Sept 2006	May 2006	Sept 2006
Maintenance Strategy	3.90	4.09	3.89	3.90	3.91	3.91
Preventative Condition	5.94	6.94	5.91	6.90	5.91	6.87
Preventative Routine	8.16	8.21	8.14	8.98	8.17	9.37
Corrective Deferred	2.23	4.51	1.96	3.76	1.88	4.10
Corrective Emergency	0.99	0.99	0.89	0.89	0.85	0.85
Maintenance (Total)	21.21	24.75	20.80	24.43	20.72	25.10
SCADA & Communications	5.26	5.25	5.28	5.31	5.28	5.27
Miscellaneous network services	4.13	4.19	4.13	4.28	4.13	4.29
Network Operations	9.73	9.73	10.43	10.43	10.07	10.07
IT&T	7.31	7.31	7.80	7.80	8.10	8.10
Network Support	13.25	13.25	14.38	14.38	14.31	14.31
Energy Safety Levy	–	2.75	–	2.75	–	2.75
Total Non-Capital Costs	60.89	67.24	62.82	69.39	62.61	69.89

Table 22 Western Power's revised forecasts of non-capital costs for the distribution network presented on 19 May 2006 and 26 September 2006 (real \$ million, dollar values of 30 June 2006)

	2006/07		2007/08		2008/09	
	May 2006	Sept 2006	May 2006	Sept 2006	May 2006	Sept 2006
Maintenance Strategy	6.10	6.10	5.94	6.70	5.79	6.60
Preventative Condition	22.35	22.35	22.10	22.10	21.04	21.04
Preventative Routine	29.46	29.46	29.28	29.67	29.39	29.69
Corrective Deferred	12.06	12.06	11.03	11.03	10.52	10.52
Corrective Emergency	26.63	26.63	24.55	24.55	23.50	23.50
Maintenance (Total)	96.59	96.59	92.90	94.05	90.24	90.36
Reliability	4.35	3.02	4.27	2.94	4.18	2.86
SCADA & Communications	0.84	0.88	0.86	0.85	0.86	0.83
Miscellaneous network services	1.94	1.95	1.94	1.90	1.94	1.94
Network Operations	8.60	8.56	8.80	8.82	8.97	8.96
IT&T	12.90	12.94	14.11	14.13	17.38	17.37
Metering	13.96	14.01	13.61	13.65	14.68	14.69
Call Centre	6.38	6.42	6.50	6.54	6.66	6.65
Network Support	44.59	44.55	47.53	47.50	49.44	49.44
Reliability Penalty Payments	–	1.36	–	1.33	–	1.29
Total Non-Capital Costs	190.16	190.27	190.51	191.71	194.36	195.41

Final Decision

251. Western Power has not revised the forecasts of non-capital costs in accordance with Draft Decision Amendments 50 and 51, but rather has made a number of revisions to the forecasts that are unrelated to the required amendments, both in the revised forecast submitted in May 2006 together with the revised proposed access arrangement and the further revised forecasts submitted in September 2006. During preparation of this Final Decision, the Authority invited submissions on the further revised forecasts,⁶⁹ and the Authority has taken these submissions into account in consideration of these forecasts.
252. The September 2006 forecast of non-capital costs incorporates a substantial increase from the forecast presented as part of the revised proposed access arrangement in costs for the transmission network of \$21.3 million in total (nominal dollar values), and a lesser increase for the distribution network of \$2.4 million in total.
253. Western Power has attributed the increases in forecast non-capital costs for the transmission network to:
- settlement of land titles subsequent to the disaggregation of Western Power Corporation (\$0.2 million);
 - an increased allowance for vegetation management (\$3.0 million);
 - increases in maintenance requirements for new assets arising from a larger capital expenditure program (\$2.2 million);
 - increases in forecast costs of compliance with environmental regulations (\$6.6 million);
 - increases in forecast costs for unspecified miscellaneous network services reflecting increased demand for these services in 2005/06 (\$0.4 million); and
 - imposition on Western Power of an Energy Safety Levy (\$8.7 million).
254. Western Power has attributed the increases in forecast non-capital costs for the distribution network to:
- a regulatory requirement to produce a safety case (\$1.7 million); and
 - increases in maintenance requirements for new assets arising from a larger capital expenditure program (\$0.7 million).
255. In addition to these increases in costs, Western Power has revised the forecast of non-capital costs for the distribution network to separate “reliability penalty payments” from “reliability”, with no net change to the cost forecast for these combined items.
256. Given delays that have occurred in the Authority’s assessment and approval of the access arrangement, the Authority is satisfied that there is justification to apply the most up-to-date forecasts available in the determination of total costs and reference tariffs and this complies with the requirements of the Access

⁶⁹ Notice of 6 October 2006. A list of parties that made submissions in response to this notice is provided in Appendix A of this Final Decision.

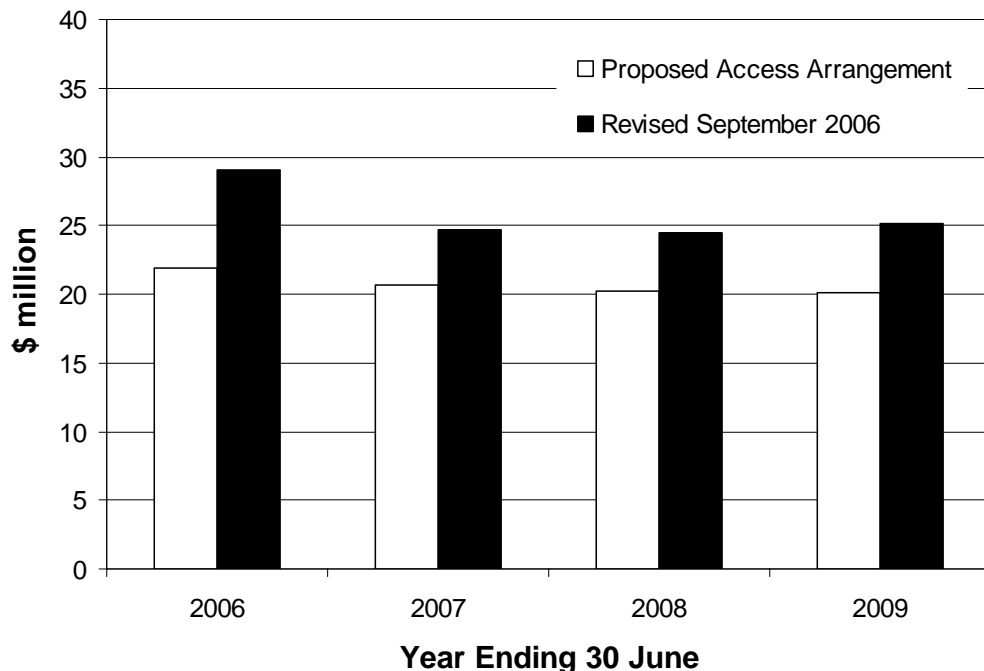
Code. Accordingly, this Final Decision addresses the revised forecast of non-capital costs provided to the Authority in September 2006.

257. In its consideration of the revised forecast of non-capital costs, the Authority has taken into account information provided by Western Power in its revised access arrangement information,⁷⁰ submissions made by Western Power to the Authority and advice obtained by the Authority from Wilson Cook & Co.⁷¹

Maintenance Costs

258. Maintenance costs are those costs indicated by Western Power for the transmission and distribution networks in the categories of “maintenance strategy”, “preventative condition”, “preventative routine”, “corrective deferred” and “corrective emergency”.
259. Western Power has revised upwards its forecasts of maintenance costs. Western Power has also provided the Authority with a revised estimate of actual maintenance costs in the 2005/06 year.
260. For the transmission network, estimates of maintenance costs for 2005/06 have increased from \$21.9 million to \$29.1 million. Forecast costs for 2006/07 to 2008/09 have increased by between \$4 million and \$5 million per year in real terms, equivalent to increases of 20 to 25 per cent (Figure 1).

Figure 1: Estimated (2006) and forecast maintenance costs for the transmission network (real \$ million, dollar values of 30 June 2006), values provided with the proposed access arrangement and revised in September 2006

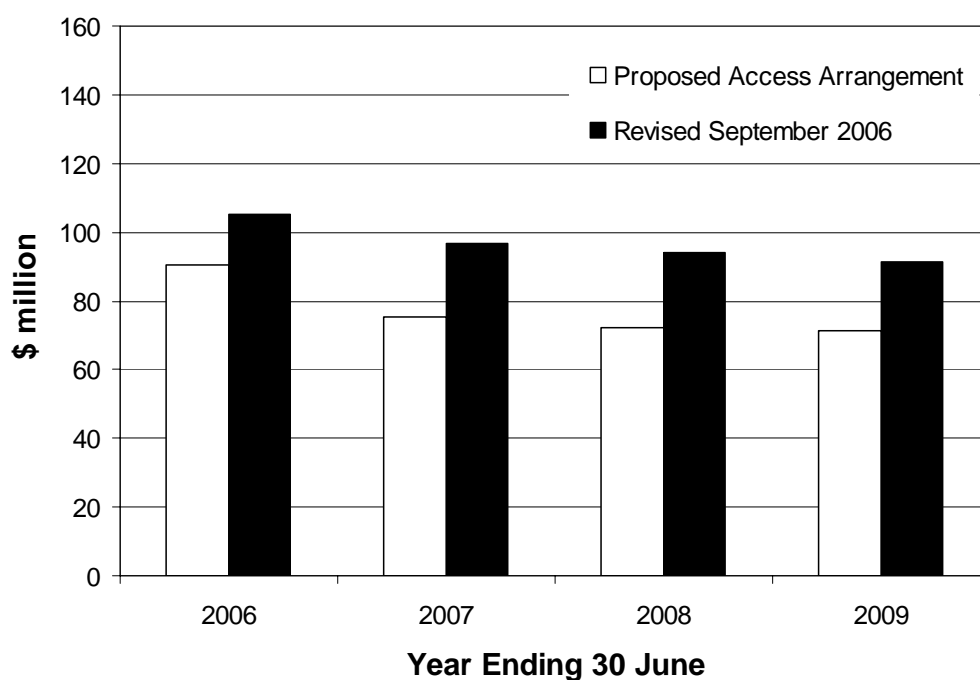


⁷⁰ Revised access arrangement information, Appendix 7.

⁷¹ Wilson Cook & Co, September 2006, Supplementary Report on Western Power’s Revised Proposed Access Arrangement Expenditures and Valuation.

261. For the distribution network, estimates of maintenance costs for 2005/06 have increased from \$90.5 million to \$105.4 million. Forecast costs for 2006/07 to 2008/09 have increased by between \$20 million and \$22 million per year in real terms, equivalent to increases of 28 to 30 per cent (Figure 2).

Figure 2: Estimated (2006) and forecast maintenance costs for the distribution network (real \$ million, dollar values of 30 June 2006), values provided with the proposed access arrangement and revised in September 2006



262. The main reasons cited for the increase in forecast costs are as follows.⁷²

- An expanded vegetation management programme that has been in operation for several months of 2005/06 with a new contractor, and for which new information is available on the scope of works and costs, and for which there is a forecast increase in costs of \$34 million (in nominal terms) over the access arrangement period.
- Increased pole inspections and additional pole maintenance, and inclusion of an additional 23,000 poles that had been omitted from original cost forecasts, accounting for additional costs of \$10.3 million.
- Increased costs of primary emergency response activities, accounting for additional costs of \$14.7 million.
- Increased costs of streetlight lamp replacements, accounting for additional costs of \$3.3 million.
- Increased costs for other programmes and additional regulatory costs, accounting for additional costs of \$4.3 million.

⁷² Wilson Cook & Co, September 2006, Supplementary Report on Western Power's Revised Proposed Access Arrangement Expenditures and Valuation.

263. In its review of non-capital costs, Wilson Cook & Co gave attention to information offered by Western Power in support of the forecast maintenance costs and concluded that the increases in forecast costs are justified by:
- appropriate and reasonable activities of preventative maintenance;
 - observations that the total maintenance expenditure is forecast to fall over the access arrangement period as the benefits of an improved preventative maintenance programme leads to reductions in corrective maintenance, despite a revision of estimates of the extent by which the activities and costs of corrective maintenance would fall over the course of the access arrangement period; and
 - an appropriate benchmark ratio of annual maintenance expenditure to network investment.
264. The Authority concurs with the conclusions of Wilson Cook & Co and is of the view that the revised forecast of maintenance costs is consistent with the requirement of section 6.40 of the Access Code that the approved total costs for a covered network include only those costs that would be incurred by a service provider efficiently minimising costs.

Miscellaneous network service costs

265. In its revised forecast of non-capital costs, Western Power has included a new category of costs – “miscellaneous network services” – for which there was no cost allowance made in original forecasts. This category has been indicated by Western Power to include costs of providing services such as relocation of assets, planning studies, network switching and isolation services, temporary builders’ supplies and safety escorts for high loads. Western Power has indicated that the costs of providing these services, and the revenue expected from these services, was not included in the consideration of total costs and revenues under the proposed access arrangement.⁷³
266. The forecast cost in this category is about \$4.5 million per year for the transmission network and \$2 million per year for the distribution network (in nominal dollar values), compared with estimated actual costs in 2005/06 of \$6.4 million for the transmission network and \$2.0 million for the distribution network.

⁷³ Revised access arrangement information, Appendix 7.

Figure 3: Estimated (2006) and forecast miscellaneous network service costs for the transmission network (real \$ million, dollar values of 30 June 2006), values provided with the proposed access arrangement and revised in September 2006

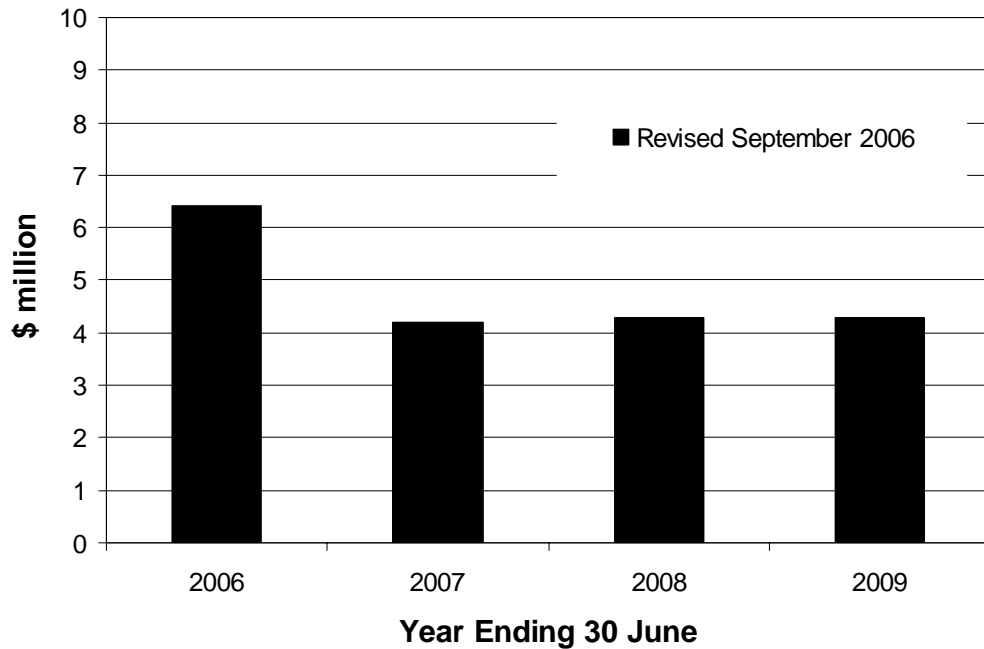
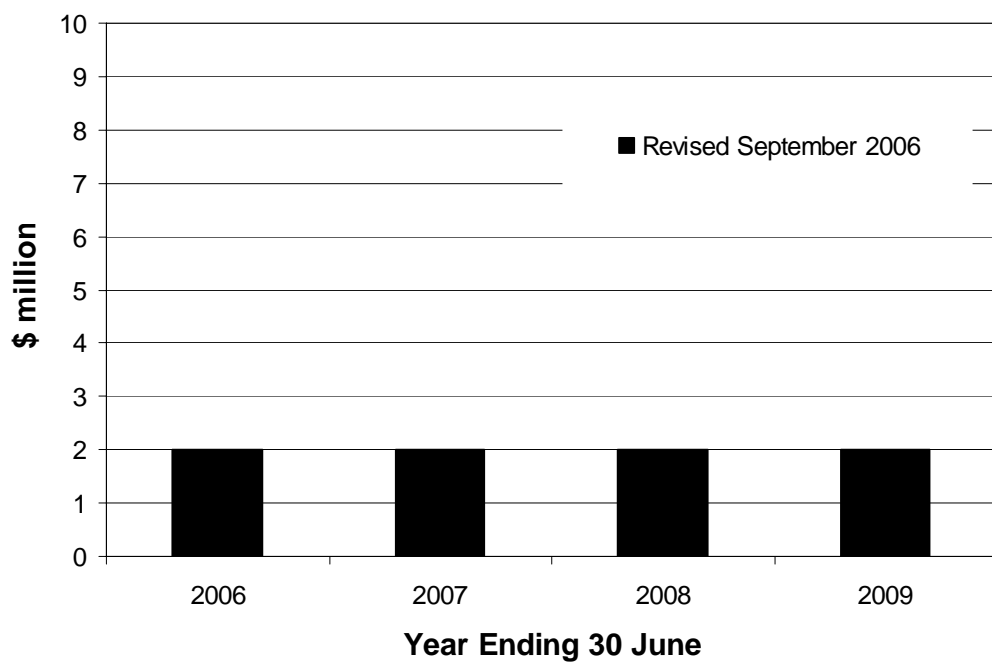


Figure 4: Estimated (2006) and forecast miscellaneous network service costs for the distribution network (real \$ million, dollar values of 30 June 2006), values provided with the proposed access arrangement and revised in September 2006



267. In its review of non-capital costs, Wilson Cook & Co gave attention to information offered by Western Power in support of these costs and considered the forecast to be reasonable and reflecting the historical costs of providing the services.
268. The Authority concurs with the conclusions of Wilson Cook & Co and is of the view that the revised forecast of miscellaneous service costs is consistent with the requirement of section 6.40 of the Access Code that the approved total costs for a covered network include only those costs that would be incurred by a service provider efficiently minimising costs.

Network Operations Costs

269. Western Power has revised downwards the forecast of network operations costs for the transmission network by between \$2.1 million and \$2.3 million per year, equivalent to decreases of about 20 per cent. The decrease in forecast costs for the transmission network is consistent with the Authority's finding under the Draft Decision that these amounts are able to be recovered from participants in the electricity market via a charging mechanism under the Wholesale Electricity Market Rules and, accordingly, that these amounts should not be included in the forecast of costs applied in the determination of target revenue.
270. Western Power has revised upwards the forecasts of network operations costs for the distribution network by between \$0.3 million and \$0.5 million per year (5 per cent). Western Power has indicated that this reflects an increase over estimated actual costs for 2005/06 to reflect the costs of government-mandated reforms to the electricity industry and increased operating costs associated with additional SCADA assets.
271. In its review of non-capital costs, Wilson Cook & Co gave further consideration to the information offered by Western Power in support of the forecast network operations costs, revealing that the increase over the original forecast is indicated by Western Power to result from the introduction of centralised network operations in line with best practice to improve safety, consistency and quality of work and increased operations activities to allow safe access to the network for the increased level of capital works and maintenance activities. Wilson Cook & Co concluded that the changes in the cost forecast are appropriate given the increased work levels on the network and the targeting of improved network performance and safety.
272. The Authority concurs with the conclusions of Wilson Cook & Co and is of the view that the revised forecast of network operations costs is consistent with the requirement of section 6.40 of the Access Code that the approved total costs for a covered network include only those costs that would be incurred by a service provider efficiently minimising costs.

Information technology and telecommunications costs

273. Western Power has revised upwards the forecasts of information technology and telecommunications (IT&T) costs by about \$1 million in each year of the access arrangement period for the transmission network (13 per cent) and between \$2.1 million and \$3.7 million in each year of the access arrangement period for the distribution network (17 to 24 per cent).

274. In its review of the revised forecast of non-capital costs, Wilson Cook & Co gave further consideration to the information offered by Western Power in support of the forecast IT&T costs revealing that most of the increase is due to an annual charge of \$3.16 million that has been levied on Western Power to recover the cost of splitting the information management system for the former Western Power Corporation into four separate systems for the separated businesses. Wilson Cook & Co concluded that it was unable to determine whether this expenditure was reasonable in the circumstances of the restructure of the Western Power business and with no history of actual IT&T costs for the business. Wilson Cook & Co recommended that half of the amount of the increase in forecast IT&T costs should be accepted, but provided no justification for this recommendation.
275. The Authority notes the conclusions of Wilson Cook & Co that there may be some doubt as to the efficiency of the revised forecast of IT&T costs. However, the Authority notes that the increase in forecast IT&T costs is largely from a mandatory charge arising from the restructuring of the electricity industry. In this circumstance, the Authority is of the view that the additional costs, by virtue of being largely mandatory, are consistent with the requirement of section 6.40 of the Access Code that the approved total costs for a covered network include only those costs that would be incurred by a service provider efficiently minimising costs. The Authority considers that the amount of the increase in forecast IT&T costs that is not attributable to the mandatory charge is not material.

Network support costs

276. Western Power has revised downwards the forecasts of network support costs for the transmission network by between about \$18 million and \$25 million in each year (18 to 23 per cent), but increased the forecasts for the distribution network by between \$13 million and \$16 million in each year (34 to 44 per cent). Western Power indicates that the redistribution of costs between the transmission and distribution networks reflects a decision to allocate a large part of these costs based on labour and materials costs for each of the networks, rather than on an even-sharing basis that was applied for the purposes of the proposed access arrangement.⁷⁴
277. The net reduction in the forecast of network support costs across both the transmission and distribution networks (a total of \$21.6 million in nominal terms over the access arrangement period) is less than required under Draft Decision Amendments 50 and 51 (a reduction of \$45.4 million in nominal terms).
278. The forecast of network support costs indicates costs for 2006/07 at levels similar to or slightly less than estimated costs for 2005/06, and subsequent increases in costs by about 10 per cent to 2007/08 and a further 6 per cent to 2008/09. In response to further inquiries from the Authority, Western Power has attributed the increases primarily to forecasts of increases in insurance

⁷⁴ Western Power, Response to the Required Amendments, Part A; Western Power, Revised Regulatory Expenditure Forecasts 26 September 2006: Supporting Information, pages 44 – 48.

costs, increases in rates and taxes, incremental labour and materials costs and escalation of labour and materials costs.⁷⁵

279. In its review of revised forecasts non-capital costs, Wilson Cook & Co gave consideration to the information offered by Western Power in support of increases in network support costs over the forecast value of costs in 2005/06 (submitted by Western Power as \$60.5 million in nominal terms) and an increasing trend in these costs over the access arrangement period. Wilson Cook & Co concluded that the step increase in costs and increases over the access arrangement period are inconsistent with:

- reasonable expectations that Western Power would achieve cost savings in corporate overheads as it rationalises its corporate functions and overheads following industry restructuring; and
- productivity savings forecast by Western Power as part of business cases for IT&T expenditures.

280. The Authority concurs with the conclusion of Wilson Cook & Co that the forecast of network support costs may not adequately incorporate provision for productivity gains and resultant cost savings. In light of the advice from Wilson Cook & Co, the Authority has given further consideration to Western Power's forecast of network support costs.

281. The Authority considers that the forecast increases in network support costs can be considered in terms of:

- step changes in costs, including increases in insurance costs, rates and taxes and costs of additional materials; and
- changes in costs, including escalation in costs of labour and materials.

282. Western Power has indicated forecast step changes and escalation in the cost components of network support costs as indicated in Table 23.

Table 23 Western Power forecast changes in network support costs (nominal \$ million)

	2006/07 to 2007/08	2007/08 to 2008/09
Step changes in network support costs		
Insurance	2.207	0.333
Rates and taxes	1.100	1.080
Incremental labour	0.324	0.000
Incremental materials	0.300	0.500
Escalation changes in network support costs		
Labour escalation	1.311	1.158
Materials escalation	0.567	0.569
Other escalation	0.057	0.054

⁷⁵ Email communication from Western Power to the Economic Regulation Authority, 15 August 2006.

283. The Authority accepts that, under the current economic conditions in Western Australia, productivity gains are likely to be offset to some extent by escalation in costs of labour and materials and increases in the scale of the network and Western Power's business.
284. The extent to which productivity gains are likely to be offset by escalation in costs and business growth was a matter examined by the Victorian Essential Services Commission in its price review for the Victorian electricity distribution systems. In its final decision for this review, the Essential Services Commission used measures of partial factor productivity and estimates of increases in labour costs to determine allowable rates of change in non-capital costs. The Essential Services Commission determined that escalation of labour costs was likely to be slightly more than offset productivity gains, resulting in a forecast rate of increase in non-capital costs of 0.15 per cent per annum.⁷⁶
285. The Authority has not undertaken similar studies for Western Power. However, the Authority considers that the studies undertaken by the Essential Services Commission add weight to an expectation that, while escalation of labour and materials costs will occur over the access arrangement period, that this should be able to be largely, if not fully offset, by productivity gains.
286. Taking these matters into account, the Authority considers that there is some doubt as to whether the increases in costs attributed to escalation of labour and materials costs within the category of network support costs would be incurred by a service provider efficiently minimising costs.

Other costs

287. Western Power has made two other material revisions to the forecast of non-capital costs:
- inclusion of an amount of an “energy safety levy” as a line item of non-capital costs for the transmission network; and
 - separation of a forecast cost of reliability penalty payments from the “reliability” cost line item for the distribution network.
288. Western Power has submitted that the provision for the energy safety levy was made following publication of the *Energy Safety Levy Notice 2006* in the Government Gazette on 30 June 2006, requiring Western Power to make payments towards the energy safety levy.⁷⁷
289. The *Energy Safety Levy Notice 2006* requires a network operator to pay a proportion of a levy amount, where the proportion is determined as the ratio of the number of consumer sites of the network operator to the total number of consumer sites of all relevant network operators. The value of the levy in total and the amount payable by Western Power is not known with certainty for each year of the access arrangement period, but has been estimated by Western Power at the values indicated in Table 21, above. Western Power

⁷⁶ Essential Services Commission, October 2005, Electricity Distribution Price Review 2006 10: Final Decision Volume 1 Statement of Purpose and Reasons, page 211.

⁷⁷ Western Australian Government Gazette, Perth, Friday, 30 June 2006 No. 110 pages 2393 to 2400.

has proposed to include the amount in the costs attributed to the transmission network so that the cost is recovered from all users connected to both the transmission and distribution networks.

290. The Authority is satisfied that the forecast amount of the energy safety levy is consistent with the requirement of section 6.40 of the Access Code that the approved total costs for a covered network include only those costs that would be incurred by a service provider efficiently minimising costs.
291. Western Power has submitted that it has separated the forecast cost of reliability penalty payments from the forecast costs of reliability driven non-capital costs for the purposes of clarity and without any change to the total value of the forecast costs. Western Power had not previously indicated that the reliability-driven non-capital costs included a component of the forecast cost of reliability penalty payments.
292. The Authority has given consideration to whether the forecast costs of reliability penalty payments should be included in the total costs for the provision of covered services and recovered through tariffs under the price control. In this regard, the incentive created by the existence of penalty payments to improve reliability of the network is not affected by whether or not Western Power is able to recover the forecast cost of penalty payments under the price control. Either way, the incentive exists to outperform the forecast of penalty payments and thus achieve a saving in costs while allowed revenue under the price control remains unaffected. Western Power further faces the incentive to incur additional costs to improve reliability and avoid penalty to payments, as long as the expected saving in penalty payments exceeds the additional costs. Taking both of these factors into account, the Authority is satisfied that including the forecast cost of reliability penalty payments in the total costs for the provision of covered services and recovered through tariffs under the price control is consistent with the requirement of section 6.40 of the Access Code that the approved total costs for a covered network include only those costs that would be incurred by a service provider efficiently minimising costs. The Authority notes that this is consistent with a recent decision of the Victorian Essential Services Commission for the Victorian electricity distribution systems.⁷⁸

Conclusion

293. The Authority considers that Western Power has adequately demonstrated, with one exception, that the revised forecast of non-capital costs is consistent with the requirement of section 6.40 of the Access Code that the approved total costs for a covered network include only those costs that would be incurred by a service provider efficiently minimising costs. The one exception is the element of network support costs attributed to escalation of labour and materials costs, which could be expected to be offset by productivity gains in the provision of network services. However, the Authority considers that the relevant quantum of costs (\$1.9 million in 2007/08 and \$1.7 million in 2008/09) is not material in the context of the total forecast of non capital costs for the access arrangement period. Accordingly, the Authority is satisfied that the

⁷⁸ Essential Services Commission, October 2005, Electricity Distribution price Review 2006 10: Final Decision Volume 1 Statement of Purpose and Reasons, pages 227, 228.

revised forecast of non-capital costs is consistent with the requirement of section 6.40 of the Access Code.

5.2.3. Initial Capital Base

Access Code Requirements

294. Section 6.42 of the Access Code requires that a capital base be determined for a covered network at the start of each access arrangement period.
295. Sections 6.46 and 6.47 of the Access Code establish requirements for the determination of the capital base at the start of the first access arrangement period:
- 6.46 For the start of the first access arrangement period, the capital base for a covered network must be determined using one of the following asset valuation methodologies:
- (a) depreciated optimised replacement cost (“DORC”); or
 - (b) optimised deprival value (“ODV”).
- 6.47 If under section 6.46 the ODV asset valuation methodology is used to determine the capital base at the start of the first access arrangement period for the covered network that is covered under section 3.1, the valuation must utilise, to the extent possible, any ministerial valuation under section 119 of the Act of the network assets which comprise the covered network.
296. Sections 6.49 and 6.50 of the Access Code provide for the capital base to include an amount in respect of forecast new facilities investment, in certain circumstances:
- 6.49 Subject to section 6.50, the capital base for a covered network must not include any amount in respect of forecast new facilities investment.
- 6.50 For the start of each access arrangement period, the capital base for a covered network may include forecast new facilities investment which:
- (a) has not yet occurred but is forecast to occur before the access arrangement start date; and
 - (b) at the time of inclusion is reasonably expected to meet the new facilities investment test when made.

Proposed Access Arrangement

297. Western Power proposed a capital base for the covered network for a valuation date of 1 July 2006.
298. The valuation proposed by Western Power was determined using an ODV valuation methodology, underpinned by a valuation (at a valuation date of 30 June 2004) by PriceWaterhouseCoopers and Sinclair Knight Merz for a valuation committee comprising representatives from Western Power, the Electricity Reform Implementation Unit and the Department of Treasury and Finance.⁷⁹ A valuation at a valuation date of 30 June 2006 was derived by

⁷⁹ PriceWaterhouseCoopers and Sinclair Knight Merz, June 2004, Western Power Corporation Physical Assets Valuation as at 30 June 2004, Distribution and Transmission

“rolling forward” the 2004 valuation by the addition of actual and forecast new facilities investment, subtraction of depreciation allowances and inflation adjustment for the period 1 July 2004 to 30 June 2006.⁸⁰

299. The capital base proposed by Western Power does not include the value of assets financed by capital contributions in the period from the date of the 2004 valuation to 30 June 2006, ensuring that Western Power does not earn a return on assets financed by other parties.⁸¹
300. The capital base proposed by Western Power under the proposed access arrangement is indicated in Table 24.⁸²

Networks, report to the Valuation Committee (Attached to Western Power’s access arrangement information as an addendum).

⁸⁰ Original access arrangement information, page 74.

⁸¹ Original access arrangement information, page 74.

⁸² Information supplied by Western Power in response to issue by the Authority of a notice under section 51 of the *Economic Regulation Authority Act* on 9 November 2005 and an email from Western Power dated 30 November 2005 indicating the allocation of capital contribution amounts across asset classes.

Table 24 Western Power's proposed capital base (proposed access arrangement)

Asset	Remaining Life as at 30 June 2006 (years)	Value (\$ million at 30 June 2006)
Distribution		
Wooden Pole Lines	14.20	444.84
Underground Cables	34.94	489.76
Transformers	16.42	190.29
Switchgear	12.89	99.80
Street lighting	1.20	5.20
Meters and Services	8.90	157.90
IT&T	25.15	20.10
SCADA & Communications	25.15	12.43
Other Distribution Non-Network	25.15	43.47
Distribution Land & Easements	-	16.90
Total Distribution		1,480.70
Transmission		
Transmission cables	38.17	12.03
Transmission steel towers	41.10	353.92
Transmission wood poles	20.89	172.41
Transmission Metering	25.97	2.11
Transmission transformers	25.59	154.40
Transmission reactors	27.00	3.91
Transmission capacitors	23.06	75.81
Transmission circuit breakers (and Site)	28.27	453.22
SCADA and Communications	11.18	32.71
IT&T	3.38	4.17
Other Non-Network Assets	9.77	19.92
Land & Easements	-	86.78
Total Transmission		1,371.40
SWIN Total		2,852.10

Draft Decision

301. In its Draft Decision, the Authority indicated that it accepted that Western Power's proposed capital base as having been prepared in accordance with the ODV methodology consistent with the requirements of section 6.46 of the Access Code. Accordingly, the Authority accepted that the proposed capital base meets the requirements of the Code.
302. The Authority did, however, indicate in its Draft Decision that the capital base should be specified in the Access Arrangement according to the value of assets in major asset classes, net of the value of capital contributions prior to 30 June 2006 (consistent with the presentation of the capital base in Table 24, above).
303. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 37

Western Power to amend its access arrangement to adopt the major asset groupings, optimised deprival values as at 1 July 2006 and estimated remaining useful lives for all network, metering and non-network assets used to provide covered services in accordance with Table 11 of [the] Draft Decision [Table 24 of this Final Decision].

Draft Decision Amendment 38

Western Power to remove historical accumulated capital contributions from the initial capital base in accordance with its section 51 response, as summarised at Table 22 and Table 23 of the Network Valuation section of [the] Draft Decision and make the necessary consequential amendments to its price control formulae.

Submissions from Interested Parties on the Draft Decision

304. No submissions were received from interested parties.

Revised Proposed Access Arrangement

305. Western Power has indicated in its revised access arrangement information that it accepts the valuation of the capital base determined by the Authority for the purposes of the Draft Decision, subject to updating of the asset values for actual values of new facilities investment and associated values of asset depreciation up to 30 June 2006, and addition of a value of assets “gifted” to the current Western Power business at the time of separation of Western Power Corporation into separate businesses.⁸³

306. Western Power has further indicated that the assets and values of assets gifted to the Western Power business to be as indicated in Table 25. Western Power further indicates that the values of these assets have been 50 per cent assigned as transmission assets and 50 per cent as distribution assets.⁸⁴

Table 25 Western Power's proposed value of corporate assets transferred to Western Power and added to the capital base.

Asset	Asset value (real \$ million, dollar values of 30 June 2006)
Head office land	4.0
Head office buildings	9.3
Jandakot land	2.7

307. With these revisions, Western Power indicated a value of the initial capital base in the revised access arrangement information as shown in Table 26.⁸⁵

⁸³ Revised access arrangement information, pages 69, 115.

⁸⁴ Revised access arrangement information, pages 73, 74, 116, 117.

⁸⁵ Revised access arrangement information, pages 76, 120.

Table 26 Western Power's proposed capital base (revised proposed access arrangement)

Asset	Remaining Life as at 30 June 2006 (years)	Value (real \$ million, dollar values of 30 June 2006)
Distribution		
Distribution lines – wood poles	14.3	452.5
Distribution lines – steel poles	n/a	0.0
Distribution underground cables	36.4	509.1
Distribution transformers	16.7	195.4
Distribution switchgear	13.2	102.3
Street lighting	1.2	5.2
Distribution meters and services	9.2	165.4
Distribution IT&T	9.8	13.9
Distribution SCADA & communications	10.2	12.9
Distribution other, non-network	11.3	50.7
Distribution land and easements	n/a	21.2
Total Distribution		1,528.6
Transmission		
Transmission transformers	25.7	156.7
Transmission reactors	27.2	4.0
Transmission capacitors	23.3	76.9
Transmission circuit breakers	28.5	459.6
Transmission lines – steel towers	41.5	367.4
Transmission lines – wood poles	21.2	175.5
Transmission cables	38.3	12.2
Transmission metering	26.2	2.1
Transmission SCADA and communications	11.5	34.3
Transmission IT&T	4.3	2.8
Transmission other, non-network assets	12.7	29.8
Transmission land & easements	n/a	83.8
Total Transmission		1,404.5
SWIN Total		2,932.1

308. The value of the capital base indicated in the revised proposed access arrangement still incorporated some forecasts of new facilities investment for the 2005/06 year.⁸⁶ Subsequent to submission of the revised proposed access arrangement, Western Power has further updated the value of the capital base to reflect actual new facilities investment up to 30 June 2006.⁸⁷ This updated value is indicated in Table 27.

⁸⁶ Revised access arrangement information, pages 74, 117.

⁸⁷ Financial model provided by Western Power to the Authority, 4 December 2006.

Table 27 Western Power's proposed capital base (revised value of December 2006)

Asset	Remaining Life as at 30 June 2006 (years)	Value (real \$ million, dollar values of 30 June 2006)
Distribution		
Distribution lines – wood poles	14.5	472.594
Distribution lines – steel poles	n/a	0.000
Distribution underground cables	36.9	535.208
Distribution transformers	16.9	203.762
Distribution switchgear	13.5	108.608
Street lighting	1.2	5.256
Distribution meters and services	9.2	168.206
Distribution IT&T	9.8	15.415
Distribution SCADA & communications	10.2	12.825
Distribution other, non-network	11.3	51.221
Distribution land and easements	n/a	21.419
Total Distribution		1,594.515
Transmission		
Transmission transformers	25.5	154.910
Transmission reactors	27.0	3.933
Transmission capacitors	23.1	76.258
Transmission circuit breakers	28.2	455.265
Transmission lines – steel towers	41.3	365.188
Transmission lines – wood poles	20.9	172.791
Transmission cables	38.1	12.087
Transmission metering	26.1	2.127
Transmission SCADA and communications	11.4	33.891
Transmission IT&T	4.2	2.680
Transmission other, non-network assets	12.0	24.499
Transmission land & easements	n/a	82.968
Total Transmission		1,386.564
SWIN Total		2,981.079

Final Decision

309. Draft Decision Amendments 37 and 38 required that Western Power revise the asset values presented for an initial capital base to reflect:

- asset categories as set out in the Draft Decision;
- remaining asset lives as set out in the Draft Decision; and
- subtraction of the accumulated value of capital contributions up until 30 June 2006.

310. The Authority has reviewed the revised asset values that Western Power has proposed for the initial capital base (as set out above) and is satisfied that Western Power has incorporated these requirements.
311. Draft Decision Amendment 38 also required that the price-control formulae of the proposed access arrangement be changed to reflect the initial capital base being expressed in values net of any capital contributions made prior to 30 June 2006. In its revised proposed access arrangement, Western Power has included a different price-control mechanism than included in the proposed access arrangement (section 5.3.1 of this Final Decision). The Authority has reviewed the new price control mechanism and is satisfied that this mechanism treats capital contributions appropriately.
312. The Authority is therefore satisfied that the revised proposed access arrangement incorporates or otherwise addresses the reasons for Draft Decision Amendments 37 and 38, and that the value proposed by Western Power for the capital base at 30 June 2006 meets the requirements of the Access Code.

5.2.4. New Facilities Investment

Access Code Requirements

313. Section 6.51 of the Code⁸⁸ provides that the calculation of a service provider's costs (and consequently of target revenue) may take into account costs in relation to new facilities investment that is forecast to occur during the access arrangement period:
- 6.51 For the purposes of section 6.4(a)(i) and subject to section 6.49, the forward-looking and efficient costs of providing covered services may include costs in relation to forecast new facilities investment for the access arrangement period which is reasonably expected to meet either –
- (a) the new facilities investment test; or
 - (b) the test for being added to the capital base under section 6.56, when the forecast new facilities investment is forecast to be made.
314. The new facilities investment test is described in section 6.52 of the Code:
- 6.52 New facilities investment may be added to the capital base if:
- (a) the new facilities investment does not exceed the amount that would be invested by a service provider efficiently minimising costs, having regard, without limitation, to:
 - (i) whether the new facility exhibits economies of scale or scope and the increments in which capacity can be added; and
 - (ii) whether the lowest sustainable cost of providing the covered services forecast to be sold over a reasonable period may require the installation of a new facility with capacity sufficient to meet the forecast sales;
- and

⁸⁸ Access Code as amended in September 2006 (Western Australian Government Gazette No. 159, 19 September 2006, page 3715).

- (b) one or more of the following conditions is satisfied:
- (i) either:
 - A. the anticipated incremental revenue for the new facility is expected to at least recover the new facilities investment; or
 - B. if a modified test has been approved under section 6.53 and the new facilities investment is below the test application threshold – the modified test is satisfied;
 - or
 - (ii) the new facility provides a net benefit in the covered network over a reasonable period of time that justifies the approval of higher reference tariffs; or
 - (iii) the new facility is necessary to maintain the safety or reliability of the covered network or its ability to provide contracted covered services.
315. Section 6.53 of the Access Code provides for the Authority to approve a “modified test” in certain circumstances.
316. Section 6.54 requires that in making a determination as to whether the new facilities investment test is satisfied, the Authority must have regard to whether the new facilities investment was required by a written law or a statutory instrument. Section 6.55 indicates that section 6.54 does not limit the matters to which regard must or may be had in making a determination under section 6.52.
317. Section 6.56 provides for amounts of capital contributions to be added to the capital base in certain circumstances:
- 6.56 Despite section 6.52, if –
- (a) a capital contribution has been, or is expected to be, provided to the service provider; and
 - (b) the new facilities investment in respect of which the capital contribution is made meets the requirements of section 6.52(a); and
 - (c) an amount in respect of the capital contribution is deducted from the service provider’s target revenue,
- then an amount of new facilities investment in respect of the capital contribution may be added to the capital base.

Proposed Access Arrangement

318. Western Power proposed forecasts of new facilities investment and amounts of the forecast new facilities investment that would be financed by capital contributions. These forecasts are indicated in Table 28 to Table 31, below.⁸⁹

⁸⁹ Information supplied by Western Power in response to issue by the Authority of a notice under section 51 of the *Economic Regulation Authority Act* on 9 November 2005.

Table 28 Western Power's forecast of new facilities investment for the transmission network (proposed access arrangement, nominal \$ million)

	Economic Life	2006/07	2007/08	2008/09
Transmission cables	55	6.6	9.0	0.5
Transmission steel towers	60	53.6	35.3	47.1
Transmission wood poles	45	3.7	8.3	26.0
Transmission Metering	40	-	-	-
Transmission transformers	50	26.3	23.0	27.0
Transmission reactors	50	0.3	-	-
Transmission capacitors	40	4.9	3.3	3.1
Transmission circuit breakers	50	48.4	42.8	44.4
SCADA and Communications	34.15	4.1	2.2	4.3
IT&T	16.85	5.8	4.2	4.8
Land & Easements	na	20.7	32.6	9.5
Other Non-Network Assets	16.85	4.6	4.2	4.1
Total Capital Expenditure		179.0	165.1	170.8

Table 29 Western Power's forecast capital contributions for the transmission network (proposed access arrangement, nominal \$ million)

	Economic Life	2006/07	2007/08	2008/09
Transmission cables	55	1.80	0.20	
Transmission steel towers	60	2.13	0.05	
Transmission wood poles	45			
Transmission Metering	40			
Transmission transformers	50	0.21	0.00	
Transmission reactors	50			
Transmission capacitors	40			
Transmission circuit breakers	50	9.74	2.44	
SCADA and Communications	34.15			
IT&T	16.85			
Land & Easements	N/A	0.13	0.02	
Other Non-Network Assets	16.85			
Cash Contributions	N/A			
Total Capital Contributions		14	2.7	0

Table 30 Western Power's forecast new facilities investment for the distribution network (proposed access arrangement, nominal \$ million)

	Economic Life	2006/07	2007/08	2008/09
NETWORK RELATED				
Wooden Pole Lines	41	51.0	65.6	75.1
Underground Cables	60	94.9	99.4	108.6
Transformers	35	28.2	27.2	27.7
Switchgear	35	21.9	25.2	27.2
Total Network		196.0	217.4	238.5
Streetlighting	20	11.6	11.8	13.2
METERING RELATED				
Meters and Services	25	4.4	8.1	10.0
NON-NETWORK RELATED				
IT&T	10.16	15.2	11.4	13.0
SCADA & Communications	10.16	2.1	1.8	1.9
Other Distribution Non-Network	10.16	3.2	3.5	3.8
Distribution Land & Easements		0.0	0.0	0.0
Total Capital Expenditure		232.6	254.0	280.4

Table 31 Western Power's forecast capital contributions for the distribution network (proposed access arrangement, nominal \$ million)

	Economic Life	2006/07	2007/08	2008/09
NETWORK RELATED				
Wooden Pole Lines	41	2.3	2.3	2.3
Underground Cables	60	63.5	64.8	67.0
Transformers	35	10.3	10.5	10.8
Switchgear	35	6.6	6.7	6.9
Total Network		82.7	84.3	87.0
Street lighting	20	7.9	8.1	8.4
METERING RELATED				
Meters and Services	25	0.0	0.0	0.0
NON-NETWORK RELATED				
Non Network	10.16	0.0	0.0	0.0
Total capital contributions		90.7	92.4	95.4

319. Western Power indicated that the principal drivers of new facilities investment on the transmission network are:

- the impacts of previous budget constraints, stating the effect of which has been a significant increase in “backlog” replacement expenditure as a result of deferred asset replacement;
 - facilitation of market reform, requiring stand-alone business, information and metering systems;
 - asset replacement due to the advancing age of Western Power’s transmission network;
 - connection of additional generation capacity required to accommodate forecast new generation capacity;
 - achieving and maintaining network performance in accordance with approved planning criteria, noting the supply reliability risks arising from increased asset utilisation and demand growth; and
 - compliance with more onerous statutory obligations.
320. Western Power indicated that the principal drivers of new facilities investment on the distribution network are:
- the impact of previous budget constraints - as for transmission;
 - facilitation of market reform - as for transmission;
 - load growth and review of design standards, driven by high levels of load growth (particularly air conditioning load) and population growth;
 - reliability expenditure related to improvements in SAIDI performance for urban and rural customers across the SWIN and targeting the worst performing feeders;
 - asset condition, including steadily ramping up replacement capex towards Western Power’s proposed long-term sustainable level; and
 - safety, environment and statutory compliance obligations.

Draft Decision

321. In its Draft Decision, the Authority determined that the forecast new facilities investment for the access arrangement period is reasonably expected to pass the new facilities investment test.
322. Notwithstanding this determination in the Draft Decision, the Authority determined that the presentation of forecasts of new facilities investment should be altered.
323. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 39

Western Power to adopt the asset groupings for its transmission and distribution network capital expenditure in accordance with Table 31 of this Draft Decision.

Draft Decision Amendment 40

Western Power to adopt the capital expenditure and capital contributions in accordance with its section 51 response, subject to reviewing and amending

the capital expenditure and capital contribution components of the SUPP and RPIP projects in real terms.

Draft Decision Amendment 41

Western Power to present the capital expenditure and capital contribution costs by asset grouping in real terms.

Draft Decision Amendment 42

Western Power to present the capital expenditure and capital contribution costs by expenditure type in real terms.

Submissions from Interested Parties on the Draft Decision

324. No submissions were received from interested parties.

Revised Proposed Access Arrangement

325. For its revised proposed access arrangement, Western Power has incorporated revised forecasts of new facilities investment and capital contributions in the determination of target revenue.

326. The revised forecasts of new facilities investment and capital contributions for the transmission network are set out in Table 32 to Table 35.

Table 32 Western Power's revised forecast new facilities investment for the transmission network by asset group (revised proposed access arrangement, nominal \$ million)⁹⁰

	2006/07		2007/08		2008/09	
	Proposed	Revised	Proposed	Revised	Proposed	Revised
Transmission cables	6.6	4.9	9.0	6.9	0.5	0.4
Transmission steel towers	53.6	79.8	35.3	83.4	47.1	49.0
Transmission wood poles	3.7	4.8	8.3	6.3	26.0	23.8
Transmission metering	–	–	–	–	–	–
Transmission transformers	26.3	36.3	23.0	36.1	27.0	29.9
Transmission reactors	0.3	1.0	–	1.0	–	1.7
Transmission capacitors	4.9	4.8	3.3	15.3	3.1	9.8
Transmission circuit breakers	48.4	38.7	42.8	42.0	44.4	44.1
SCADA and communications	4.1	3.2	2.2	1.5	4.3	3.4
IT&T	5.8	5.8	4.2	4.2	4.8	4.8
Land & easements	20.7	20.1	32.6	4.2	9.5	8.7
Other non-network assets	4.6	14.0	4.2	17.5	4.1	10.4
Total Capital Expenditure	179.0	213.4	165.1	245.8	170.8	185.9

⁹⁰ Revised access arrangement information, Appendix 11.

Table 33 Western Power's revised forecast new facilities investment for the transmission network by asset group (revised proposed access arrangement, real \$ million, dollar values of 30 June 2006)⁹¹

	2006/07		2007/08		2008/09	
	Proposed	Revised	Proposed	Revised	Proposed	Revised
Transmission cables	6.4	4.7	8.6	6.6	0.4	0.4
Transmission steel towers	52.3	77.6	33.5	79.1	43.6	45.3
Transmission wood poles	3.6	4.7	7.9	6.0	24.1	22.0
Transmission metering						
Transmission transformers	25.7	35.3	21.9	34.3	25.0	27.6
Transmission reactors	0.2	1.0		1.0		1.5
Transmission capacitors	4.8	4.7	3.2	14.5	2.9	9.1
Transmission circuit breakers	47.2	37.6	40.7	39.8	41.2	40.7
SCADA and communications	4.0	3.1	2.1	1.5	4.0	3.2
IT&T	5.6	5.7	4.0	4.0	4.4	4.4
Land & easements	20.1	19.6	31.0	29.8	3.8	8.0
Other non-network assets	4.5	13.7	4.0	16.6	8.8	9.6
Total Capital Expenditure	174.5	207.6	156.9	233.1	158.2	171.8

⁹¹ Revised access arrangement information, Appendix 11.

Table 34 Western Power's revised forecast new facilities investment for the transmission network by expenditure type (revised proposed access arrangement, real \$ million, dollar values of 30 June 2006)⁹²

	2006/07	2007/08	2008/09
Demand related			
System capacity	79.0	101.9	98.9
Customer driven – bulk loads	28.4	52.4	11.2
Customer driven - generation	66.4	38.7	22.8
Non demand related			
Asset replacement	9.6	12.8	16.6
Safety, environmental and statutory	5.3	7.7	7.5
Reliability driven	1.8	1.7	1.7
Other			
SCADA and communications	3.1	1.5	3.2
IT (incl. market reform)	5.7	4.0	4.4
Support	4.4	3.8	3.8
Generation meters (reform transfer budget)	3.9	5.0	0.0
Wholesale market (reform transfer budget)	0.1	3.5	1.8
Total Capital Expenditure	207.6	233.1	171.8

Table 35 Western Power's revised forecast capital contributions for the transmission network (revised proposed access arrangement)⁹³

	2006/07		2007/08		2008/09	
	Proposed	Revised	Proposed	Revised	Proposed	Revised
Nominal \$ million	14.0	16.5	2.7	28.9	–	14.4
Real \$ million, dollar values of 30 June 2006	13.6	16.1	2.6	17.4	–	13.4

327. The revised forecasts of new facilities investment and capital contributions for the distribution network are set out in Table 36 to Table 39.

⁹² Revised access arrangement information, Appendix 11.

⁹³ Revised access arrangement information, Appendix 11.

Table 36 Western Power's revised forecast new facilities investment for the distribution network by asset group (revised proposed access arrangement, nominal \$ million)⁹⁴

	2006/07		2007/08		2008/09	
	Proposed	Revised	Proposed	Revised	Proposed	Revised
Network Related						
Wooden pole lines	51.0	52.9	65.6	68.1	75.1	87.3
Underground cables	94.9	101.5	99.4	111.3	108.6	125.4
Transformers	28.2	27.8	27.2	32.7	27.7	39.9
Switchgear	21.9	21.7	25.2	30.7	27.2	41.0
Total Network	196.0	204.0	217.4	242.8	238.5	293.5
Streetlighting	11.6	11.2	11.8	12.3	13.2	14.7
Meters and services	4.4	4.4	8.1	8.1	10.0	10.0
IT&T	15.2	25.7	11.4	18.3	13.0	15.6
SCADA & communications	2.1	2.1	1.8	1.8	1.9	1.9
Other distribution non-network	3.2	3.2	3.5	3.5	3.8	3.8
Distribution land & easements	0.0		0.0		0.0	
Total Capital Expenditure	232.6	250.6	254.0	286.8	280.4	339.49

Table 37 Western Power's revised forecast new facilities investment for the distribution network by asset group (revised proposed access arrangement, real \$ million, dollar values of 30 June 2006)⁹⁵

	2006/07		2007/08		2008/09	
	Proposed	Revised	Proposed	Revised	Proposed	Revised
Network Related						
Wooden pole lines	49.8	51.5	62.3	64.5	69.5	80.6
Underground cables	92.5	98.7	94.5	105.5	100.6	115.8
Transformers	27.5	27.1	25.8	31.0	25.6	36.8
Switchgear	21.3	21.1	24.0	29.1	25.2	37.9
Total Network	191.1	198.4	206.6	230.2	220.9	271.2
Streetlighting	11.3	10.9	11.2	11.6	12.3	13.6
Meters and Services	4.3	4.3	7.7	7.7	9.3	9.2
IT&T	14.8	25.0	10.8	17.4	12.0	14.4
SCADA & communications	2.1	2.1	1.7	1.7	1.8	1.8
Other distribution non-network	3.1	3.1	3.4	3.4	3.5	3.5
Distribution land & easements						
Total Capital Expenditure	226.7	243.8	241.4	271.9	259.8	313.7

⁹⁴ Revised access arrangement information, Appendix 11.⁹⁵ Revised access arrangement information, Appendix 11.

Table 38 Western Power's revised forecast new facilities investment for the distribution network by expenditure type (revised proposed access arrangement, real \$ million, dollar values of 30 June 2006)⁹⁶

	2006/07	2007/08	2008/09
Demand related			
Distribution capacity	30.5	32.2	37.2
Customer driven	89.9	104.8	119.9
Customer driven – vested assets	15.5	18.9	22.1
Non demand related			
Asset replacement	10.0	9.5	17.6
Reliability driven	7.5	11.4	19.8
Safety, environmental and statutory	29.4	39.5	41.3
Other			
SCADA and Communications	2.1	1.7	1.8
IT (incl. market reform)	25.0	17.4	14.4
Metering	4.3	7.7	9.2
State undergrounding power program	16.6	15.4	15.8
Rural power improvement programme	10.0	10.1	11.1
Support	3.1	3.4	3.5
Total Capital Expenditure	243.8	271.9	313.7

⁹⁶ Revised access arrangement information, Appendix 11.

Table 39 Western Power's revised forecast capital contributions for the distribution network (revised proposed access arrangement)⁹⁷

	2006/07		2007/08		2008/09	
	Proposed	Revised	Proposed	Revised	Proposed	Revised
Nominal \$ million						
Demand related						
Distribution capacity		65.4		80.4		95.6
Customer driven		15.9		20.0		23.9
Other						
State underground power program		12.8		12.2		12.8
Total	90.7	94.2	92.4	112.6	95.4	132.3
Real \$ million, dollar values of 30 June 2006						
Demand related						
Distribution capacity		63.7		76.3		88.3
Customer driven		15.5		18.9		22.1
Other						
State underground power program		12.5		11.6		11.8
Total	88.4	91.6	87.8	106.8	88.4	122.3

328. On 26 September 2006, Western Power provided to the Authority further revised forecasts of new facilities investment for the access arrangement period. The further revised forecasts for the transmission network are shown in Table 40 to Table 42, together with the earlier forecasts provided with the revised proposed access arrangement.

⁹⁷ Revised access arrangement information, Appendix 11.

Table 40 Western Power's revised forecast new facilities investment for the transmission network by asset group (19 May 2006 and 26 September 2006, nominal \$ million)

	2006/07		2007/08		2008/09	
	May 2006	Sept 2006	May 2006	Sept 2006	May 2006	Sept 2006
Transmission cables	4.9	4.94	6.9	6.85	0.4	0.46
Transmission steel towers	79.8	81.17	83.4	82.57	49.0	50.09
Transmission wood poles	4.8	4.89	6.3	6.23	23.8	24.33
Transmission metering	–		–		–	
Transmission transformers	36.3	36.95	36.1	35.77	29.9	30.59
Transmission reactors	1.0	1.00	1.0	1.03	1.7	1.71
Transmission capacitors	4.8	4.88	15.3	15.15	9.8	10.06
Transmission circuit breakers	38.7	39.34	42.0	41.59	44.1	45.08
SCADA and communications	3.2	5.72	1.5	1.50	3.4	3.40
IT&T	5.8	2.20	4.2	3.00	4.8	2.70
Land & easements	20.1	14.28	4.2	17.34	8.7	10.61
Other non-network assets	14.0	20.45	17.5	31.11	10.4	8.86
Total Capital Expenditure	213.4	215.84	245.8	242.13	185.9	187.89

Table 41 Western Power's revised forecast new facilities investment for the transmission network by asset group (19 May 2006 and 26 September 2006, real \$ million, dollar values of 30 June 2006)⁹⁸

	2006/07		2007/08		2008/09	
	May 2006	Sept 2006	May 2006	Sept 2006	May 2006	Sept 2006
Transmission cables	4.7	4.80	6.6	6.50	0.4	0.42
Transmission steel towers	77.6	78.96	79.1	78.28	45.3	46.29
Transmission wood poles	4.7	4.75	6.0	5.90	22.0	22.48
Transmission metering		-		-		-
Transmission transformers	35.3	35.95	34.3	33.91	27.6	28.26
Transmission reactors	1.0	0.97	1.0	0.98	1.5	1.58
Transmission capacitors	4.7	4.75	14.5	14.36	9.1	9.29
Transmission circuit breakers	37.6	38.27	39.8	39.43	40.7	41.66
SCADA and communications	3.1	5.57	1.5	1.42	3.2	3.14
IT&T	5.7	2.14	4.0	2.84	4.4	2.50
Land & easements	19.6	13.89	29.8	16.44	8.0	9.80
Other non-network assets	13.7	19.90	16.6	29.50	9.6	8.19
Total Capital Expenditure	207.6	209.96	233.1	229.57	171.8	173.62

⁹⁸ Revised access arrangement information, Appendix 11.

Table 42 Western Power's revised forecast new facilities investment for the transmission network by expenditure type (26 September 2006, real \$ million, dollar values of 30 June 2006)

	2006/07	2007/08	2008/09
Demand related			
System capacity	79.0	101.9	98.9
Customer driven – bulk loads	28.4	52.4	11.2
Customer driven - generation	66.4	38.7	22.8
Non demand related			
Asset replacement	13.8	14.1	18.4
Safety, environmental and statutory	8.0	13.6	14.0
Reliability driven	1.5	0.3	0.0
Other			
SCADA and communications	5.6	1.4	3.1
IT (incl. market reform)	2.1	2.8	2.5
Support	5.1	4.3	2.7
Total Capital Expenditure	210.0	229.6	173.6

329. Western Power's forecast of capital contributions for the transmission network is unchanged from that of May 2006 and as indicated in Table 35 (at page 91).

330. The further revised forecasts of new facilities investment and capital contributions for the distribution network are set out in Table 43 to Table 46.

Table 43 Western Power's revised forecast new facilities investment for the distribution network by asset group (19 May 2006 and 26 September 2006, nominal \$ million)

	2006/07		2007/08		2008/09	
	May 2006	Sept 2006	May 2006	Sept 2006	May 2006	Sept 2006
Network Related						
Wooden Pole Lines	52.9	54.60	68.1	76.37	87.3	88.81
Underground Cables	101.5	104.64	111.3	124.84	125.4	127.58
Transformers	27.8	28.70	32.7	36.68	39.9	40.56
Switchgear	21.7	22.42	30.7	34.48	41.0	41.71
Total Network	204.0	210.36	242.8	272.36	293.5	298.66
Streetlighting	11.2	11.56	12.3	13.77	14.7	14.96
Meters and Services	4.4	4.54	8.1	9.09	10.0	10.18
IT&T	25.7	19.24	18.3	17.00	15.6	15.40
SCADA & Communications	2.1	2.18	1.8	1.80	1.9	1.90
Other Distribution Non-Network	3.2	12.64	3.5	14.91	3.8	9.02
Distribution Land & Easements		-		-		-
Total Capital Expenditure	250.6	260.53	286.8	328.92	339.49	350.12

Table 44 Western Power's revised forecast new facilities investment for the distribution network by asset group (19 May 2006 and 26 September 2006, real \$ million, dollar values of 30 June 2006)

	2006/07		2007/08		2008/09	
	May 2006	Sept 2006	May 2006	Sept 2006	May 2006	Sept 2006
Network Related						
Wooden Pole Lines	51.5	53.12	64.5	72.40	80.6	82.06
Underground Cables	98.7	101.79	105.5	118.36	115.8	117.90
Transformers	27.1	27.92	31.0	34.77	36.8	37.48
Switchgear	21.1	21.81	29.1	32.69	37.9	38.54
Total Network	198.4	204.63	230.2	258.23	271.2	275.99
Streetlighting	10.9	11.25	11.6	13.05	13.6	13.83
Meters and Services	4.3	4.42	7.7	8.61	9.2	9.41
IT&T	25.0	18.72	17.4	16.12	14.4	14.23
SCADA & Communications	2.1	2.12	1.7	1.71	1.8	1.76
Other Distribution Non-Network	3.1	12.29	3.4	14.14	3.5	8.33
Distribution Land & Easements		-		-		-
Total Capital Expenditure	243.8	253.43	271.9	311.86	313.7	323.54

Table 45 Western Power's revised forecast new facilities investment for the distribution network by expenditure type (26 September 2006, real \$ million, dollar values of 30 June 2006)

	2006/07	2007/08	2008/09
Demand related			
Distribution capacity	30.5	32.2	37.2
Customer driven	90.2	104.7	119.3
Customer driven – vested assets	15.5	18.9	22.1
Non demand related			
Asset replacement	17.1	28.4	28.7
Reliability driven	9.2	18.8	12.6
Safety, environmental and statutory	26.9	43.6	43.1
Other			
SCADA and Communications	2.1	1.7	1.8
IT (incl. market reform)	18.7	16.1	14.2
Metering	4.3	7.7	9.2
State undergrounding power program	16.6	15.4	15.8
Rural power improvement programme	10.0	10.1	11.1
Support	12.3	14.1	8.3
Total Capital Expenditure	253.4	311.9	323.5

Table 46 Western Power's revised forecast capital contributions for the distribution network (19 May 2006 and 26 September 2006)

	2006/07		2007/08		2008/09	
	May 2006	Sept 2006	May 2006	Sept 2006	May 2006	Sept 2006
Nominal \$ million						
Demand related						
Distribution capacity	65.4	65.40	80.4	80.44	95.6	95.56
Customer driven	15.9	15.93	20.0	19.95	23.9	23.93
Other						
State underground power program	12.8	12.82	12.2	12.22	12.8	12.82
Total	94.2	94.19	112.6	112.61	132.3	132.31
Real \$ million, dollar values of 30 June 2006						
Demand related						
Distribution capacity	63.7	63.66	76.3	76.27	88.3	83.31
Customer driven	15.5	15.50	18.9	18.92	22.1	22.11
Other						
State underground power program	12.5	12.47	11.6	11.58	11.8	11.85
Total	91.6	91.62	106.8	106.76	122.3	122.27

331. Western Power's forecast of capital contributions for the distribution network is unchanged from that of May 2006 and as indicated in Table 39 (at page 93).
332. Western Power has indicated to the Authority that it expects new facilities investment for both the transmission and distribution networks to substantially exceed the forecasts provided to the Authority in 2006, by amounts of about \$320 million for the transmission network and \$265 million for the distribution network over the access arrangement period. Western Power has further indicated to the Authority that these amounts relate primarily to categories of customer-driven new facilities investment and are both uncertain and subject to the investment adjustment mechanism. Accordingly, Western Power expects any consequent difference in actual investment from the forecast investment to be reflected in the revenue requirement for the second access arrangement period in accordance with the operation of the investment adjustment mechanism.

Final Decision

333. Draft Decision Amendments 39 to 42 required Western Power to update its forecasts of new facilities investment to reflect forecasts provided to the Authority after submission of the proposed access arrangement, and to present these forecasts by certain asset groups, by expenditure types and in constant dollar values.

334. In both the revised access arrangement information and further revised forecasts provided to the Authority in September 2006, Western Power has complied with the required amendments relating to the presentation of the forecasts of new facilities investment. Western Power has, however, substantially revised the forecasts themselves.
335. The May 2006 forecasts of new facilities investment submitted with the revised proposed access arrangement incorporated substantial increases in forecast new facilities investment for both the transmission and distribution networks and the revised forecasts of September 2006 incorporated further, albeit smaller, increases. During preparation of this Final Decision, the Authority invited submissions on the further revised forecasts,⁹⁹ and the Authority has taken these submissions into account in consideration of these forecasts.
336. Given delays that have occurred in the Authority's assessment and approval of the access arrangement, the Authority is satisfied that it is consistent with the Access Code and there is justification to accept Western Power's submission of the most up-to-date forecasts available in the determination of total costs and reference tariffs. Accordingly, this Final Decision addresses the revised forecast of new facilities investment provided to the Authority in September 2006.
337. The role of the Authority in considering the forecast of new facilities investment is established by section 6.51 of the Access Code and, for new facilities investment not associated with a capital contribution, is to determine whether the forecast new facilities investment is reasonably expected to meet the new facilities investment test (under section 6.52 to the Access Code) when the new facilities investment is forecast to be made. The Authority notes that this does not involve a binding determination on whether the forecast new facilities investment meets the new facilities investment test and is able to be added to the capital base. This determination will be made by the Authority either at the time of undertaking an assessment of proposed revisions to the access arrangement or, under section 6.71 of the Access Code, at a time requested by Western Power.
338. The Authority notes that assessments of amounts of new facilities investment that meet the requirements of the new facilities investment test can be complex exercises, especially when the assessments are made in respect of forecasts rather than ex post. In this regard, the Authority has not received detailed information from Western Power that supports or substantiates how its forecast new facilities investment meets the new facilities investment test or the test under section 6.56 of the Access Code. The Authority recognises that providing such details would be a time consuming and costly exercise and, in some cases, may not be able to be provided at all due to the stage of planning of the new facilities investment. However, the Authority is required by section 6.51 of the Access Code to determine whether the forecasts of new facilities investment are reasonably expected to meet the new facilities investment test or the test under section 6.56 of the Access Code.
339. The Authority has taken into account the information provided by Western Power in its revised access arrangement information, submissions made by

⁹⁹ Notice of 6 October 2006. A list of parties that made submissions in response to this Notice is provided in Appendix A of this Final Decision.

Western Power to the Authority and advice obtained by the Authority from Wilson Cook & Co.¹⁰⁰ The Authority has also undertaken an assessment of Western Power's incentives to correctly forecast new facilities investment. In the Authority's view, this information provides a satisfactory basis, for the purpose of section 6.51 of the Access Code, for the Authority to assess whether forecast new facilities investment is reasonably expected to meet the requirements of the new facilities investment test. In coming to this conclusion, the Authority is satisfied that a detailed assessment will be undertaken of the investment at the time that a binding determination is sought on the amount of new facilities investment that passes the new facilities investment test.

340. Considering the forecast new facilities investment, two aspects of the revised proposed access arrangement have a particular bearing on the Authority's consideration of the forecast of new facilities investment.
341. Firstly, the Authority notes that Western Power has included in its revised proposed access arrangement an investment adjustment mechanism that has effect for the demand-related categories of new facilities investment (section 5.4.4 of this Final Decision). As such, Western Power has limited incentive to over-state or under-state forecasts of new facilities investment within these expenditure categories and there are no long-term financial impacts on users of the network (as a group) of any over-statement or under-statement of the forecasts.
342. Secondly, under the revised proposed access arrangement and capital contributions policy, a user is required to pay a capital contribution to the extent to which new facilities investment for an augmentation of the network does not meet the new facilities investment test.
343. It is ultimately up to the Authority to make determinations on assessments of whether, and to what extent, new facilities investment meets the new facilities investment test of section 6.52 of the Access Code. In the event that Western Power were to over-estimate the amount of new facilities investment that is ultimately determined by the Authority to pass the new facilities investment test, Western Power would be faced with a substantial risk of having charged amounts of capital contributions that are insufficient to cover the value of new facilities investment that does not pass the new facilities investment test and of being unable to recover the full amount of any investment.
344. Taking these matters and incentive structures into account, the Authority considers that the components of Western Power's forecast of new facilities investment may reasonably be expected to either:
- meet the conditions of the second part of the new facilities investment test (section 6.52(b) of the Access Code); or
 - not meet the conditions of section 6.52(b) of the Access Code, but for capital contributions to be paid in respect of the investment.
345. Accordingly, the Authority's consideration of forecast new facilities investment as set out in this Final Decision is limited in scope to assessment of the extent

¹⁰⁰ Wilson Cook & Co, September 2006, Supplementary Report on Western Power's Revised Proposed Access Arrangement Expenditures and Valuation.

to which the forecast meets the requirements of section 6.52(a) of the Access Code. That is, that the new facilities investment does not exceed the amount that would be invested by a service provider efficiently minimising costs.

346. For the reasons set out in the Draft Decision, the Authority is satisfied that the elements of the forecast of new facilities investment considered for the purposes of the Draft Decision are reasonably expected to meet the requirements of section 6.52 of the Access Code. The Authority has given further consideration to the revisions subsequently made to the forecast.

Forecast new facilities investment for the transmission network

347. Western Power has revised upwards its forecast new facilities investment for the transmission network from \$514.7 million to \$645.9 million (in nominal terms), an increase of \$130.2 million. Western Power has indicated that the increase is a primarily a result of:

- inclusion of large projects in the forecast that were not previously included – the transmission line to Boddington Gold Mine (\$76.6 million) and the Neerabup terminal station (\$40.1 million); and
- addition of an amount of expenditure on generation tariff meters according to direction from the Government task force responsible for the restructuring of Western Power Corporation (\$9.3 million).¹⁰¹

348. It is also apparent from the revised forecasts of new facilities investment that there have been some changes to costs for capital projects that were included in the original forecasts, as forecast costs have increased for some asset groups and decreased for others, which would not be expected if the revision to the forecasts was solely due to additional capital projects.

349. The transmission line to Boddington Gold Mine and the Neerabup terminal station are both demand-driven investments in respect of which capital contributions will be paid. Wilson Cook & Co reviewed Western Power's internal approval papers for these projects and concluded that the investment plans and expenditures are reasonable. On this basis, the Authority is satisfied that these elements of forecast new facilities investment are reasonably expected to not exceed the amount that would be invested by a service provider efficiently minimising costs.

350. The forecast new facilities investment for generation tariff meters is indicated by Western Power to be necessary to comply with the Metering Code. Forecasts are indicated to be based on an assessment of the number of installations required and the potential requirements for substation works at some locations to accommodate the metering facilities. Taking into account that this investment is necessary to allow operation of the electricity market, the Authority is satisfied that this element of forecast new facilities investment is reasonably expected to not exceed the amount that would be invested by a service provider efficiently minimising costs.

¹⁰¹ In the revised forecast of new facilities investment provided to the Authority in September 2006 and indicated in Table 40 to Table 42, the forecast cost of generation tariff meters is indicated by Western Power to be incorporated in the cost category of "customer driven – generation".

Forecast new facilities investment for the distribution network

351. Western Power has revised upwards its forecast new facilities investment for the distribution network from \$767.3 million to \$939.6 million (in nominal terms), an increase of \$172.3 million. Western Power has indicated that the increase is principally a result of:
- an increase in forecast “customer-driven” investment by \$78.5 million as a result of a revised estimate of costs of compliance with the Technical Rules;
 - an increase in the replacement and reinforcement programme for wooden poles taking into account an audit of pole integrity and at a cost of approximately \$40 million over the access arrangement period;
 - an increase in forecast investment for the rural power improvement project by \$12 million, in accordance with an indication from the Government that the programme is to be extended;
 - an increase in forecast IT&T investment by about \$12 million.
352. In its review of forecast new facilities investment, Wilson Cook & Co concluded that the increases in customer driven investment for the distribution network appeared to be justified by a higher than forecast level of expenditure in this category in 2005/06 (\$142.9 million compared with \$89.9 million, \$104.8 million and 119.9 million, respectively, in each of the years of the access arrangement period) and, if anything, an under-statement of potential investment. On this basis, the Authority is satisfied that this element of forecast new facilities investment is reasonably expected to not exceed the amount that would be invested by a service provider efficiently minimising costs.
353. The increase in the replacement and reinforcement programme for wooden poles was a matter addressed by Western Power in revised forecasts provided to the Authority in September 2006 and followed the receipt by Western Power in August 2006 of a draft report on management of wooden poles. The additional costs were estimated on the basis of pole replacement and reinforcement necessary to reduce the pole failure rate in the distribution network to closer to the Australian industry average. The Authority is satisfied that this element of forecast new facilities investment is reasonably necessary to maintain the safety and reliability of the network and is expected to not exceed the amount that would be invested by a service provider efficiently minimising costs.
354. The forecast investment for the rural power improvement project was noted by Wilson Cook & Co to be supported by an indication from Government that the programme was to be extended, even though the forecast levels of new facilities investment of \$10 to \$11 million in each year substantially exceeds the level of investment in 2005/06 (\$6 million). On this basis, the Authority is satisfied that this element of forecast new facilities investment is reasonably expected to not exceed the amount that would be invested by a service provider efficiently minimising costs.
355. In the forecast of new facilities investment provided to the Authority in May 2006 with the revised proposed access arrangement, Western Power incorporated an increase in forecast IT&T expenditure for the distribution

network of \$20 million. The increase in forecast new facilities investment on IT&T was attributed by Western Power to:

- one strategic project addition – HiREPS, a high-level resource and work planning tool;
- the addition of the logistics service group including relevant projects;
- increases in project costs following a review of the original cost estimates, along with re-forecasting of timing for implementation schedules; and
- support work relating to post-reform implementation.¹⁰²

356. In the review of forecast new facilities investment, Wilson Cook & Co determined that while business cases for IT&T investment had been prepared, the business cases appeared to be in draft form and had a number of potential deficiencies including that:

- the same benefits appeared to have been ascribed to several of the IT systems separately;
- identified cost savings from the investment appeared optimistic;
- a number of investment costs appear to have been excluded, specifically there appeared to have been an exclusion of communications costs associated with the programme to provide computers for field staff;
- there did not appear to be an adequate allowance for training in the new systems; and
- the timetable for the investment appeared to be optimistic.

357. Wilson Cook & Co concluded that there was insufficient information provided to be satisfied that the increases in project costs arising from a review of the original forecasts meet the requirements of section 6.52(a) of the Access Code.

358. Subsequent to the review by Wilson Cook & Co, Western Power submitted its revised forecasts of new facilities investment with a reduction in forecast IT&T expenditure for the distribution system by \$7.8 million. Taking note of the findings of Wilson Cook & Co and the subsequent reduction in the forecast IT&T expenditure, the Authority is satisfied that this element of forecast new facilities investment is reasonably expected to not exceed the amount that would be invested by a service provider efficiently minimising costs.

359. Taking the above matters into account, the Authority is satisfied that Western Power's revised forecast of new facilities investment is reasonably expected to meet the new facilities investment test (under section 6.52 to the Access Code) or the test in section 6.56 of the Access Code..

360. The Authority notes Western Power's indication that it expects new facilities investment for both the transmission and distribution networks to substantially exceed the forecasts provided to the Authority in 2006, by amounts of about \$320 million for the transmission network and \$265 million for the distribution

¹⁰² Western Power, Response to the Required Amendments, Part A, page 35.

network over the access arrangement period. Western Power further indicates that any consequent difference in actual new facilities investment from the forecast is to be reflected in the revenue requirement for the second access arrangement period in accordance with the operation of the investment adjustment mechanism. The Authority has addressed these matters in relation to the investment adjustment mechanism in section 5.4.4 of this Final Decision.

5.2.5. Treatment of Capital Contributions

Access Code Requirements

361. A capital contribution is defined under the Access Code as a contribution made, or to be made, by a user in respect of an augmentation. In practical effect, a capital contribution occurs where the cost of new facilities investment for an augmentation of the covered network is financed by a user through a charge in addition to the charges that would normally be payable for a service.
362. At the time that Western Power submitted its proposed access arrangement to the Authority, section 6.56 of the Access Code prevented any amount being added to the capital base in respect of any new facilities investment for which a capital contribution has been, or is to be, provided to the service provider. This section of the Access Code would have had effect to require that the value of any new facilities investment that is financed by capital contributions not be added to the capital base and, accordingly, for this value not to be reflected in the target revenue and reference tariffs for reference services.
363. In its covering letter to the Authority¹⁰³ at the time of submitting its proposed access arrangement, Western Power foreshadowed an amendment to the Access Code. Western Power advised that it wished to adopt a methodology for the treatment of capital contributions from commencement of the initial access arrangement period whereby (i) capital contributions could be added to the capital base, and (ii) the amount of the capital contribution would be deducted from the approved total revenue in the year in which the capital contribution is made.
364. Amendments to the Access Code occurred in November 2005. These amendments included, *inter alia*, deletion of section 6.56.¹⁰⁴ Subsequent to this amendment, the Access Code was silent on the manner in which capital contributions must be treated in the determination of target revenue.
365. During the course of assessing Western Power's revised proposed access arrangement and consideration of its Final Decision, it became apparent to the Authority that the amendments to the Access Code in November 2005 were not sufficient to allow the treatment of capital contributions proposed by Western Power, despite this being the intent of those amendments.
366. Under the regulatory scheme originally established by the Access Code, new facilities investment could only be added to the capital base if that new facilities investment passed a number of tests under section 6.52 of the

¹⁰³ Western Power correspondence to the Authority dated 24 August 2005.

¹⁰⁴ Western Australian Government Gazette No. 207, 8 November 2005, pages 5529–5531.

Access Code (the “new facilities investment test”). However, sections 2.9 and 5.14 of the Code (relating to capital contributions and the capital contributions policy) prevented a service provider from charging a capital contribution in respect of any new facilities investment that passed the new facilities investment test. As a consequence, a service provider would not be able to charge a capital contribution for any new facilities investment that is to be rolled into the capital base, effectively preventing the treatment of capital contributions that is proposed by Western Power.

367. As a further matter relating to the treatment of capital contributions, Western Power included provision under both its proposed access arrangement and revised proposed access arrangement to allow it to charge capital contributions for several classes of capital works for which it wishes to charge capital contributions even though part or all of the new facilities investment may meet the tests under section 6.52 of the Access Code to be rolled into the capital base. These classes of capital works include augmentations of the distribution system associated with subdivisions, pole to pillar connections, connections in rural areas, un-metered connections and street lights. However, sections 2.9 and 5.14 of the Access Code have effect to prevent Western Power from charging capital contributions in respect of these capital works, at least to the extent that the new facilities investment would pass the new facilities investment test of section 6.52.
368. Further amendments to the Access Code occurred on 1 September 2006 and 8 December 2006.¹⁰⁵ The purpose of these amendments was to enable Western Power’s proposed treatment of capital contributions.
369. The principal elements in the amendments to the Access Code comprised:
- addition of a new section 2.9A –
 - 2.9A If:
 - (a) an approved extension and expansion policy provides that the service provider will undertake and fund a required augmentation if the user pays an amount specified in, or determined under, the policy; and
 - (b) the user pays the amount,
 then the service provider must undertake and fund the required augmentation in accordance with the approved extension and expansion policy or as otherwise agreed between the service provider and user.
 - amendment of section 5.14 and addition of a new section 5.14A –
 - 5.14 Subject to section 5.14A, a capital contributions policy must not require a user to make a capital contribution in respect of any part of new facilities investment which meets the new facilities investment test.
 - 5.14A A capital contributions policy may provide for a user to make a capital contribution in respect of a new facility whether or not the new facilities investment meets the new facilities investment test, if an approved extension and expansion policy provides for the user to pay in respect of the new facility an amount specified in, or determined under, the policy.

¹⁰⁵ Western Australian Government Gazette No. 159, 19 September 2006, page 3715; Western Australian Government Gazette No. 206, 8 December 2006, pages 5400 – 5402.

- addition of a new section 6.56 to the Access Code –
6.56 Despite section 6.52, if –
 - (a) a capital contribution has been, or is expected to be, provided to the service provider; and
 - (b) the new facilities investment in respect of which the capital contribution is made meets the requirements of section 6.52(a); and
 - (c) an amount in respect of the capital contribution is deducted from the service provider's target revenue,then an amount of new facilities investment in respect of the capital contribution may be added to the capital base.
370. Amendments were also made to sections 1.3, 6.50(b), 6.51 and Appendix 4 of the Access Code to:
- separate the treatment of new facilities investment in respect of which a capital contributions are made from the new facilities investment test under section 6.52 of the Access Code;
 - allow an amount of new facilities investment in respect of which a capital contribution is made to be added to the capital base at the start of each access arrangement period;
 - allow an amount of forecast new facilities investment in respect of which a capital contribution is made to be taken into account when determining the forward-looking and efficient costs of providing covered services;
 - contemplate that the capital contributions policy may vary from the model capital contributions policy in order to provide for a user to make a capital contribution under the new section 5.14A.

Proposed Access Arrangement

371. In its covering letter to the Authority¹⁰⁶ at the time of submitting its proposed access arrangement and access arrangement information, Western Power advised that it wished to adopt a methodology for the treatment of capital contributions from commencement of the initial access arrangement period whereby (i) capital contributions could be added to the capital base; and (ii) the amount of the capital contribution would be deducted from the approved total revenue in the year in which the capital contribution is made.
372. In part B of its access arrangement information Western Power indicated the deduction of forecast “capital contributions revenue” from its total annual revenue requirement for each of the transmission and distribution networks.¹⁰⁷
373. Western Power also provided the Authority with a forecast of capital contributions for each of the distribution and transmission networks by asset class.¹⁰⁸ These forecasts are set out in paragraph 318 of this Final Decision.

¹⁰⁶ Western Power correspondence to the Authority dated 24 August 2005.

¹⁰⁷ Original access arrangement information, pages 14, 15.

Draft Decision

374. In its Draft Decision, the Authority determined that Western Power's proposed treatment of capital contributions is consistent with the principle that the service provider should neither be advantaged nor disadvantaged (in present value terms) by new facilities investment being financed by a user through a capital contribution. The Authority indicated a view that the proposed treatment of capital contributions results in lower requirements than other possible treatments¹⁰⁹ for record keeping and reporting requirements by not requiring separate asset registers to be kept for capital contributions to the covered networks. The Authority also noted that Western Power's proposed treatment of capital contributions is consistent with treatments that have been accepted by the Queensland Competition Authority in previous regulatory decisions.¹¹⁰ Taking these matters into account, the Authority determined in its Draft Decision that Western Power's proposed treatment of capital contributions is consistent with the Access Code.¹¹¹
375. The Authority indicated in its Draft Decision, however, that the notional updating of the capital base during the access arrangement period is based on a forecast of capital contributions. The Authority considered that, to protect the interests of all users and Western Power, an adjustment mechanism should apply that reconciles forecast capital contributions with actual capital contributions over the initial access arrangement period.
376. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 43

Western Power to confirm its proposed treatment of capital contributions occurring from the commencement of the initial access arrangement period.

Draft Decision Amendment 44

Western Power to include the transmission and distribution capital contribution figures provided in its section 51 response, as summarised at Table 26 and Table 28 of the Capital Expenditure section of [the] Draft Decision and adjusted to be presented in real terms.

Draft Decision Amendment 45

Western Power to include a capital contributions adjustment mechanism to account for any differences between forecast and actual capital contributions over the initial access arrangement period, consistent with the objectives and application of the investment adjustment mechanism.

¹⁰⁸ Information supplied by Western Power in response to issue by the Authority of a notice under section 51 of the Economic Regulation Authority Act on 9 November 2005, Attachment B.

¹⁰⁹ Such as, for example, deduction of capital contributions from the total new facilities investment in updating the capital base and making no change to the revenue requirement.

¹¹⁰ Queensland Competition Authority, April 2005, *Final Determination for regulation of Electricity Distribution*, page 170.

¹¹¹ During the process of assessment of the revised proposed access arrangement and preparation of the final decision, it was discovered that the proposed treatment of capital contributions would not be permitted under the Access Code prior to the amendments in September and December 2006 and that this element of the Draft Decision was in error.

Submissions from Interested Parties on the Draft Decision

377. No submissions were received from interested parties.

Revised Proposed Access Arrangement

378. For the purposes of its revised proposed access arrangement, Western Power has maintained the treatment of capital contributions set out for its proposed access arrangement and considered by the Authority in its Draft Decision.

379. Western Power has included in its revised price control (considered in detail in section 5.3.1 of this Final Decision) a “capital contributions adjustment mechanism” such that “forecast and actual capital contributions will be reconciled at the end of the first access arrangement period, with the variance accounted for via a commensurate adjustment of target revenues during the next access arrangement period to ensure economic neutrality”.¹¹²

380. Western Power’s treatment of capital contributions and the capital contributions adjustment mechanism are described in general terms in new clauses of the revised proposed access arrangement as follows.

Capital contributions adjustment mechanism

5.12 A capital contributions adjustment mechanism applies in relation to this Access Arrangement. The purpose and operation of the capital contributions adjustment mechanism is explained in sections 5.32, 5.43 and Appendix 8 of this Access Arrangement.

...

5.29 For the purposes of this Transmission Network Revenue Cap, Western Power’s actual regulated transmission revenue in financial year t comprises:

(a) transmission revenue earned in relation to the provision of reference and non-reference services in financial year t, subject to section 5.33 of this Access Arrangement. Where a reference or non-reference service is provided jointly by Western Power’s transmission and distribution network businesses, the revenue earned must be allocated between the businesses in a fair and reasonable manner; and

(b) “Deemed capital contributions” in financial year t in respect of the transmission network, as set out in the table below. The deemed capital contributions equals the forecast capital contributions in this access arrangement period, which have been used by Western Power in its calculation of target revenue for this access arrangement period.

Deemed capital contributions in financial year t
in respect of the transmission network (\$ million real as at 30 June 06)

<u>2006/07</u>	<u>2007/08</u>	<u>2008/09</u>
<u>16.1</u>	<u>27.4</u>	<u>13.4</u>

5.30 For the purposes of determining actual capital contributions as applied in section 5.32 of this Access Arrangement, Western Power will exclude any capital contributions where the relevant works have been provided on a competitive basis or where the terms and conditions have been negotiated in accordance with section 2.5 of the Code. The purpose of this provision is to provide Western Power and prospective connecting parties with the option to

¹¹² Western Power, Response to the Required Amendments, Part A, section 3.14, page 43.

negotiate connection contributions on a basis other than that contemplated by this Access Arrangement.

5.31 No adjustments will be made to MTR in this access arrangement period to reflect any differences between the deemed capital contributions in respect of the transmission network and the actual capital contributions received during this access arrangement period.

5.32 An adjustment (positive or negative), termed the Capital Contributions Adjustment Mechanism, will be made to the target revenue for the next access arrangement period to reflect any difference between the deemed capital contributions in respect of the transmission network and the actual capital contributions received during this access arrangement period. The purpose of this adjustment is to correct for any under- or over-recovery of actual capital contributions received compared to the forecast of capital contributions (the deemed capital contributions) in this access arrangement period. To give effect to this purpose, the adjustment (positive or negative) to the target revenue for the next access arrangement period must leave Western Power economically neutral as a result of any difference between the deemed capital contributions in respect of the transmission network and the actual capital contributions received during this access arrangement period by taking account of:

- (a) The effects of inflation, both in this access arrangement period and the next access arrangement period;
- (b) The time value of money as reflected by the real pre-tax WACC as applied in this access arrangement period and the next access arrangement period; and
- (c) The difference in the timing of the deemed and actual capital contributions received in this access arrangement period, and the period over which any adjustment to target revenue is to be made.

...

5.40 For the purposes of this Distribution Network Revenue Cap, Western Power's actual regulated distribution revenue in financial year t comprises:

- (a) distribution revenue earned in relation to the provision of reference and non-reference services in financial year t, subject to section 5.44 of this Access Arrangement. Where a reference or non-reference service is provided jointly by Western Power's transmission and distribution network businesses, the revenue earned must be allocated between the businesses in a fair and reasonable manner; and
- (b) "Deemed capital contributions" in financial year t in respect of the distribution network, as set out in the table below. The deemed capital contributions equals the forecast capital contributions in this access arrangement period, which have been used by Western Power in its calculation of target revenue for this access arrangement period.

Deemed capital contributions in financial year t
in respect of the distribution network (\$ million real as at 30 June 06)

<u>2006/07</u>	<u>2007/08</u>	<u>2008/09</u>
<u>91.6</u>	<u>106.8</u>	<u>122.3</u>

5.41 For the purposes of determining actual capital contributions as applied in section 5.43 of this Access Arrangement, Western Power will exclude any capital contributions where the relevant works have been provided on a competitive basis or where the terms and conditions have been negotiated in accordance with section 2.5 of the Code. The purpose of this provision is to provide Western Power and prospective connecting parties with the option to

negotiate connection contributions on a basis other than that contemplated by this Access Arrangement.

5.42 No adjustments will be made to MDR in this access arrangement period to reflect any differences between the deemed capital contributions in respect of the distribution network and the actual capital contributions received during this access arrangement period.

5.43 An adjustment (positive or negative), termed the Capital Contributions Adjustment Mechanism, will be made to the target revenue for the next access arrangement period to reflect any difference between the deemed capital contributions in respect of the distribution network and the actual capital contributions received during this access arrangement period. The purpose of this adjustment is to correct for any under- or over-recovery of actual capital contributions received compared to the forecast of capital contributions (the deemed capital contributions) in this access arrangement period. To give effect to this purpose, the adjustment (positive or negative) to the target revenue for the next access arrangement period must leave Western Power economically neutral as a result of any difference between the deemed capital contributions in respect of the distribution network and the actual capital contributions received during this access arrangement period by taking account of:

(a) The effects of inflation, both in this access arrangement period and the next access arrangement period;

(b) The time value of money as reflected by the real pre-tax WACC as applied in this access arrangement period and the next access arrangement period; and

(c) The difference in the timing of the deemed and actual capital contributions received in this access arrangement period, and the period over which any adjustment to target revenue is to be made.

381. In Appendix 8 of its revised proposed access arrangement, Western Power provides a general description of the capital contributions adjustment mechanism, as part of a description of its proposed price control. A general description of the capital contributions adjustment mechanism is also provided in the revised access arrangement information.¹¹³

Final Decision

382. In the revised proposed access arrangement, Western Power has maintained the same treatment of capital contributions as originally proposed. Under this treatment (i) the amount of any new facilities investment financed by capital contributions is added to the capital base for the SWIN and reflected in transmission and distribution tariffs; and (ii) the amount of the capital contribution would be deducted from the approved total revenue for the SWIN (clauses 5.29 to 5.43 of the revised proposed access arrangement).

383. Under this treatment of capital contributions, an increase in tariffs caused by addition of the value of new facilities investment to the capital base is offset, in present value terms, by the reduction in tariffs that results from the deduction of the value of capital contributions from the target revenue.

¹¹³ Revised access arrangement information, section 4.5.

384. The Authority notes that, in some circumstances, this treatment of capital contributions may affect Western Power's investment in expansions of the SWIN.
385. An example of such a circumstance is where a large capital contribution is made as a single payment. In this situation, the deduction of this capital contribution from target revenue may significantly reduce Western Power's revenues in the year in which the capital contribution is made (or at least in the Access Arrangement Period in which the capital contribution is made). However, Western Power is only compensated for this by a longer term increase in revenues through depreciation and a return on the increment to the capital base. The reduction in revenues in the year in which the capital contribution is made may affect Western Power's financial capability to undertake the new facilities investment and, hence, Western Power's incentive to expand the SWIN in these circumstances.
386. The Access Code does not prevent alternative treatments of capital contributions, such as spreading the deduction of value of capital contributions from the approved total revenue over an extended period of time, rather than making the total contribution in the period in which the capital contribution is received. Western Power's revised access arrangement does not, however, provide for these alternative treatments.
387. During the course of preparing this Final Decision, the Authority invited submissions on Western Power's treatment of capital contributions.¹¹⁴ Several of these submissions correctly referred to potential outcomes of Western Power's treatment of capital contributions, in particular the outcome of reducing transmission and distribution tariffs in the short term while having higher tariffs in the longer term. Verve Energy supported the proposed treatment of capital contributions for this reason. Western Power indicated in a submission that it did not consider the financing issues associated with the treatment of capital contributions to be of concern as the effects of year-to-year variations in capital contributions are smoothed over an access arrangement period.
388. In considering elements of the revised proposed access arrangement relating to the treatment of capital contributions, the Authority has taken account of the amendments to the Access Code in September and December 2006. While the treatment of capital contributions proposed by Western Power under the proposed access arrangement and the Authority's Draft Decision on this treatment were not consistent with the requirements of the Access Code as it then existed, the amendments to the Access Code were made for the express purpose of allowing this treatment.
389. The Authority has given consideration to revisions incorporated in the revised proposed access arrangement in response to amendments required under the Draft Decision, as follows.

¹¹⁴ Notice of 17 January 2007. Appendix A provides a list of parties that made submissions pursuant to this notice, either on the matter of the treatment of capital contributions or on other matters addressed in the Notice.

390. Draft Decision Amendment 43 required Western Power to confirm its proposed treatment of capital contributions occurring from the commencement of the initial access arrangement period.
391. In clauses 5.29 and 5.40 of its revised proposed access arrangement, Western Power has confirmed the treatment of capital contributions proposed under its proposed access arrangement. Accordingly the Authority is satisfied that the revised proposed access arrangement incorporates Draft Decision Amendment 43.
392. Draft Decision Amendment 44 required Western Power to include the transmission and distribution capital contribution figures provided to the Authority during the course of the Authority's assessment of the proposed access arrangement.
393. In clauses 5.29 and 5.43 of its revised proposed access arrangement, Western Power has provided forecasts of capital contributions for the transmission and distribution networks. These forecasts are different to those provided by Western Power to the Authority prior to the Draft Decision and referred to in Draft Decision Amendment 44. Western Power indicates that the forecast of capital contributions indicated in the revised proposed access arrangement are updated forecasts. Taking into account the inclusion in the revised proposed access arrangement of the capital contributions adjustment mechanism, which removes any potential advantage from Western Power under or over-forecasting capital contributions, the Authority is satisfied that inclusion of the revised forecasts in the access arrangement addressed the reasons for Draft Decision Amendment 44.
394. Draft Decision Amendment 45 required Western Power to include a capital contributions adjustment mechanism to account for any differences between forecast and actual capital contributions over the initial access arrangement period, consistent with the objectives and application of the investment adjustment mechanism.
395. Western Power's capital contributions adjustment mechanism set out in the revised proposed access arrangement provides for target revenue in the next access arrangement period to be adjusted for differences between forecast and actual capital contributions in the first access arrangement period. Western Power has indicated that this "reconciliation" is undertaken after the end of the first access arrangement period, rather than on a year to year basis under the proposed revenue-cap price control, to avoid large year-to-year corrections to the revenue cap that may result from large differences between forecast and realised values of capital contributions. This mechanism is considered in more detail in the section of this Final Decision dealing with the price control (section 5.3.1). The Authority has reviewed the mechanism and is satisfied that it incorporates Draft Decision Amendment 45.
396. The Authority notes that Western Power has included in its revised proposed access arrangement an element that was not contemplated by either the proposed access arrangement or the Authority's Draft Decision, this being the provision under clauses 5.30 and 5.41 for Western Power to exclude the value of capital contributions from application of the price control where the relevant works have been provided on a competitive basis or where the terms and conditions for services have been negotiated in accordance with section 2.5 of

the Access Code. The Authority has addressed this provision later in this Final Decision and in relation to the price control (section 5.3.1).

5.2.6. Treatment of Redundant Assets

Access Code Requirements

397. Section 6.61 of the Access Code provides that the Authority may require that the capital base be decreased to reflect the removal of redundant capital from the capital base. Section 6.62 indicates a number of matters that the Authority must have regard to in imposing such a requirement. Sections 6.61 to 6.63 of the Code state as follows:

6.61 Subject to section 6.62, the Authority may in relation to a determination under section 6.44(a) require an amount (“redundant capital”) to be removed from the capital base to the extent (if any) necessary to ensure that network assets which have ceased to contribute in any material way to the provision of covered services are not included in the capital base.

6.62 Before requiring a removal under section 6.61, the Authority must have regard to:

- (a) whether the service provider was efficiently minimising costs when it developed, constructed or acquired the network assets; and
- (b) the uncertainty such a removal may cause and the effect which any such uncertainty may have on the service provider, users and applicants; and
- (c) whether the cause of the network assets ceasing to contribute in any material way to the provision of covered services was the application of a written law or a statutory instrument; and
- (d) whether the service provider was compelled to develop, construct or acquire the network assets:
 - (i) by an award by the arbitrator; or
 - (ii) because of the application of a written law or a statutory instrument; and
- (e) whether the depreciation of the network assets should be accelerated instead of or in addition to a redundant capital amount being removed from the capital base under section 6.61.

6.63 If the Authority requires a removal under section 6.61, then when making other determinations under this Chapter 6 the Authority may have regard to the removal.

{Examples of such other determinations include approving a weighted average cost of capital and assessing the economic life of assets.}

Proposed Access Arrangement

398. In its access arrangement information, Western Power proposed that there be no consideration given to redundant capital in determination of the capital base for reason that potential issues of asset redundancy were taken into account in the ODV valuation of network assets in 2004.¹¹⁵

¹¹⁵ Access arrangement information, Part B, page 75.

399. Subsequent to submission of its proposed access arrangement, Western Power indicated to the Authority that there will be certain assets that may be considered redundant during the access arrangement period. The redundancy of assets is caused by a requirement on Western Power under the State Underground Power Program to replace overhead equipment assets with underground equipment before the end of the useful lives of the overhead assets.¹¹⁶ The forecast value of the assets to become redundant during the access arrangement period was indicated by Western Power to be as indicated in Table 47.

Table 47 Value of assets forecast by Western Power to become redundant during the access arrangement period (nominal \$ million)

Asset Class	2006/07	2007/08	2008/09
Wooden Pole Lines	2.94	2.94	2.94
Underground Cables	-	-	-
Transformers	0.78	0.78	0.78
Switchgear	0.20	0.20	0.20
Street lighting			
Meters and Services	-	-	-
IT&T	-	-	-
SCADA & Communications	-	-	-
Other Distribution Non-Network	-	-	-
Distribution Land & Easements	-	-	-
Total Assets	3.92	3.92	3.92

400. Western Power did not indicate to the Authority how it proposed to treat the redundant assets in determination of the capital base and target revenue.

Draft Decision

401. In its Draft Decision, the Authority indicated that Western Power may propose how it wishes the redundant assets to be treated for the purposes of determination of the capital base and target revenue. For the purposes of the Draft Decision, the Authority applied treatment of redundant assets involving an accelerated depreciation of the assets so that the full amount of any residual regulatory asset value for the relevant assets that are forecast to become redundant is added to depreciation allowances in the year that the assets are taken out of service, and the same value is deducted from the capital base.

¹¹⁶ Emails from Western Power on 1, 2 and 3 March 2006 in support of its claim for the treatment of redundant assets.

Submissions from Interested Parties on the Draft Decision

402. No submissions were received from interested parties.

Revised Proposed Access Arrangement

403. Under its revised proposed access arrangement, Western Power has included its proposal to treat as redundant assets those assets that are taken out of service as a result of implementation of the State Underground Power Program to replace overhead equipment assets with underground equipment.

404. Western Power has proposed a treatment of redundant assets that is the same as applied by the Authority for the purposes of the Draft Decision and as described above. The values of the assets to be made redundant, and hence of the accelerated depreciation allowances, are indicated in Table 48, expressed in real terms.

Table 48 Value of assets forecast by Western Power to become redundant during the access arrangement period (revised proposed access arrangement, real \$ million, dollar values of 30 June 2006)

Asset Class	2006/07	2007/08	2008/09
Wooden Pole Lines	2.86	2.78	2.71
Underground Cables	-	-	-
Transformers	0.76	0.74	0.72
Switchgear	0.19	0.19	0.18
Street lighting			
Meters and Services	-	-	-
IT&T	-	-	-
SCADA & Communications	-	-	-
Other Distribution Non-Network	-	-	-
Distribution Land & Easements	-	-	-
Total Assets	3.81	3.71	3.62

405. While Western Power presented revised forecasts of costs to the Authority in September 2006, there was no change in the forecast value of redundant assets.

Final Decision

406. For its revised proposed access arrangement, Western Power has implemented a treatment of redundant assets that is the same as the treatment applied by the Authority for the purposes of its Draft Decision. This treatment of redundant assets does not result in any financial loss to Western Power through an un-compensated write down of the value of the capital base. Rather, Western Power is compensated (in present value terms) for the removal of the value of redundant assets from the capital base by accelerated-depreciation allowances of the same value.

407. The removal of redundant assets from the capital base has not, in this instance, been required by the Authority. In this regard, the Authority notes that

sections 6.61 and 6.62 of the Access Code concern the removal of redundant assets from the capital base at the start of the access arrangement period. Accordingly, if appropriate, the Authority will take Western Power’s proposed treatment of redundant assets into account in making its determination on the capital base for the next access arrangement period.

5.2.7. Depreciation

Access Code Requirements

408. Section 6.70 of the Access Code requires that:

- 6.70 An access arrangement must provide for the depreciation of the network assets comprising the capital base, including the economic lives of each network asset or group of network assets, the depreciation method to be applied to each network asset or group of network assets and the circumstances in which the depreciation of a network asset may be accelerated.

Proposed Access Arrangement

409. Western Power proposed to depreciate the capital base by applying a straight line methodology for the determination of depreciation allowances according to asset lives for groups of network assets as indicated in Table 49.¹¹⁷

Table 49 Western Power's proposed asset lives applied in depreciation of the capital base

Asset group	Asset life for depreciation purposes
Distribution wood pole lines (Weighted Average)	41 years
Distribution steel pole lines	50 years
Distribution underground cables	60 years
Distribution transformers	35 years
Distribution switchgear	35 years
Public lighting	20 years
Distribution meters and services	25 years
Transmission transformers	50 years
Transmission reactors	50 years
Transmission capacitors	40 years
Transmission circuit breakers	50 years
Transmission lines – steel tower	60 years
Transmission lines – wood pole	45 years
Transmission cables	55 years
Transmission Non-Network Assets (Weighted Average)	16.8 years
SCADA and Communications (Weighted Average)	34.1 years

¹¹⁷ Proposed access arrangement, clause 6.

410. Western Power further proposed that depreciation allowances for non-network assets such as buildings and information technology assets and systems would be determined in accordance with depreciation schedules applicable for taxation purposes.¹¹⁸
411. Western Power did not propose circumstances in which it might seek to apply accelerated depreciation to an asset or group of assets, although Western Power proposes a price control methodology that takes into account accelerated depreciation.¹¹⁹
412. Western Power also proposed a “depreciation tax correction” for each year of the access arrangement period, of about \$5 million per annum over the access arrangement period. The proposed access arrangement and access arrangement information contained limited information on the rationale for the depreciation tax correction. The Authority understood that the depreciation tax correction is the difference between the regulatory depreciation allowances calculated according to the straight-line methodology and assumptions as to asset lives and depreciation allowances calculated for the purposes of taxation accounting.
413. Subsequent to submission of its proposed access arrangement, Western Power proposed different asset lives for calculation of depreciation allowances (Table 50).¹²⁰

¹¹⁸ Proposed access arrangement, clause 6.3.

¹¹⁹ Proposed access arrangement, Appendix 7.

¹²⁰ Information supplied by Western Power in response to issue by the Authority of a notice under section 51 of the *Economic Regulation Authority Act* on 9 November 2005.

Table 50 Revised Economic lives proposed by Western Power

Asset group	Economic Life (years)
Distribution	
Distribution wooden pole lines	41 years
Distribution steel pole lines	None proposed
Distribution underground cables	60 years
Distribution transformers	35 years
Distribution switchgear	35 years
Streetlighting	20 years
Distribution meters and services	25 years
Distribution IT&T	10.16 years
Distribution SCADA & communications	10.16 years
Distribution Other, non-network	10.16 years
Transmission	
Transmission transformers	50 years
Transmission reactors	50 years
Transmission capacitors	40 years
Transmission circuit breakers	50 years
Transmission steel tower	60 years
Transmission wood poles	45 years
Transmission cables	55 years
Transmission metering	40 years
Transmission SCADA and Communications	34.15 years
Transmission IT&T	16.85 years
Transmission Other, non-network assets	16.85 years

Draft Decision

414. The Authority indicated in its Draft Decision that, for the purposes of determining target revenue in accordance with chapter 6 of the Access Code, economic lives must be determined for the relevant asset groupings in order to apply depreciation over the access arrangement period.
415. In its Draft Decision, the Authority determined that Western Power's proposed straight-line methodology for calculation of depreciation allowances, asset classes (except for correction to include the omitted asset class of steel pole lines for distribution) and asset lives (as revised and indicated in paragraph 413 of this Final Decision) are consistent with the requirements of the Code. However, the Authority noted that there are a number of inconsistencies in the specification of asset classes in the proposed access arrangement and access arrangement information. In order to address these inconsistencies, the Authority determined that different economic lives and asset groups and descriptions are more appropriate and consistent with the Code objective (Table 51).

Table 51 Authority's Draft Decision determination on asset groupings and economic lives for calculation of depreciation allowances

Asset group	Economic Life (years) for depreciation purposes
Distribution	
Distribution lines - wood poles	41 years
Distribution lines - steel poles	50 years
Distribution underground cables	60 years
Distribution transformers	35 years
Distribution switchgear	35 years
Street lighting	20 years
Distribution meters and services	25 years
Distribution IT&T	10.16 years
Distribution SCADA & communications	10.16 years
Distribution Other, non-network	10.16 years
Transmission	
Transmission transformers	50 years
Transmission reactors	50 years
Transmission capacitors	40 years
Transmission circuit breakers	50 years
Transmission lines - steel towers	60 years
Transmission lines - wood poles	45 years
Transmission cables	55 years
Transmission metering	40 years
Transmission SCADA and Communications	34.15 years
Transmission IT&T	16.85 years
Transmission Other, non-network assets	16.85 years

416. In its Draft Decision, the Authority also considered Western Power's proposed "depreciation tax correction". The Authority determined that it is neither necessary nor appropriate to seek consistency in depreciation allowances determined for regulatory and taxation-accounting purposes.
417. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 46

Western Power to amend its proposed access arrangement to be consistent with its section 51 response and to identify asset groupings and economic lives for depreciation purposes in a manner consistent with Table 31 of [the] Depreciation section of the draft decision [Table 51 of this Final Decision].

Draft Decision Amendment 47

Western Power to confirm its adoption of straight-line depreciation and any proposed accelerated depreciation, if applicable.

Draft Decision Amendment 48

Western Power to make consequential amendments to its proposed access arrangement to ensure there is no ambiguity in relation to which asset grouping applies to capital items.

Draft Decision Amendment 49

Western Power to remove the depreciation tax correction.

Submissions from Interested Parties on the Draft Decision

418. No submissions were received from interested parties.

Revised Proposed Access Arrangement

419. Western Power has incorporated revisions in the revised proposed access arrangement to indicate the methodologies adopted for calculation of depreciation allowances as follows:

6.4.6.1 Pursuant to section 6.70 of the Code, the price control set out in this Access Arrangement provides for the depreciation of the network assets that comprise the capital base. References to depreciation in this Access Arrangement relate solely to regulatory depreciation for the purposes of calculating the target revenue, and do not relate to the calculation of depreciation for accounting or taxation purposes. For the avoidance of doubt, the annual depreciation provision contained in the target revenue represents a return of the capital base value to the providers of capital.

6.5.6.2 Subject to section 6.3, the annual depreciation provision contained in the target revenue for each year of the first access arrangement period is calculated using:

- (a) the straight line depreciation method; and
- (b) weighted average lives for each of the transmission and distribution networks based on the asset lives for each group of network assets as set out in the following tables:

Transmission asset groupings and economic lives for depreciation purposes

<u>Asset group</u>	<u>Economic Life (years) for depreciation purposes</u>
<u>Transmission transformers</u>	<u>50 years</u>
<u>Transmission reactors</u>	<u>50 years</u>
<u>Transmission capacitors</u>	<u>40 years</u>
<u>Transmission circuit breakers</u>	<u>50 years</u>
<u>Transmission lines - steel towers</u>	<u>60 years</u>
<u>Transmission lines - wood poles</u>	<u>45 years</u>
<u>Transmission cables</u>	<u>55 years</u>
<u>Transmission metering</u>	<u>40 years</u>
<u>Transmission SCADA and Communications</u>	<u>34.15 years</u>
<u>Transmission IT&T</u>	<u>16.85 years</u>
<u>Transmission Other, non-network assets</u>	<u>16.85 years</u>

Distribution asset groupings and economic lives for depreciation purposes

<u>Asset group</u>	<u>Economic Life (years) for depreciation purposes</u>
<u>Distribution lines - wood poles</u>	<u>41 years</u>
<u>Distribution lines - steel poles</u>	<u>50 years</u>
<u>Distribution underground cables</u>	<u>60 years</u>
<u>Distribution transformers</u>	<u>35 years</u>
<u>Distribution switchgear</u>	<u>35 years</u>
<u>Street lighting</u>	<u>20 years</u>
<u>Distribution meters and services</u>	<u>25 years</u>
<u>Distribution IT&T</u>	<u>10.16 years</u>
<u>Distribution SCADA & communications</u>	<u>10.16 years</u>
<u>Distribution Other, non-network</u>	<u>10.16 years</u>

Asset group	Asset life for depreciation purposes
Distribution wood-pole lines (Weighted Average)	41 years
Distribution steel-pole lines	50 years
Distribution underground cables	60 years
Distribution transformers	35 years
Distribution switchgear	35 years
Public lighting	20 years
Distribution meters and services	25 years
Transmission transformers	50 years
Transmission reactors-	50 years
Transmission capacitors-	40 years
Transmission circuit breakers-	50 years
Transmission lines - steel tower-	60 years
Transmission lines - wood pole-	45 years
Transmission cables-	55 years
Transmission metering-	40 years
Transmission Non-Network Assets (Weighted Average)-	16.8 years
SCADA and Communications (Weighted Average)	34.1 years

- 6.3— Depreciation provisions in the target revenue relating to non-network assets such as buildings and information technology and systems are established in accordance with the relevant depreciation schedules applicable for taxation purposes.
- 6.4— The asset lives applied for the purpose of calculating depreciation in proposed revisions to this Access Arrangement in accordance with section 4.48 of the Code may differ from those set out in the table in section 6.2(b).

6.5 ~~Circumstances that may justify the application of asset lives in proposed revisions to this Access Arrangement that differ from those shown in the table in section 6.2(b) include but are not limited to:~~

- ~~(a) technological change;~~
- ~~(b) changes in the needs and preferences of users, leading to increased risk of stranded assets; and~~
- ~~(c) unanticipated changes in the rate of deterioration of assets.~~

6.6 For the avoidance of doubt, Western Power confirms that it is adopting a straight-line approach to depreciation and is not proposing any accelerated depreciation in the first access arrangement period in relation to transmission assets. In respect of distribution assets, Western Power will apply accelerated depreciation in respect of those distribution assets that will be decommissioned as a result of the retrospective undergrounding project undertaken by Western Power on behalf of the Western Australian government.

Distribution redundant capital by asset class (\$ million real as at 30 June 2006)

<u>Financial year ending:</u>	<u>30 June 2007</u>	<u>30 June 2008</u>	<u>30 June 2009</u>
<u>Distribution lines - wood poles</u>	<u>2.9</u>	<u>2.8</u>	<u>2.7</u>
<u>Distribution lines - steel poles</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
<u>Distribution underground cables</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
<u>Distribution transformers</u>	<u>0.8</u>	<u>0.7</u>	<u>0.7</u>
<u>Distribution switchgear</u>	<u>0.2</u>	<u>0.2</u>	<u>0.2</u>
<u>Street lighting</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
<u>Distribution meters and services</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
<u>Distribution IT&T</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
<u>Distribution SCADA & communications</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
<u>Distribution Other, non-network</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
<u>Distribution Land & Easements</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
<u>TOTAL</u>	<u>3.8</u>	<u>3.7</u>	<u>3.6</u>

Final Decision

420. Draft Decision Amendment 46 required that Western Power amend the proposed access arrangement to identify asset classes and asset lives for depreciation in a manner consistent with Table 31 of the Draft Decision (Table 51 at paragraph 415 of this Final Decision). Draft Decision Amendment 48 further required Western Power to amend its proposed access arrangement to ensure there is no ambiguity in relation to which asset grouping applies to capital items. The table of asset categories and asset lives in clause 6.5 of the revised proposed access arrangement is consistent with these requirements and, accordingly, the Authority is satisfied that the revised proposed access arrangement incorporates Draft Decision Amendments 46 and 48.

421. Draft Decision Amendment 47 required that Western Power confirm its adoption of straight-line depreciation and any proposed accelerated depreciation. Clause 6.5 of the revised proposed access arrangement indicates the adoption of a straight-line methodology and clause 6.6 indicates

values of accelerated depreciation that Western Power proposes in respect of assets that are to be made redundant as a result of implementation of the State Underground Power Program. Consistent with the Authority's determination on Western Power's treatment of redundant assets (paragraph 406 and following of this Final Decision), the Authority is satisfied that the revised proposed access arrangement incorporates Draft Decision Amendment 47.

422. Draft Decision Amendment 49 required that Western Power amend its proposed access arrangement to remove the "depreciation tax correction" from its determination of depreciation allowances. Western Power has removed any reference to this correction from its access arrangement information. The Authority has also reviewed Western Power's actual calculation of depreciation allowances and is satisfied that this correction is no longer made. Accordingly, the Authority is satisfied that the revised proposed access arrangement incorporates Draft Decision Amendment 49.

5.2.8. *Weighted Average Cost of Capital*

Access Code Requirements

423. Section 6.64 of the Access Code requires that the access arrangement set out the weighted average cost of capital (**WACC**) for a covered network.
424. Section 6.65 of the Access Code provides for the Authority to make, a determination of the preferred methodology for calculating the WACC in access arrangements for covered networks under the Access Code. If the Authority makes such a determination for the first access arrangement period, then section 6.64 of the Access Code requires that the access arrangement have regard to that determination, but the determination is not binding.
425. A determination by the Authority under section 6.65 must comply with requirements set out in section 6.66 of the Access Code:
- 6.66 A determination under section 6.65:
- (a) must represent an effective means of achieving the Code objective and the objectives in section 6.4; and
 - (b) must be based on an accepted financial model such as the Capital Asset Pricing Model.
426. If no determination has been made by the Authority, section 6.64(b) of the Access Code provides that the WACC must be calculated in a manner consistent with section 6.66 of the Access Code. Pursuant to section 6.65 of the Access Code, the Authority issued a determination of the preferred methodology for calculating the WACC (**WACC Determination**).¹²¹ Accordingly, under section 6.64(a)(i) of the Access Code the Authority is to have regard to this determination when considering whether the methodology applied by Western Power is consistent with Chapter 6 of the Access Code and the Code objective.

¹²¹ Economic Regulation Authority - Determination of the preferred methodology for calculating the weighted average cost of capital for covered electricity networks, 25 February 2005.

Proposed Access Arrangement

427. In accordance with the Authority's WACC Determination, Western Power adopted the Capital Asset Pricing Model (**CAPM**) as the financial model for estimating the WACC. For the purposes of the proposed access arrangement, Western Power undertook financial modelling in real terms and proposed a real pre-tax WACC that is set by reference to a range of WACC values derived from ranges of values of CAPM parameters.
428. The real pre-tax WACC value proposed by Western Power was 7.3 per cent. Western Power also applied a forecast of inflation of 2.6 per cent to the real pre-tax WACC to derive a nominal pre-tax WACC of 10.07 per cent.
429. Western Power provided supporting information to its proposed WACC in the access arrangement information, including consultancy reports by KPMG and SFG Consulting.¹²² In proposing a WACC value of 7.3 per cent real pre-tax, Western Power emphasised that it had regard to a number of important considerations, including moderating any price pressures, policymakers' expectations and previous views of the Authority.
430. Western Power's proposed WACC was indicated to be set by reference to a range of WACC values derived from ranges of values of CAPM parameters (Table 52).¹²³ This table also indicates the particular parameter values adopted by Western Power in its revenue models used to derive the aggregate annual revenue requirement for each of its transmission and distribution networks. In several cases the parameter values indicated in the revenue model differ materially from the range of values derived by Western Power from the advice of its consultant. Western Power did not provide any explanation for these differences.

¹²² At Appendices 4 and 5 to the original access arrangement information Western Power submitted the following consultancy reports in support of its WACC proposal: KPMG - Weighted Average Cost of Capital; SFG Consulting – A framework for quantifying estimation error in regulatory WACC.

¹²³ Original access arrangement information, page 89, table 11.

Table 52 Western Power's assumed values of CAPM parameters for the proposed access arrangement

Parameter	Basis of estimate	Plausible range Low – High	Western Power's revenue-model parameter values ¹²⁴
Nominal risk free rate	Not quoted	Not quoted - 5.36% implied	6.00%
Real risk free rate *	Yield on 10 year Government indexed bond (20 day average)	2.69%	3.33%
Inflation rate	Not quoted	Not quoted - 2.60% implied	2.58%
Capital structure (equity to total value)	Comparables and regulatory decisions	40%	40%
Capital structure (Debt proportion)	Not quoted	Not quoted - 60% implied	60%
Equity beta	Comparables and regulatory decisions	0.90 – 1.10	0.82
Market risk premium	Historical stock returns and 10 year government yields; Regulatory decisions	6.0% – 8.0%	8.201%
Debt margin*	BBB and BBB+ spreads from CBA Spectrum, and other allowances	1.49% – 1.68%	0.8%
Value of imputation credits	Empirical evidence and regulatory decisions	50% – 0%	50%

431. Western Power also indicated that its proposed WACC value is subject to change to reflect prevailing interest rates at the time of the Authority's Final Decision.

432. The WACC value of 7.3 per cent real pre-tax proposed by Western Power is consistent with advice that it received from SFG Consulting, which included a probabilistic estimate of the WACC derived using the Monte Carlo simulation techniques applied to assumptions about probability distributions for CAPM parameters. SFG indicated the WACC value of 7.3 per cent pre-tax real to be the mean and most likely value in a probability distribution of the WACC.

Draft Decision

433. In its Draft Decision, the Authority indicated its views on appropriate values to assume in applying the CAPM to determine the WACC including, where relevant, ranges in reasonable assumptions. The views taken by the Authority are indicated in Table 53, together with the values of parameters contemplated and applied by Western Power.

¹²⁴ WACC parameters used in Western Power revenue models submitted to the Authority.

Table 53 Western Power's assumed values of CAPM parameters

Parameter	Western Power's plausible range ¹²⁵		Western Power's revenue-model parameter values ¹²⁶	Authority Draft Decision
	Low	High		
Nominal risk free rate	Not quoted - 5.36% implied		6.00%	5.28%
Real risk free rate *	2.69%		3.33%	2.26%
Inflation rate	Not quoted - 2.60% implied		2.58%	2.95%
Capital structure (equity to total value)	40%		40%	40%
Capital structure (Debt proportion)	Not quoted - 60% implied		60%	60%
Equity beta	0.90 – 1.10		0.82	0.8 – 1.0
Market risk premium	6.0% – 8.0%		8.201%	5% – 6%
Debt margin*	1.49% – 1.68%		0.80%	1.225% to 1.425% (including debt establishment costs of 0.125%)
Value of imputation credits	50% – 0%		50%	30% – 60%

434. The Authority determined ranges in WACC values from the extremes of ranges in CAPM parameter values as indicated in Table 54.

Table 54 Draft Decision estimated WACC values derived from reasonable ranges in parameter values

Estimated WACC (per cent)	Nominal	Real
Post-Tax	5.68 – 6.81	2.65 – 3.75
Pre-tax	8.12 – 9.73	5.02 – 6.59

435. The Authority considered that the range of values that different minds acting reasonably could attribute to the cost of equity and WACC is narrower than the ranges that the extremes of ranges in CAPM parameters would suggest. The Authority stated in its Draft Decision that an approach by a service provider to determine the WACC that adopted the highest value within the reasonable range for each of the relevant CAPM parameters would not result in a value for the WACC that different minds, acting reasonably, would attribute to the WACC. Also, such an approach would be inconsistent with the nature of regulatory oversight because the incentive throughout the process of

¹²⁵ Original access arrangement information, page 89. KPMG views reproduced from table 11.

¹²⁶ WACC parameters used in Western Power revenue models submitted to the Authority.

- consideration of a WACC would be for the service provider to contend for those values for each of the underlying parameters that would produce the highest WACC. The process would be reduced to a consideration of what would be the highest possible WACC rather than determining a best estimate of the WACC on a reasonable basis.
436. Similarly, the Authority took the view that it would not be reasonable for users to suggest a determination based on, or implying, a WACC at the lower extreme of the range.
437. The Authority noted in its Draft Decision that, even allowing for the uncertainties associated with forming a judgement as to the range of values that different minds acting reasonably might attribute to the WACC, the value proposed by Western Power for the determination of the reference tariff set out in its access arrangement (7.3 per cent pre-tax real) lies outside of the range of values that may be derived by the application of the extremes of values for each of the parameters. The Authority determined that the WACC proposed by Western Power does not meet the requirements of the Access Code as it is outside of the range in values of the WACC that may be derived by the application of the extremes of values for each of the parameters of the CAPM.
438. The Authority gave consideration to defining a reasonable range of estimates of the WACC that would comply with the Access Code, which would be narrower than the range that may be derived by the application of the extremes of values for each of the parameters of the CAPM. The Authority recognised that, while no reasonable person would adopt the extremes of this range, there is no apparent rigorous statistical or other methodology for determining precisely at which point values close to the extreme values of the range do not reflect a reasonable view of the current market for funds.
439. As a result, the Authority was left determining subjective limits marked out by the standard of reasonableness and the extent to which different minds might reach different results. It is possible that there may be factors that indicate that the results might be skewed towards one end of the range or the other. However, the Authority was unable to identify any such factors in this case.
440. The Authority took the view that the range of values that would comply with the Access Code should not include the values that lie within the lower 10 per cent or upper 10 per cent of the range that may be derived by the application of the extremes of values for each of the parameters of the CAPM. The range of values that the Authority considered would comply with the Access Code was therefore 5.18 per cent to 6.43 per cent, pre-tax real as indicated in Table 55.

Table 55 Authority's Draft Decision assessment of reasonable WACC range

Estimated WACC (per cent)	Nominal	Real
Post-Tax	5.80 – 6.70	2.76 – 3.64
Pre-tax	8.28 – 9.57	5.18 – 6.43

441. The Authority determined that Western Power's proposed WACC falls outside the reasonable range, noting that the difference between the range of WACC values determined as reasonable by the Authority and Western Power's proposed WACC is due in part to changes in the risk free rates between the

time of Western Power submitting its proposed access arrangement and time of the Authority issuing its Draft Decision.¹²⁷

442. Taking into account all of the available evidence, the Authority's WACC Determination and the analysis described above, the Authority determined that a value of the pre-tax real WACC that meets the requirements of section 6.64 of the Access Code and the Code objective is 6.0 per cent.
443. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 52

Western Power to amend its proposed access arrangement to reflect a pre-tax real weighted average cost of capital of 6.0 per cent.

Submissions from Interested Parties on the Draft Decision

444. No submissions were received from interested parties.

Revised Proposed Access Arrangement

445. In clause 7 of its revised proposed access arrangement, Western Power indicates that the WACC for Western Power's covered network is 6.76 per cent real pre-tax.
446. In its revised access arrangement information, Western Power indicates that the WACC value of 6.76 per cent was derived by a methodology consistent with that used by the Authority to derive the upper bound of a reasonable range for a real pre-tax WACC, with the exception that the values of risk free rates were updated to a date commensurate with the date of submission of the revised proposed access arrangement. Western Power also proposes in its revised access arrangement information that the Authority allows Western Power to amend its revised proposed access arrangement to reflect the Authority's assessment of the risk free rate at the time of its Final Decision.
447. Notwithstanding the WACC value indicated in its revised proposed access arrangement and its stated intention of complying with the methodology applied by the Authority in determining a reasonable range of WACC values for the purposes of the Draft Decision, Western Power indicates in its revised access arrangement information that it does not accept that the methodology and assumptions made by the Authority in its determination of a reasonable range of values for the WACC are reasonable. In particular, Western Power indicates that it disagrees with, or questions, the Authority's determinations in the Draft Decision on:
- the reasonable range of WACC values, in particular the Authority's determination of a range of WACC values that is narrower than the range that would be derived by applying the limits of the ranges of values deemed reasonable for individual WACC parameters;
 - the reasonable range of values for the value of imputation credits (gamma);

¹²⁷ The Authority's figures are determined as at 28 February 2006.

- the lower limits of the ranges of values for the market risk premium and equity beta.

Final Decision

448. Draft Decision Amendment 52 required that Western Power amend its proposed access arrangement to reflect a pre-tax real weighted average cost of capital of 6.0 per cent. This value was determined by the Authority as a value that meets the requirements of section 6.64 of the Access Code and the Code objective, after finding that the value proposed by Western Power in its proposed access arrangement falls outside a reasonable range of values that meet these requirements.
449. Western Power has not incorporated Draft Decision Amendment 52 in its revised proposed access arrangement. Rather, Western Power has sought to otherwise address the Authority's reasons for Draft Decision Amendment 52 by:
- determining a reasonable range for the WACC by applying the methodology and assumptions of the Authority's Draft Decision, but updating the values of risk free rates (and proposing that these values be further updated for the purposes of the Authority's Final Decision); and
 - adopting a value for the WACC at the upper bound of the reasonable range thus determined.
450. The Authority has further considered the determination of the reasonable range for the WACC, taking into account values of CAPM parameters considered by the Authority in its Draft Decision to be appropriate and recent observations from capital markets on risk free rates.
451. In accordance with the Authority's WACC Determination and Draft Decision, a nominal risk free rate has been determined as the 20-day average linear approximation of observed yields on Commonwealth 10 year bonds, taken at the final day of the month prior to this Final Decision (February 2007). A real risk free rate has been similarly determined from observed yields on Commonwealth 10 year index-linked bonds. Values of the nominal and real risk free rates thus determined are 5.81 per cent and 2.63 per cent, respectively.
452. Taking into account recent observations from capital markets on risk free rates and applying the methodologies and assumptions on other CAPM parameters consistent with the Draft Decision, the Authority has re-determined the reasonable WACC range as indicated in Table 56. In accordance with the methodology applied by the Authority in its Draft Decision, the Authority has calculated upper and lower limits to the ranges of WACC values from the upper and lower limits of individual parameters and then determined a reasonable range for the WACC by narrowing this range by 10 per cent from each of the lower and upper bounds.

Table 56 Authority's Final Decision assessment of reasonable WACC range

Estimated WACC (per cent)	Nominal	Real
Post-Tax	6.19 – 7.11	3.00 – 3.89
Pre-tax	8.84 – 10.16	5.57 – 6.85

453. The WACC incorporated by Western Power in the revised proposed access arrangement (6.76 per cent pre-tax real) lies within the reasonable range determined by the Authority for the purposes of this Final Decision. Accordingly, the Authority accepts that this value meets the requirements of the Access Code.

5.2.9. Return on Working Capital

Access Code Requirements

454. “Working capital” refers to a stock of funds that must be maintained by a service provider to pay costs as they fall due. In circumstances where costs are incurred before revenues are received, such as where services are provided prior to invoicing and payment, a stock of working capital may need to be derived from a capital investment in the business. Accordingly, the cost of this stock of working capital (the required return on the capital investment) is a cost to the service provider in operating its business and providing services.

455. The Code does not explicitly contemplate a return on working capital as a cost.

456. The objectives for a price control set out in section 6.4 of the Access Code include the objective of giving the service provider an opportunity to earn an amount of target revenue that meets the forward looking and efficient costs of providing covered services, including a return on investment commensurate with the commercial risks involved.¹²⁸

457. In order to achieve this objective it is necessary that the target revenue determined in accordance with chapter 6 of the Access Code be sufficient to ensure that the service provider has appropriate incentives to continue to invest in provision of covered services. This requires that investors be provided with an expectation that with efficient management they will earn a rate of return equal to the opportunity cost of funds employed in the provision of the Reference Service, including a return on any amount of capital investment needed to provide working capital.

Proposed Access Arrangement

458. Western Power proposed that a return on working capital (at the regulatory WACC) be included in determining its target revenue. Western Power's proposed values of working capital and returns on working capital are indicated in Table 57 and Table 58.¹²⁹

¹²⁸ Access Code, section 6.4(a)(i).

¹²⁹ Original access arrangement information, pages 97, 125.

Table 57 Western Power proposed transmission network working capital costs

Transmission network	Year ending	2007	2008	2009
Working Capital (nominal \$ million)		8.8	14.5	18.0
Return on Working Capital (nominal \$ million)		0.9	1.5	1.8

Table 58 Western Power proposed distribution network working capital costs

Distribution network	Year ending	2007	2008	2009
Working Capital (nominal \$ million)		38	46	49
Return on Working Capital (nominal \$ million)		4	5	5

459. Except for the values of working capital and returns on working capital, Western Power did not provide information on the determination of its working capital requirements.

Draft Decision

460. The Authority considered Western Power's working capital requirements by consideration of the values of costs (new facilities investment and non-capital costs) and target revenue forecast for the access arrangement period, and reasonable assumptions about the "revenue lag" and "expense lead" for Western Power's business.
461. The revenue lag is an assumption about the average period of time between the service provider paying expenses and receiving payments. Western Power's proposed terms in its standard access contract period indicate unbilled consumption of 15 calendar days (i.e. half of the period prescribed by monthly invoicing in Western Power's proposed standard access contract) and a maximum time between invoicing and bill payment (accounts receivable) of 14 calendar days. This indicates a revenue lag of 29 calendar days.
462. The expense lead is an assumption about the average period of time between the service provider securing inputs necessary for the provision of services, and the service provider's payment for these inputs. The Authority considered creditor payment terms of 30 to 60 days as being representative of the industry, subject to individual vendor delivery, invoicing and payment terms and conditions. The Authority adopted 30 days as a "worst case scenario", from Western Power's perspective, to assess Western Power's working capital requirements.
463. Based on these assumptions about the revenue lag and expense lead, the Authority determined that Western Power would be in a cash surplus position in relation to its working capital requirements for both its transmission and distribution networks for each year of the initial access arrangement period. Accordingly, the Authority determined that it is not appropriate to include a return on working capital in Western Power's target revenue requirement.

464. Given the findings of its analysis, the Authority noted that it is potentially open to it to reduce Western Power’s target revenue requirement to account for the cash flow benefits arising from both the capital and operations and maintenance components of working capital.
465. The Authority noted, however, that working capital allowances are based on forecasts that are subject to a degree of imprecision and variability. Accordingly, the Authority determined not to make a downward adjustment to target revenue.
466. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 26

Western Power to delete from its access arrangement, access arrangement information and target revenue any revenue requirement due to a return on working capital for both its transmission and distribution networks.

Submissions from Interested Parties on the Draft Decision

467. No submissions were received from interested parties.

Revised Proposed Access Arrangement

468. Western Power has incorporated revised values of working capital (and return on working capital) in its revised proposed access arrangement as indicated in Table 59 and Table 60.¹³⁰

Table 59 Western Power revised working capital costs for the transmission network

Year ending	2007	2008	2009
Working Capital (real \$ million, dollar values of 30 June 2006)	8.58	7.76	14.92
Return on Working Capital (real \$ million, dollar values of 30 June 2006)	0.58	0.52	1.01

Table 60 Western Power revised working capital costs for the distribution network

Year ending	2007	2008	2009
Working Capital (real \$ million, dollar values of 30 June 2006)	21.59	19.89	18.10
Return on Working Capital (real \$ million, dollar values of 30 June 2006)	1.46	1.34	1.22

¹³⁰ Western Power, Response to the Required Amendments, Part A, section 3.12; Revised access arrangement information, Appendix 11.

469. In its submission on the Draft Decision, Western Power indicated that it has calculated its revised working capital allowance using the same approach as applied by AlintaGas Networks and approved by the Authority, citing the Authority's August 2005 Final Decision on the AlintaGas Network's access arrangement under the Gas Code.¹³¹ This calculation is indicated to involve:

- an assumed revenue lag of 45 days based on meter reading cycles and payment terms of the electricity transfer access contract; and
- an average expense lead of 20 days on operating and capital expenditure based on –
 - an expense lead of 10 days on labour costs, comprising 18 per cent of costs for the distribution network and 23 per cent of costs for the transmission network,
 - an expense lead of 30 days on direct costs of materials and services, comprising 35 per cent of costs for the distribution network and 63 per cent of costs for the transmission network, and
 - no expense lead on internal costs of materials and services or other costs.

470. Western Power's calculations of working capital requirements have changed with the revised forecasts of non-capital costs and new facilities investment submitted to the Authority in September 2006. The revised calculations of working capital requirements are indicated in Table 61 and Table 62.

Table 61 Revised calculations of working capital for the transmission network based on cost forecasts provided by Western Power in September 2006.

Year ending	2007	2008	2009
Working Capital (real \$ million, dollar values of 30 June 2006)	8.692	8.214	15.105
Return on Working Capital (real \$ million, dollar values of 30 June 2006)	0.588	0.555	1.021

Table 62 Revised calculations of working capital for the distribution network based on cost forecasts provided by Western Power in September 2006.

Year ending	2007	2008	2009
Working Capital (real \$ million, dollar values of 30 June 2006)	21.954	18.773	19.133
Return on Working Capital (real \$ million, dollar values of 30 June 2006)	1.484	1.269	1.293

¹³¹ Western Power, Response to the Required Amendments, Part A, section 3.12, citing: Economic Regulation Authority, 10 August 2005, Further Final Decision and Final Approval of the Proposed Revisions to the Access Arrangement for the Mid West and South West Gas Distribution Systems.

Final Decision

471. The Authority has reviewed Western Powers revised calculation of requirements for working capital, noting that the required values of working capital are substantially less than included under the proposed access arrangement.
472. The Authority notes that under clause 8 of the electricity transfer access contract Western Power would issue invoices within 14 days of the end of each monthly accounting period, with invoices payable within 10 business days of issue of invoices. These terms suggest a maximum revenue lag of about 43 days: 15 days (half a month) average period between provision of services and the end of the accounting period, plus a maximum of 14 days for issue of invoices, plus a maximum of 14 days for invoice payment. This revenue lag is close to Western Power's assumption of 45 days and the Authority accordingly accepts this assumption as reasonable.
473. The Authority also accepts that the assumptions of Western Power for an expense lead are reasonable.
474. The Authority therefore accepts that the methodology and assumptions applied by Western Power for the determination of a working capital allowance are reasonable. The Authority notes that the working capital requirements have been revised in accordance with forecasts of non-capital costs and new facilities investment submitted to the Authority in September 2006, as indicated in Table 61 and Table 62, above.

5.2.10. Target Revenue Determination

Access Code Requirements

475. The calculation of the service provider's costs is addressed by subchapter 6.2 of the Access Code and contemplates the determination of costs as a sum of a tariff equalisation contribution, non-capital costs and capital related costs.
476. Section 6.40 of the Access Code requires that the non-capital costs component of approved total costs must include only those non-capital costs that would be incurred by a service provider efficiently minimising costs.
477. Section 6.43 of the Access Code requires that the capital-related costs component of approved total costs be calculated by:
- (a) determining a capital base under sections 6.44 to 6.63; and
 - (b) calculating a return on the capital base of the covered network by applying the weighted average cost of capital calculated under section 6.64 to the capital base; and
 - (c) calculating the depreciation of the capital base under section 6.70.

Proposed Access Arrangement

478. For its proposed access arrangement, Western Power determined values of target revenue for its transmission and distribution networks as indicated in Table 63 to Table 65.

Table 63 Western Power proposed target revenue

Financial year ending:	30 June 2007	30 June 2008	30 June 2009
(nominal \$ million)			
Transmission	233.2	260.4	287.1
Distribution	351.0	379.0	405.0
SWIN Total	584.2	639.4	692.1
(real \$ million, dollar values of 30 June 2006)			
Transmission	226.8	246.9	265.3
Distribution	341.4	359.3	374.3
SWIN Total	568.3	606.2	639.6

Table 64 Composition of Western Power's transmission network revenue (real \$ million, dollar values of 30 June 2006)

Financial year ending:	30 June 2007	30 June 2008	30 June 2009
(nominal \$ million)			
Non-capital costs	76.9	82.9	89.0
Depreciation	56.2	61.4	67.1
Return on Assets	112.1	124.1	135.5
Return on Working Capital	8.8	14.5	18.0
Gross cost	254.0	282.9	309.6
Capital Contribution	-20.8	-22.5	-22.5
Net cost	233.2	260.4	287.1
(real \$ million, dollar values of 30 June 2006)			
Non-capital costs	74.8	78.6	82.2
Depreciation	54.7	58.2	62.0
Return on Assets	109.0	117.7	125.2
Return on Working Capital	8.6	13.7	16.6
Gross cost	247.1	268.2	286.1
Capital Contribution	-20.2	-21.3	-20.8
Net cost	226.8	246.9	265.3

Table 65 Composition of Western Power's distribution network revenue
(real \$ million, dollar values of 30 June 2006)

Financial year ending:	30 June 2007	30 June 2008	30 June 2009
(nominal \$ million)			
Non-capital costs	156.0	162.0	167.0
Depreciation	106.0	114.0	122.0
Return on capital base	122.0	136.0	152.0
Return on working capital	4.0	5.0	5.0
Tariff equalisation contribution	60.0	60.0	60.0
Gross required revenue	448.0	477.0	506.0
Miscellaneous services revenue	-6.0	-6.0	-6.0
Capital contribution	-91.0	-92.0	-95.0
Target Revenue	351.0	379.0	405.0
(real \$ million, dollar values of 30 June 2006)			
Non-capital costs	151.8	153.6	154.3
Depreciation	103.1	108.1	112.7
Return on capital base	118.7	128.9	140.5
Return on working capital	3.9	4.7	4.6
Tariff equalisation contribution	58.4	56.9	55.4
Gross cost	435.8	452.2	467.6
Miscellaneous services revenue	-5.8	-5.7	-5.5
Capital contribution	-88.5	-87.2	-87.8
Net Cost	341.4	359.3	374.3

Draft Decision

479. For the purposes of its Draft Decision, the Authority re-calculated Western Power's costs and revenue requirement according to:

- a preferred methodology for the calculation of total revenue, involving particular assumptions as to the timing of costs and revenues in each year of the access arrangement period; and
- the Authority's determinations on the components of total cost (including the level of non-capital costs, forecast new facilities investment, allowances for working capital and the WACC).

480. The Authority determined in its Draft Decision that the timing inconsistencies in the determination of target revenue should be resolved by undertaking the calculation of target revenue in real terms, with costs of new facilities investment and non-capital costs occurring on the last day of the year and with all revenues received on the last day of the year. Accordingly, the Authority re-determined the target revenue for the SWIN according to the formula:

$$TR_t = WACC \times \text{Capital Base}_{t, \text{opening}} + \text{Depreciation}_t + \text{Non-Capital Costs}_t$$

where,

TR_t = target revenue for year t in dollar values of 30 June 2006

WACC = real pre-tax WACC

Capital Base_{t, opening} = opening value of capital base in year t in dollar values of 30 June 2006

Depreciation_t = depreciation allowances for year t

Non-Capital Costs_t = non capital costs for year t.

481. The revised values of costs and revenue requirements are set out in Table 66 to Table 68.

Table 66 Authority's Draft Decision determination on Western Power's costs and revenue requirement

Financial year ending:	30 June 2007	30 June 2008	30 June 2009	Present Value
(real \$ million, dollar values of 30 June 2006)				
Transmission	201.73	213.51	222.51	567.16
Distribution	322.78	331.72	348.08	891.99
SWIN Total	524.51	545.23	570.59	1,459.15

Table 67 Authority Draft Decision determination on Western Power's costs and revenue requirement: transmission network

Financial year ending:	30 June 2007	30 June 2008	30 June 2009	Present Value
(real \$ million, dollar values of 30 June 2006)				
Non-capital costs	70.48	71.37	71.33	189.91
Depreciation	48.96	52.33	55.09	139.01
Redundant assets (Accelerated Depreciation)	-	-	-	-
Return on capital base	82.28	89.81	96.09	238.24
Return on working capital	-	-	-	-
Gross cost	201.73	213.51	222.51	567.16
Miscellaneous services revenue	-	-	-	-
Tariff equalisation contribution	-	-	-	-
Capital contribution	-13.65	-2.57	-	-15.16
Net cost	188.08	210.95	222.51	552.00

Table 68 Authority Draft Decision determination on Western Power's costs and revenue requirement: distribution network

Financial year ending:	30 June 2007	30 June 2008	30 June 2009	Present Value
(real \$ million, dollar values of 30 June 2006)				
Non-capital costs	144.16	142.01	143.90	383.21
Depreciation	89.77	92.88	98.66	250.19
Redundant assets (accelerated depreciation)	-	-	-	-
Return on capital base	88.84	96.83	105.51	258.58
Return on working capital	-	-	-	-
Gross cost	322.78	331.72	348.08	891.99
Miscellaneous services revenue	-6.21	-6.06	-5.90	-16.21
Tariff equalisation contribution ¹³²	58.49	57.02	55.59	152.60
Capital contribution	-88.37	-87.85	-88.40	-235.78
Net cost	286.68	294.84	309.35	792.60

482. The Authority also noted in its Draft Decision that Western Power's determination and presentation of its target revenue and the allocation of target revenue between reference services and non-reference services (as the two categories of covered services) are not clearly described in the proposed access arrangement.

483. In Appendix 7 of Western Power's proposed access arrangement, Western Power's proposed revenue requirement (annual aggregate revenue requirement, or AARR) was indicated to be calculated on a cost of service basis to determine a "gross" annual revenue requirement. However, in its access arrangement information Western Power deducted "miscellaneous services revenue" from its distribution network annual revenue requirement. There is no miscellaneous services revenue identified for transmission network revenues. Accordingly, it was unclear whether Western Power was proposing that its stated revenue requirement (AARR) is to be fully recovered by reference tariffs (as indicated in the proposed access arrangement¹³³) or if an amount net of miscellaneous services revenue is to be recovered from reference services (as indicated in the access arrangement information¹³⁴).

¹³² Western Power submitted an estimate of \$60 million per annum in nominal terms. Values indicated here are in real terms.

¹³³ Proposed access arrangement, chapter 5 and Appendix 7.

¹³⁴ Original access arrangement information, page 125.

484. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 20

Western Power to amend its determination of AARR (target revenue) in accordance with Equation 3 of this Draft Decision [paragraph 480 of this Final Decision] and adopt a revenue cap form of price control.¹³⁵

Draft Decision Amendment 23

Western Power to revise its access arrangement to reflect total costs and target revenues in accordance with Table 11, Table 12, Table 13, Table 14, Table 15, Table 16, Table 17 and Table 18 of the draft decision.

Draft Decision Amendment 24

Western Power to confirm its allocation of AARR (target revenue) between reference and non-reference services.

Submissions from Interested Parties on the Draft Decision

485. No submissions were received from interested parties.

Revised Proposed Access Arrangement

486. For its revised proposed access arrangement, Western Power has revised its target revenue determination in accordance with revisions made to the cost components of target revenue. The revised values of target revenue are indicated in Table 69 to Table 71, below.

Table 69 Western Power revised target revenue requirement (revised proposed access arrangement)

Financial year ending:	30 June 2007	30 June 2008	30 June 2009	Present Value
(real \$ million, dollar values of 30 June 2006)				
Transmission	171.113	176.710	207.875	486.153
Distribution	354.746	353.916	359.131	937.938
SWIN Total	525.859	530.626	567.006	1424.091

¹³⁵ The requirement for adoption of a revenue cap form of price control was a requirement in relation to the price control, rather than relating to the determination of total revenue. This is addressed further in section 5.3.1 of this Final Decision.

Table 70 Western Power revised target revenue requirement: transmission network (revised proposed access arrangement)

Financial year ending:	30 June 2007	30 June 2008	30 June 2009	Present Value
(real \$ million, dollar values of 30 June 2006)				
Non-capital costs	60.89	62.82	62.61	163.61
Depreciation	49.18	53.50	58.20	140.83
Redundant assets (accelerated depreciation)	-	-	-	-
Return on capital base	94.95	105.66	117.80	278.44
Return on working capital	0.58	0.52	1.01	1.83
Gross cost of service	205.60	222.50	239.61	584.71
Non-reference services revenue	-18.39	-18.39	-18.39	-48.46
Tariff equalisation contribution	-	-	-	-
Capital contribution	-16.10	-27.40	-13.53	-50.09
Net cost	171.11	176.71	207.88	486.15

Table 71 Western Power revised target revenue requirement: distribution network (revised proposed access arrangement)

Financial year ending:	30 June 2007	30 June 2008	30 June 2009	Present Value
(real \$ million, dollar values of 30 June 2006)				
Non-capital costs	190.16	190.51	194.36	504.99
Depreciation	94.53	98.78	105.78	262.14
Redundant assets (accelerated depreciation)	3.81	3.71	3.62	9.80
Return on capital base	103.33	113.17	124.62	298.50
Return on working capital	1.46	1.34	1.22	3.55
Gross cost of service	393.29	407.52	429.59	1078.98
Non-reference services revenue	-14.72	-14.72	-14.72	-38.81
Tariff equalisation contribution	67.80	67.88	66.53	177.75
Capital contribution	-91.62	-106.76	-122.27	-279.98
Net cost	354.75	353.92	359.13	937.94

487. Western Power's target revenue requirement has changed with the revised forecasts of non-capital costs and new facilities investment submitted to the Authority in September 2006. The revised target revenue requirements are indicated in Table 72 to Table 74, below.

Table 72 Western Power revised target revenue requirement (revised September 2006)

Financial year ending:	30 June 2007	30 June 2008	30 June 2009	Present Value
(real \$ million, dollar values of 30 June 2006)				
Transmission	175.899	181.848	213.385	499.672
Distribution	362.028	363.032	372.401	963.664
SWIN Total	537.927	544.881	585.786	1,463.336

Table 73 Western Power revised target revenue requirement: transmission network (revised September 2006)

Financial year ending:	30 June 2007	30 June 2008	30 June 2009	Present Value
(real \$ million, dollar values of 30 June 2006)				
Non-capital costs	67.24	69.39	69.89	181.29
Depreciation	48.82	53.07	57.66	139.68
Redundant assets (accelerated depreciation)	-	-	-	-
Return on capital base	93.73	104.62	116.56	275.38
Return on working capital	0.59	0.56	1.02	1.88
Gross cost of service	210.38	227.64	245.12	598.23
Non-reference services revenue	-18.39	-18.39	-18.39	-48.46
Tariff equalisation contribution	-	-	-	-
Capital contribution	-16.10	-27.40	-13.35	-50.09
Net cost	175.90	181.85	213.38	499.67

Table 74 Western Power revised target revenue requirement: distribution network (revised September 2006)

Financial year ending:	30 June 2007	30 June 2008	30 June 2009	Present Value
(real \$ million, dollar values of 30 June 2006)				
Non-capital costs	190.27	191.71	195.41	507.01
Depreciation	97.23	101.86	110.50	271.25
Redundant assets (accelerated depreciation)	3.81	3.71	3.62	9.80
Return on capital base	107.79	118.09	132.04	313.08
Return on working capital	1.48	1.27	1.29	3.57
Gross cost of service	400.58	416.64	442.86	1,104.71
Non-reference services revenue	-14.73	-14.73	-14.73	-38.81
Tariff equalisation contribution	67.80	67.88	66.53	177.75
Capital contribution	-91.62	-106.76	-122.27	-279.98
Net cost	362.03	363.03	372.40	963.66

Final Decision

488. Draft Decision Amendment 20 required that Western Power determine the target revenue for the SWIN according to the formula:

$$TR_t = WACC \times \text{Capital Base}_{t,\text{opening}} + \text{Depreciation}_t + \text{Non-Capital Costs}_t$$

where,

TR_t = target revenue for year t in dollar values of 30 June 2006

WACC = real pre-tax WACC

$\text{Capital Base}_{t,\text{opening}}$ = opening value of capital base in year t in dollar values of 30 June 2006

Depreciation_t = depreciation allowances for year t

$\text{Non-Capital Costs}_t$ = non-capital costs for year t.

489. The Authority has considered the information provided in and for the revised proposed access arrangement, including details of the financial calculations provided as Appendix 11 of the revised access arrangement information and the Excel spreadsheet version of these calculations provided separately to the Authority both with the revised proposed access arrangement and with revised cost forecasts in September 2006. The Authority is satisfied that Western Power has determined the value of target revenue consistent with the requirements of Draft Decision Amendment 20.
490. Draft Decision Amendment 23 required that Western Power revise its target revenue to reflect determinations of the Authority on component costs included in the building-block determination of target revenue.
491. In its revised proposed access arrangement, Western Power has not incorporated a value of target revenue reflecting the Authority's determinations on cost components under the Draft Decision and as required by Draft Decision Amendment 23. Rather, Western Power has provided a value of target revenue reflecting a number of revisions to cost components, as described in previous sections of this Final Decision.
492. As indicated in previous sections of this Final Decision, the Authority is satisfied that the cost components of the target revenue calculation as submitted by Western Power as part of its revised proposed access arrangement, and in revised forecasts submitted to the Authority in September 2006, meet the relevant requirements of the Access Code. Accordingly, the Authority is also satisfied that the values of target revenue derived from the revised costs components and forecasts (indicated in Table 72 to Table 74, above) also meet the relevant requirements of the Access Code. The calculation of this target revenue is shown in Appendix B of this Final Decision.
493. Draft Decision Amendment 24 required that Western Power confirm its allocation of target revenue between reference and non-reference services.
494. In the statement of target revenue requirements included in its revised access arrangement information, Western Power indicates a deduction of a forecast of

revenue from provision of non-reference services (and a value of capital contributions) from the gross cost of service provision to derive a forecast net cost of providing reference services. This is also indicated in the price list information (Appendix 6 of the revised proposed access arrangement). There is no indication in the revised proposed access arrangement and associated documents that the prices of (and revenue from) non-reference services result from a process of an *ex ante* cost allocation to these services. As such, the revised proposed access arrangement does not incorporate Draft Decision Amendment 24.

495. The Authority has further considered the requirement for Western Power to indicate an allocation of target revenue between reference and non-reference services. The Authority has taken into account two particular matters in this regard.
496. First, there is no indication in the revised proposed access arrangement that tariffs for non-reference services result from an allocation of target revenue. There is no requirement under the Access Code for tariffs for non-reference services to be set in such a manner and, for example, tariffs for non-reference services may be determined by Western Power, subject to negotiation with users and the dispute-resolution provisions of the Access Code.
497. Second, the price control proposed by Western Power under its revised proposed access arrangement (addressed in section 5.3.1 of this Final Decision) brings to account differences between the forecast and realised revenue from non-reference services.
498. Taking these matters into account, the Authority no longer considers that it is necessary for the access arrangement or access arrangement information to describe an allocation of costs between reference and non-reference services. Accordingly, the Authority does not consider that it is necessary to maintain the requirement of Draft Decision Amendment 24 for the revised proposed access arrangement to confirm an allocation of costs between reference and non-reference services.

5.3. Price Control and Reference Tariffs

5.3.1. Price Control

Access Code Requirements

499. Section 5.1(d) of the Access Code requires that an access arrangement include a price control. A price control is defined in section 1.3 of the Access Code as “the provisions in an access arrangement under section 5.1(d) and Chapter 6 which determine target revenue”. A note to this definition indicates that a price control can consist of direct or indirect limits, and consists of a limit on the level of tariffs through the control of overall revenue. This note also distinguishes between a price control and pricing methods by indicating that pricing methods deals with the structure of tariffs.
500. The specific requirements and objectives for the price control are set out in sections 6.1 to 6.3 to the Access Code. Sections 6.1 and 6.2 state requirements for the form of price control:

- 6.1 Subject to section 6.3, an access arrangement may contain any form of price control provided it meets the objectives set out in section 6.4 and otherwise complies with this Chapter 6.
- 6.2 Without limiting the forms of price control that may be adopted, price control may set target revenue:
- (a) by reference to the service provider's approved total costs; or
{Note: This includes "revenue cap" price controls based on controlling total revenue, average revenue or revenue yield and "price cap" price controls based on cost of service.}
 - (b) by setting tariffs with reference to:
 - (i) tariffs in previous access arrangement periods; and
 - (ii) changes to costs and productivity growth in the electricity industry;
{Note: This includes "price cap" price controls based on controlling the weighted average of tariffs or individual tariffs.}or
 - (c) using a combination of the methods described in sections 6.2(a) and 6.2(b).
- 6.3 The first access arrangement must contain the form of price control described in section 6.2(a).
501. Sections 6.4 and 6.5 of the Access Code set out the objectives that must be met by a price control:
- 6.4 The price control in an access arrangement must have the objectives of:
- (a) giving the service provider an opportunity to earn revenue ("target revenue") for the access arrangement period from the provision of covered services as follows:
 - (i) an amount that meets the forward-looking and efficient costs of providing covered services, including a return on investment commensurate with the commercial risks involved;
plus:
 - (ii) for access arrangements other than the first access arrangement, an amount in excess of the revenue referred to in section 6.4(a)(i), to the extent necessary to reward the service provider for efficiency gains and innovation beyond the efficiency and innovation benchmarks in a previous access arrangement;
{Note: The presence of section 6.4(a)(ii) provides incentive to a service provider during an access arrangement period to pursue efficiency gains and innovation beyond the efficiency and innovation benchmarks in the access arrangement, because the service provider may be rewarded in the calculation of the target revenue for subsequent access arrangement periods.}
plus:
 - (iii) an amount (if any) determined under section 6.6;
plus:
 - (iv) an amount (if any) determined under section 6.9;
plus:

- (v) an amount (if any) determined under an investment adjustment mechanism (see sections 6.13 to 6.18);
plus:
 - (vi) an amount (if any) determined under a service standards adjustment mechanism (see sections 6.29 to 6.32);
 - and
 - (b) enabling a user to predict the likely annual changes in target revenue during the access arrangement period; and
 - (c) avoiding price shocks (that is, sudden material tariff adjustments between succeeding years).
- 6.5 The amount determined in seeking to achieve the objective specified in section 6.4(a)(i) is a target, not a ceiling or a floor.

Proposed Access Arrangement

502. Western Power's proposed price control was set out in chapter 5 of its proposed access arrangement. A more detailed description of the price control was provided as Appendix 7 of the proposed access arrangement.

503. Western Power proposed a revenue yield price control. This form of price control establishes a constraint on the prices that may be charged for a regulated activity where the constraint is a maximum average charge across a measure of the quantity sold of all services.

504. The proposed price control establishes a constraint on maximum allowed revenue for all covered services, being the sum of constraints on maximum allowed revenue established separately for transmission and distribution services:

$$CSMAR_t = TMAR_t + DMAR_t$$

where

$CSMAR_t$ = covered services maximum allowed revenue in year t

$TMAR_t$ = transmission maximum allowed revenue in year t

$DMAR_t$ = distribution covered services maximum allowed revenue in year t

505. The constraint on maximum allowed revenue for transmission services was as follows:

$$TMAR_t = TARY_t \cdot TQ_t \cdot FQE_t \cdot TK_t$$

where

$TARY_t$ = maximum average price per unit transmitted within the SWIS in financial year t

TQ_t = actual energy imported into the transmission network in financial year t

FQE_t = revenue allowance in respect of the investment adjustment mechanism t

TK_t = correction factor which takes account of any difference between the maximum allowed transmission network business revenue in financial year $t-1$ and the actual transmission network business revenue in financial year $t-1$.

506. For the first year of the access arrangement period ($t = 1$), $TARY_t$ would be set at a commencing value and $TK_t = 0$. For subsequent years:

$$TARY_t = TARY_{t-1} \cdot (1 + CPI_t - TX_t)$$

507. The CPI_t value is determined as a proportional change in the CPI in the 12 months to the end of the preceding March quarter:

$$CPI_t = \frac{CPI_{\text{March } t-1} - 1}{CPI_{\text{March } t-2}}$$

508. The correction factor, TK_t , is the difference in the maximum allowed revenue and the actual revenue for the previous period, scaled for inflation and the time value of money:

$$TK_t = (TMAR_{t-1} - ATR_{t-1}) \cdot (1 + WACC_{nom})$$

where

ATR_{t-1} = the actual transmission network business revenue earned in relation to the provision of covered services plus any capital contributions in year $t-1$.

$WACC_{nom}$ = the nominal WACC value corresponding to the real WACC applied in the cost of service calculation for determination of target revenue.

509. The maximum allowed revenue for the distribution covered services ($DMAR_t$) is defined in a directly analogous manner.

Side constraints

510. Western Power proposed to apply “side constraints” on reference tariff adjustments under the revenue yield price control such that for the financial years commencing 1 July 2007 and 1 July 2008: ¹³⁶

- Western Power will not increase or decrease any component of a reference tariff by more than CPI+2 per cent per annum; and
- Western Power will not increase or decrease any individual reference tariff by more than CPI+2 per cent per annum.

¹³⁶ Proposed access arrangement, page 3.

Draft Decision

511. In its Draft Decision, the Authority noted that there were a number of inconsistencies between chapter 5 and Appendix 7 of the proposed access arrangement, including differences in algebraic specification of the price control. The Authority also determined that the forecasts of demand for services were not determined with a sufficient level of confidence to enable the proposed price control to be implemented in a manner consistent with the objectives of section 6.4 of the Access Code.
512. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 20

Western Power to amend its determination of AARR (target revenue) in accordance with Equation 3 of this Draft Decision¹³⁷ and adopt a revenue cap form of price control.

Draft Decision Amendment 21

Western Power to amend its “K factor” to be determined in accordance with the Authority’s assessment in the annual Revenue Adjustment Mechanism. The K factor should explicitly link to approved total costs, compare target (forecast) and actual revenues and be symmetrical (in relation to over or under recoveries against target revenue) in its application.

Draft Decision Amendment 22

Western Power to revise the price control clauses of its access arrangement ensuring consistency throughout with the required amendments, methodology and nomenclature described in this Draft Decision.

Submissions from Interested Parties on the Draft Decision

513. Alinta Sales Pty Ltd made a submission on the side constraints applying under the price control.

The proposed access arrangement contains side constraints, which provide that annual changes to tariff prices will not increase or decrease by more than CPI+2% in any year. Alinta notes that the proposed regime is different to the existing practice, whereby tariffs (and tariff components) cannot increase by more than CPI+2% per year, but decreases in tariffs are not restricted in that way.

Alinta submits that the ERA should ensure that it is satisfied that the advantages of the proposed approach outweigh the potential disadvantages of changing the status quo before approving the proposed side constraints.

Revised Proposed Access Arrangement

514. Western Power sets out a “revenue-cap” price control in chapter 5 of its revised proposed access arrangement. Explanatory notes to the price control are provided as Appendix 8 of the revised proposed access arrangement.

¹³⁷ The requirement for determination of target revenue in accordance with equation 3 of the Draft Decision was a requirement in relation to the methodology for determination of the target revenue, rather than relating to the price control. This is addressed in section 5.2.10 of this Final Decision.

515. The clauses of the revised proposed access arrangement describing the price control are set out below. As the price control is substantially changed from that of the proposed access arrangement, only the relevant clauses of the revised proposed access arrangement are shown below, without indication of changes from the proposed access arrangement.

5 Price Control

Form of price control

- 5.1 In accordance with section 6.3 of the Code, Western Power proposes a revenue cap for covered services that is set by reference to Western Power's approved total costs.
- 5.2 The calculation of Western Power's approved total costs has been undertaken in accordance with the methodology contained in the Authority's revenue model, with the exception of working capital where Western Power has included an allowance. The financial parameters set out in this Access Arrangement have been derived using this methodology, which calculates approved total costs in accordance with the Code requirements.
- 5.3 Explanatory notes to the price control arrangements are set out in Appendix 8 of this Access Arrangement should the need for further explanation of these arrangements arise.

...

Form of Price Control: Revenue Cap

- 5.25 In accordance with sections 6.1, 6.2(a) and 6.4 of the Code, the form of price control will be "revenue cap", which has the objectives (amongst other things) of giving Western Power an opportunity to earn target revenue for the access arrangement period from the provision of covered services.
- 5.26 Separate revenue caps will apply in respect of the transmission network and the distribution network. The establishment of both revenue caps has been made by reference to the Western Power's approved total costs.

Transmission Network Revenue Cap

- 5.27 The Transmission Network Revenue Cap determines the maximum regulated transmission revenue (MTR_t) for Western Power's transmission network for each financial year t . Subject to the annual side constraints on reference tariff movements set out in section 3.11 of this Access Arrangement, Western Power will use its reasonable endeavours to ensure that the actual transmission regulated revenue in financial year t does not exceed the maximum transmission regulated revenue in financial year t .
- 5.28 The operation of the correction factor, TK_t , as described in sections 5.36 and 5.37 of this Access Arrangement will ensure that the MTR in year t is adjusted for any shortfall or over-recovery of actual transmission regulated revenue compared to the MTR in preceding years.
- 5.29 For the purposes of this Transmission Network Revenue Cap, Western Power's actual regulated transmission revenue in financial year t comprises:
- (a) transmission revenue earned in relation to the provision of reference and non-reference services in financial year t , subject to section 5.33 of this Access Arrangement. Where a reference or non-reference service is provided jointly by Western Power's transmission and distribution network businesses, the revenue earned must be allocated between the businesses in a fair and reasonable manner; and
 - (b) "Deemed capital contributions" in financial year t in respect of the transmission network, as set out in the table below. The deemed capital contributions equals the forecast capital contributions in this access

arrangement period, which have been used by Western Power in its calculation of target revenue for this access arrangement period.

Deemed capital contributions in financial year t in respect of the transmission network (\$million real as at 30 June 06)

<u>2006/07</u>	<u>2007/08</u>	<u>2008/09</u>
<u>16.1</u>	<u>27.4</u>	<u>13.4</u>

5.30 For the purposes of determining actual capital contributions as applied in section 5.32 of this Access Arrangement, Western Power will exclude any capital contributions where the relevant works have been provided on a competitive basis or where the terms and conditions have been negotiated in accordance with section 2.5 of the Code. The purpose of this provision is to provide Western Power and prospective connecting parties with the option to negotiate connection contributions on a basis other than that contemplated by this Access Arrangement.¹

[Footnote 1: It is noted that if Western Power chooses to exclude a capital contribution from the determination of the actual capital contributions received by Western Power, the actual capital expenditure that will be applied in the investment adjustment mechanism will be correspondingly lower, and, other things being equal, will have the effect of reducing the target revenue in subsequent access arrangement periods so as to completely offset, in present value terms, the effect of the exclusion of that capital contribution from the determination of the actual capital contributions received. For a further explanation of this arrangement, please refer to Appendix 8 of this Access Arrangement.]

5.31 No adjustments will be made to MTR in this access arrangement period to reflect any differences between the deemed capital contributions in respect of the transmission network and the actual capital contributions received during this access arrangement period.

5.32 An adjustment (positive or negative), termed the Capital Contributions Adjustment Mechanism, will be made to the target revenue for the next access arrangement period to reflect any difference between the deemed capital contributions in respect of the transmission network and the actual capital contributions received during this access arrangement period. The purpose of this adjustment is to correct for any under- or over-recovery of actual capital contributions received compared to the forecast of capital contributions (the deemed capital contributions) in this access arrangement period². To give effect to this purpose, the adjustment (positive or negative) to the target revenue for the next access arrangement period must leave Western Power economically neutral as a result of any difference between the deemed capital contributions in respect of the transmission network and the actual capital contributions received during this access arrangement period by taking account of:

- (a) The effects of inflation, both in this access arrangement period and the next access arrangement period;
- (b) The time value of money as reflected by the real pre-tax WACC as applied in this access arrangement period and the next access arrangement period; and
- (c) The difference in the timing of the deemed and actual capital contributions received in this access arrangement period, and the period over which any adjustment to target revenue is to be made.

[Footnote 2: As such, this adjustment performs a similar function to the correction factor, TK_t , but this adjustment applies only to capital contributions and the adjustment itself is applied from the

commencement of the next access arrangement period. For an explanation of the rationale for this approach, please refer to Appendix 8 of this Access Arrangement.]

5.33 For the avoidance of doubt, revenue received by Western Power for excluded services or in respect of services that are not provided by Western Power in accordance with this Access Arrangement must not be treated as actual regulated revenue for the purposes of this Transmission Network Revenue Cap.

5.34 The Transmission Network Revenue Cap commences on 1 July 2006, even if this Access Arrangement is approved after that date. This revenue cap applies annually on a financial year basis for the duration of this Access Arrangement.

5.35 For this access arrangement period, the maximum regulated transmission revenue MTR_t is determined as follows:

$$MTR_t = TR_t + TK_t$$

Where:

TR_t is the dollar amount in money of the day terms (current prices) for the financial year t calculated from the dollar amounts (expressed in 30 June 2006 prices) set out in the table below.

Transmission revenues to be used for calculating TR_t
(\$million real as at 30 June 06)

<u>2006/07</u>	<u>2007/08</u>	<u>2008/09</u>
<u>211.8</u>	<u>230.5</u>	<u>224.1</u>

TK_t is the correction factor calculated in accordance with sections 5.36 and 5.37 of this Access Arrangement, which takes account of any difference between the maximum regulated transmission network revenue in financial year t-1 and the actual regulated transmission network revenue in financial year t-1.

For the purpose of determining compliance with this revenue cap and calculating TR_t, TK_t and therefore MTR_t, in each financial year CPI adjustments will be effected by using published CPI data relating to the relevant March quarters.

5.36 For financial years commencing on 1 July 2007 and 1 July 2008:

$$TK_t = (MTR_{t-1} - ATR_{t-1}) * (1 + WACC_{pre-tax real})$$

Where:

MTR_{t-1} is the maximum regulated revenue for Western Power's transmission network in the previous financial year.

ATR_{t-1} is the actual regulated transmission revenue in the previous financial year as defined in accordance with section 5.29 of this Access Arrangement.

WACC_{pre-tax real} is 0.0676

For the financial year commencing on 1 July 2006, TK_t = 0.

For the avoidance of doubt, it should be noted that the annual tariff-setting process for financial year t typically takes place before the end of financial year t-1. Therefore, TK_t will need to be estimated in the first instance, and then recalculated in the subsequent financial year when ATR_{t-1} is known.

5.37 The correction factor, TK_t, will also apply in the first year of the next access arrangement period to adjust for any difference between maximum regulated transmission network revenue and actual transmission network revenue, in relation to the financial year commencing on 1 July 2008.

Distribution Network Revenue Cap

- 5.38 The Distribution Network Revenue Cap determines the maximum regulated distribution revenue (MDR_t) for Western Power's distribution network for each financial year t. Subject to the annual side constraints on reference tariff movements set out in section 3.11 of this Access Arrangement, Western Power will use its reasonable endeavours to ensure that the actual distribution regulated revenue in financial year t does not exceed the maximum distribution regulated revenue in financial year t.
- 5.39 The operation of the correction factor, DK_t, as described in sections 5.47 and 5.48 of this Access Arrangement will ensure that the MDR in year t is adjusted for any shortfall or over-recovery of actual distribution regulated revenue compared to the MDR in preceding years.
- 5.40 For the purposes of this Distribution Network Revenue Cap, Western Power's actual regulated distribution revenue in financial year t comprises:
- (a) distribution revenue earned in relation to the provision of reference and non-reference services in financial year t, subject to section 5.44 of this Access Arrangement. Where a reference or non-reference service is provided jointly by Western Power's transmission and distribution network businesses, the revenue earned must be allocated between the businesses in a fair and reasonable manner; and
- (b) "Deemed capital contributions" in financial year t in respect of the distribution network, as set out in the table below. The deemed capital contributions equals the forecast capital contributions in this access arrangement period, which have been used by Western Power in its calculation of target revenue for this access arrangement period.

Deemed capital contributions in financial year t in respect of the distribution network (\$million real as at 30 June 06)

<u>2006/07</u>	<u>2007/08</u>	<u>2008/09</u>
<u>91.6</u>	<u>106.8</u>	<u>122.3</u>

- 5.41 For the purposes of determining actual capital contributions as applied in section 5.43 of this Access Arrangement, Western Power will exclude any capital contributions where the relevant works have been provided on a competitive basis or where the terms and conditions have been negotiated in accordance with section 2.5 of the Code. The purpose of this provision is to provide Western Power and prospective connecting parties with the option to negotiate connection contributions on a basis other than that contemplated by this Access Arrangement.³

[Footnote 3: It is noted that if Western Power chooses to exclude a capital contribution from the determination of the actual capital contributions received by Western Power, the actual capital expenditure that will be applied in the investment adjustment mechanism will be correspondingly lower, and, other things being equal, will have the effect of reducing the target revenue in subsequent access arrangement periods so as to completely offset, in present value terms, the effect of the exclusion of that capital contribution from the determination of the actual capital contributions received. For a further explanation of this arrangement, please refer to Appendix 8 of this Access Arrangement.]

- 5.42 No adjustments will be made to MDR in this access arrangement period to reflect any differences between the deemed capital contributions in respect of the distribution network and the actual capital contributions received during this access arrangement period.

5.43 An adjustment (positive or negative), termed the Capital Contributions Adjustment Mechanism, will be made to the target revenue for the next access arrangement period to reflect any difference between the deemed capital contributions in respect of the distribution network and the actual capital contributions received during this access arrangement period. The purpose of this adjustment is to correct for any under- or over-recovery of actual capital contributions received compared to the forecast of capital contributions (the deemed capital contributions) in this access arrangement period . To give effect to this purpose, the adjustment (positive or negative) to the target revenue for the next access arrangement period must leave Western Power economically neutral as a result of any difference between the deemed capital contributions in respect of the distribution network and the actual capital contributions received during this access arrangement period by taking account of:

- (a) The effects of inflation, both in this access arrangement period and the next access arrangement period;
- (b) The time value of money as reflected by the real pre-tax WACC as applied in this access arrangement period and the next access arrangement period; and
- (c) The difference in the timing of the deemed and actual capital contributions received in this access arrangement period, and the period over which any adjustment to target revenue is to be made.

5.44 For the avoidance of doubt, revenue received by Western Power for excluded services or in respect of services that are not provided by Western Power in accordance with this Access Arrangement must not to be treated as actual regulated revenue for the purposes of this Distribution Network Revenue Cap.

5.45 The Distribution Network Revenue Cap commences on 1 July 2006, even if this Access Arrangement is approved after that date. This revenue cap applies annually on a financial year basis for the duration of this Access Arrangement.

5.46 For this access arrangement period, the maximum regulated distribution revenue MDR_t is determined as follows:

$$MDR_t = DR_t + TEC_t + DK_t$$

Where:

DR_t is the dollar amount in money of the day terms (current prices) for the financial year t calculated from the dollar amounts (expressed in 30 June 2006 prices) set out in the table below.

Distribution revenues to be used for calculating DR_t
(\$million real as at 30 June 06)

<u>2006/07</u>	<u>2007/08</u>	<u>2008/09</u>
<u>387.1</u>	<u>409.7</u>	<u>434.3</u>

TEC_t is the cost incurred by the distribution network for the financial year t as a result of the tariff equalisation contribution in accordance with section 6.37A of the Access Code.

DK_t is the correction factor calculated in accordance with sections 5.47 and 5.48 of this Access Arrangement, which takes account of any difference between the maximum regulated distribution network revenue in financial year t-1 and the actual regulated distribution network revenue in financial year t-1.

For the purpose of determining compliance with this revenue cap and calculating DR_t , DK_t and therefore MDR_t , in each financial year CPI adjustments will be effected by using published CPI data relating to the relevant March quarters.

5.47 For financial years commencing on 1 July 2007 and 1 July 2008:

$$DK_t = (MDR_{t-1} - ADR_{t-1}) * (1 + WACC_{pre-tax real})$$

Where:

MDR_{t-1} is the maximum regulated revenue for Western Power's distribution network in the previous financial year.

ADR_{t-1} is the actual regulated distribution revenue in the previous financial year as defined in accordance with section 5.40 of this Access Arrangement.

WACC_{pre-tax real} is 0.0676

For the financial year commencing on 1 July 2006, DK_t = 0.

For the avoidance of doubt, it should be noted that the annual tariff-setting process for financial year t typically takes place before the end of financial year t-1. Therefore, DK_t will need to be estimated in the first instance, and then recalculated in the subsequent financial year when ADR_{t-1} is known.

5.48 The correction factor, DK_t, will also apply in the first year of the next access arrangement period to adjust for any difference between maximum regulated distribution network revenue and actual distribution network revenue, in relation to the financial year commencing on 1 July 2008.

516. Western Power provides some further description and explanation of the price control in Appendix 8 of the revised proposed access arrangement, particularly in respect of interaction of the price control with the investment adjustment mechanism (in the second access arrangement period) and exclusion of certain revenues from consideration under the revenue cap (under clauses 5.30, 5.33 and 5.41 and 5.44 of the revised proposed access arrangement).

517. Related to the price control is any "side constraint" that limits the extent to which component charges of reference tariffs may be increased or decreased from one year of the access arrangement period to the next. A side constraint on changes to reference tariffs was included in the proposed access arrangement at clause 3.9. At section 3.11 of the revised proposed access arrangement, the side constraint has been changed to increase the extent to which component charges can be increased or decreased:

3.11~~3.9~~ For each year of this access arrangement period, Western Power will not increase or decrease any reference tariff by more than CPI+5% per annum. For reference services A1 to A10 and B1, Western Power will give effect to this side constraint by ensuring that no tariff component increases or decreases in any financial year by more than CPI+5% per annum. For financial years commencing 1 July 2007 and 1 July 2008:

~~(a) Western Power will not increase or decrease any component of a reference tariff by more than CPI+2% per annum; and~~

~~(b) Western Power will not increase or decrease any individual reference tariff by more than CPI+2% per annum.~~

Final Decision

518. Draft Decision Amendment 20 required that Western Power adopt a revenue cap form of price control. Western Power has set out a revenue cap form of price control in its revised proposed access arrangement. The Authority has reviewed the general specification of the revenue cap set out in section 5 of the revised proposed access arrangement and is satisfied that this is generally consistent with this form of price control as it has been implemented in other circumstances. The Authority particularly notes that the revenue cap proposed

by Western Power is consistent with the general form of application of this price control in that:

- reference tariffs are set for 2006/07 on the basis of an amount of required revenue for 2006/07, and in 2007/08 and 2008/09 on the basis of an amount of required revenue plus corrections for under-recovery or over-recovery of required revenue for 2007/08 and 2008/09;
- the “correction factor” for under-recovery or over-recovery of required revenue has effect over two years – a correction is made in the first year following a particular pricing year on the basis of a combination of recorded and forecast actual revenues, and a further correction is made in the second year following a particular pricing year to take into account the complete records of actual revenues.

519. The revised proposed access arrangement does not include a definitive specification of the price control in the form of the formulas for application of the revenue-cap in each year of the access arrangement period. The Authority is satisfied, however, that the description of the price control in chapter 5 of the revised proposed access arrangement is sufficiently detailed to enable these formulas to be specified when the access arrangement comes into effect.

520. While the Authority is satisfied that the revenue cap set out in the revised proposed access arrangement is generally consistent with this form of price control as it has been implemented in other circumstances, the Authority considers that one particular feature of the revenue cap proposed by Western Power, and related matters of the access arrangement, do not comply with the requirements of the Access Code. This feature is the exclusion of certain revenues from the price control.

521. At clauses 5.30, 5.33 and 5.41 and 5.44 of the revised proposed access arrangement, Western Power seeks to exclude certain revenues from the revenue cap, including:

- revenues from capital contributions made in respect of works that have been provided on a competitive basis or where the terms and conditions have been negotiated in accordance with section 2.5 of the Access Code; and
- revenue received by Western Power for excluded services or in respect of services that are not provided by Western Power in accordance with the access arrangement.

522. In respect of exclusion of revenues received in capital contributions, Western Power proposes that, where these are excluded from the price control, there is to be no addition of the value of the capital expenditure (to which the capital contributions relate) to the capital base.

523. Western Power has sought to justify this treatment of revenues by indicating that it is consistent with section 2.5 of the Access Code:¹³⁸

2.5 Nothing in this Code except:

- (a) an applications and queuing policy in an access arrangement; and

¹³⁸ Revised proposed access arrangement, Appendix 8.

- (b) the ringfencing objectives and any ringfencing rules approved for a network by the Authority under Chapter 13;
- (c) and any applicable technical rules,
- limits:
- (d) the services a service provider may agree to provide to a user or applicant; or
- (e) the terms for, or connected with, the provision of services which may be agreed between a service provider and a user or applicant; or
- (f) the covered services which may be the subject of an access dispute or award under Chapter 10; or
- (g) the terms for, or connected with, the provision of covered services which may be the subject of an access dispute or award under Chapter 10.
524. The Authority considers that the Access Code does not allow for revenues to be excluded from a revenue-cap price control except where the revenue is earned from provision of services that are not covered services or of “excluded services”.
525. Section 6.4 of the Access Code indicates that a price control is established with the objective of giving the service provider an opportunity to earn an amount of revenue (“target revenue”) established – for the first access arrangement period – as an amount that meets the forward looking and efficient costs of providing covered services, plus any amount of tariff equalisation contributions. The wording of section 6.4 implies that target revenue and the price control encompass all costs and revenues for the provision of covered services, but do not encompass costs and revenues of providing services that are not covered services.
526. Sections 6.33 to 6.37 of the Access Code provide for the Authority to determine that a service is an “excluded service”, in which case the service is not a covered service. Under the definition provided in section 1.3 of the Access Code, an excluded service is a service that meets all of the criteria for being a covered service, but that also meets the following criteria:
- the supply of the service is subject to effective competition; and
 - the cost of the service is able to be excluded from consideration for price control purposes without departing from the Code objective.
527. Other than determination of a service as an excluded service, or the approval of the Authority of an access arrangement that includes an excluded service, the Code does not contemplate any mechanism whereby a covered service and the costs and revenues of providing that covered service are not considered under a price control.
528. Accordingly, the Authority considers that the provisions of clauses 5.30, 5.33 and 5.41 and 5.44 of the revised proposed access arrangement are inconsistent with the requirements of the Access Code except to the extent that they relate to excluded services. The Authority notes that Western Power indicates in its revised proposed access arrangement that, for the purposes of the access arrangement, there are no excluded services.¹³⁹

¹³⁹ Revised proposed access arrangement, clause 4.1.

529. The Authority requires the following amendment to the revised proposed access arrangement.

Required Amendment 4

The revised proposed access arrangement should be amended to remove provision under sections 5.30, 5.33 and 5.41 and 5.44 for exclusion of revenues from consideration under the revenue cap, other than revenues earned from services that are excluded services or that are otherwise not covered services. Corresponding amendments should be made to remove explanatory notes on this element of the proposed price control from Appendix 8 of the revised proposed access arrangement.

530. The side constraint on changes to reference tariff charges that is set out in the revised proposed access arrangement provides for larger year to year variation in charges than was provided for under the proposed access arrangement: increases or decreases by CPI + 5 per cent under the revised proposed access arrangement rather than CPI + 2 per cent under the proposed access arrangement. These revisions to the proposed access arrangement were not made in response to any amendment required under the Draft Decision, and Western Power did not provide any justification for the revision in the revised access arrangement information or submissions to the Authority at the time of submission of the revised proposed access arrangement.
531. Subsequent to submission of the revised proposed access arrangement, Western Power has provided further information to the Authority on the reasons for the proposal of a less stringent side constraint on changes to reference tariff charges.
532. Western Power indicates that the less stringent side constraint is required to:
- accommodate changes in use-of-system charges for transmission services (and the transmission component of bundled tariffs for distribution services) that result from changes in patterns of usage of energy and capacity on the transmission network; and
 - accommodate expected increases in the general level of reference tariffs for transmission and distribution services in the medium to long term future that will be made necessary by significant increases in capital expenditure on the transmission network over the first three access arrangement periods.
533. Western Power has indicated to the Authority that it envisages a need for increases in average transmission charges by an average annual rate in excess of two per cent per annum in real terms over the period to 2019.
534. The Authority accepts that the less stringent side constraint proposed by Western Power under the revised proposed access arrangement may be necessary to allow it to recover its target revenue. A side constraint on changes to reference tariff charges that is too stringent to enable Western Power to increase charges sufficiently to recover its target revenue would be contrary to the objectives for a price control in section 6.4 of the Access Code

and contrary to the Code objective. Accordingly, the Authority accepts that the side constraint of CPI + 5 per cent on year to year changes in reference tariff charges is consistent with the requirements of the Access Code.

535. The Authority has given consideration to the submission from Alinta Sales Pty Ltd that questioned whether there is justification for a constraint on the extent of any decreases in reference tariffs. The Authority does not consider that a constraint on the extent of any decrease in tariffs is necessary to protect the interests of users in the same way as a constraint on increases in tariffs. However, neither does the Authority consider that there is any reason to reject Western Power's proposal for such a constraint.
536. The Authority notes that the price control proposed by Western Power includes a mechanism for the adjustment of target revenue in the second access arrangement to reflect differences between forecast and actual values of capital contributions during the first access arrangement period (the capital contributions adjustment mechanism at clauses 5.32 and 5.43 of the revised proposed access arrangement). This element of the revised proposed access arrangement is addressed in section 5.2.5 of this Final Decision, which deals with Western Power's proposed general treatment of capital contributions and the new facilities investment financed by capital contributions. The Authority is satisfied that the capital contributions adjustment mechanism is consistent with other elements of the price control.

5.3.2. Pricing Methods, Price List and Price List Information

Access Code Requirements

Pricing methods

537. Section 5.1(e) of the Access Code requires an access arrangement to include pricing methods in accordance with the requirements of chapter 7 of the Code.
538. Section 7.1 of the Access Code indicates that "pricing methods" means the structure of reference tariffs included in an access arrangement.
539. Section 7.2 of the Access Code indicates that an access arrangement may contain any pricing methods; provided that the pricing methods collectively meet the objectives set out in sections 7.3 and 7.4 and otherwise comply with the requirements of Chapter 7. A note under section 7.2 also indicates a number of examples of tariffs that may result from pricing methods, indicating that tariffs or parts of tariffs may be set to take into account matters such as different classes of users, different voltage levels, different connection points, demand levels, energy quantities and times of use.
540. Sections 7.3 and 7.4 of the Access Code set out the objectives for pricing methods, as follows:
- 7.3 Subject to sections 7.5, 7.7 and 7.12, the pricing methods in an access arrangement must have the objectives that:
- (a) reference tariffs recover the forward-looking efficient costs of providing reference services; and

- (b) the reference tariff applying to a user:
 - (i) at the lower bound, is equal to, or exceeds, the incremental cost of service provision; and
 - (ii) at the upper bound, is equal to, or is less than, the stand-alone cost of service provision.

{Notes:

1. The objective in section 7.3(a) refers to charges paid by an individual user. However in practice reference tariffs will be set, and access arrangements will be assessed, by aggregating together groups of similar users.
2. One implication of section 7.3(b)(i) is that the charges paid by users should increase as the network becomes constrained, reflecting the increased incremental cost of service provision.
3. The charge paid by a user in respect of a reference service will normally reflect the average cost of service provision}

7.4 Subject to sections 7.5, 7.7 and 7.12, the pricing methods in an access arrangement must have the objectives that:

- (a) the charges paid by different users of a reference service differ only to the extent necessary to reflect differences in the average cost of service provision to the users; and

{Examples of factors which may result in the charges paid by different users of a reference service differing from each other, include:

- the quantities of reference service supplied or to be supplied; or
- a user's time pattern of network usage; or
- the technical characteristics or requirements of the facilities and equipment at the relevant connection point; or
- the nature of the plant or equipment required to provide the reference service; or
- the periods for which the reference service is to be supplied; or
- subject to section 7.7, a user's location.}

- (b) the structure of reference tariffs so far as is consistent with the Code objective accommodates the reasonable requirements of users collectively; and

{Example: Users may prefer more of the average cost of service provision to be recovered using tariff components that vary with usage or demand than might otherwise be the case under section 7.6.}

- (c) the structure of reference tariffs enables a user to predict the likely annual changes in reference tariffs during the access arrangement period; and

- (d) the structure of reference tariffs avoids price shocks (that is, sudden material tariff adjustments between succeeding years).

{Note: Price adjustments between succeeding years could include tariff rebalancing to achieve greater cost reflectivity of individual tariffs. The mechanisms to avoid price shocks could include a phased approach or other measures to assist in the management of adjustment costs.}

541. Section 7.5 of the Access Code requires that the Authority, in reconciling any conflicting objectives for the pricing methods or determining which objective should prevail, should have regard to the Code objective and should permit the objectives of section 7.3 to prevail over the objectives of section 7.4.
542. Section 7.6 provides guidance for establishing components of tariffs:
- 7.6 Unless an access arrangement containing alternative pricing methods would better achieve the Code objective, for a reference service:
- (a) the incremental cost of service provision should be recovered by tariff components that vary with usage or demand; and
 - (b) any amount in excess of the incremental cost of service provision should be recovered by tariff components that do not vary with usage or demand.
543. Section 7.7 requires that tariffs be established as “postage stamp” tariffs in certain circumstances:
- 7.7 The tariff applying to a standard tariff user in respect of a standard tariff exit point must not differ from the tariff applying to any other standard tariff user in respect of a standard tariff exit point as a result of differences in the geographic locations of the standard tariff exit points.
544. Section 7.9 provides for “prudent discounts” to be made available to some users:
- 7.9 A service provider may propose in its access arrangement to discriminate between users in its pricing of services to the extent that it is necessary to do so to aid economic efficiency, including:
- (a) by entering into an agreement with a user to apply a discount to the equivalent tariff to be paid by the user for a covered service; and
 - (b) then, recovering the amount of the discount from other users of reference services through reference tariffs.
545. Section 7.10 provides for discounts for users connecting distributed generation plant:
- 7.10 If a user seeks to connect distributed generating plant to a covered network, a service provider must reflect in the user’s tariff, by way of a discount, a share of any reductions in either or both of the service provider’s capital-related costs or non-capital costs which arise as a result of the entry point for distributed generating plant being located in a particular part of the covered network by:
- (a) entering into an agreement with a user to apply a discount to the equivalent tariff to be paid by the user for a covered service; and
 - (b) then, recovering the amount of the discount from other users of reference services through reference tariffs.
546. Section 7.11 requires that an access arrangement include a detailed policy setting out how discounts under sections 7.9 and 7.10 are to be applied, including a detailed mechanism for determining when a user will be entitled to receive a discount and for calculating the discount to which the user will be entitled.

547. Section 7.12 requires that the value of any tariff equalisation contributions be recovered as a tariff component for distribution network users:¹⁴⁰

7.12 If an amount is added to the target revenue under section 6.37A and is intended to be recovered from users of reference services through one or more reference tariffs, then the recovery must have the objective of:

- (a) applying only to users of reference services provided in respect of exit points on the distribution system; and
- (b) being equitable in its effect as between users referred to in section 7.12(a); and
- (c) otherwise being consistent with the Code objective.

Price list and price list information

548. Section 5.1(f) of the Access Code requires an access arrangement to include a price list in accordance with the requirements of chapter 8 of the Code. A “price list” is defined in the Access Code as a schedule of reference tariffs.

549. Chapter 8 of the Access Code sets out the requirements and processes for a service provider to submit price lists to the Authority for approval and for the Authority to approve or not approve a proposed price list.

550. An access arrangement may or may not include a requirement on a service provider to submit price lists to the Authority for approval. A determination of whether or not price lists must be approved by the Authority occurs under section 4.36 of the Access Code:

4.36 The Authority must, as a condition of approval of a proposed access arrangement, require a service provider to submit each price list under the access arrangement to the Authority under section 8.1 for approval, if:

- (a) the service provider requests such a condition; or
- (b) the Authority considers that the submission of price lists under the access arrangement to the Authority under section 8.1 for approval would improve the operation of the access arrangement.

551. If a service provider’s access arrangement requires the service provider to submit price lists to the Authority for approval, then section 8.1 of the Code requires that the service provider must submit a proposed price list to the Authority at least 45 business days before the start of each pricing year other than the first pricing year. A proposed price list must be accompanied by price list information. “Price list information” is defined as a document that would reasonably be required to enable the Authority, users and applicants to understand how the service provider derived the elements of the proposed price list; and assess the compliance of the proposed price list with the access arrangement.

552. Sections 8.2 to 8.6 of the Access Code set out the process for the Authority to approve or not approve a proposed price list. The Authority is obliged to

¹⁴⁰ Section 7.12 was added to the Access Code by amendments of November 2005 and further amended in December 2006 (Western Australian Government Gazette No. 207, 8 November 2005, pages 5529 – 5531; Western Australian Government Gazette No. 206, 8 December 2006, pages 5400 – 5402).

approve a proposed price list if it determines that the proposed price list complies with the price control and pricing methods in its access arrangement.

553. Sections 8.7 and 8.8 of the Access Code require a service provider to submit price lists to the Authority even if the access arrangement does not require the service provider to submit price lists to the Authority for approval. In these circumstances, the role of the Authority is to publish the submitted price list and price list information.

Proposed Access Arrangement

554. Western Power included a section in its proposed access arrangement information titled “pricing method” as part of the proposed access arrangement (section 9), with further detail and explanation in the proposed access arrangement and access arrangement information (Part D and Appendix 6).

555. The information provided as part of the pricing method in section 9 of the proposed access arrangement included:

- a statement of objectives – indicating that the pricing method is designed to achieve the objectives of sections 7.3 and 7.4 of the Access Code, and seeks to recover the target revenue in a manner that is simple, practical and equitable;
- a general description of the fully-distributed-cost methodology used to allocate costs to customer groups, reference services and component charges of reference tariffs (with further information provided in Appendix 6 of the access arrangement information);
- a policy on prudent discounts; and
- a policy on discounts for distributed generation.

556. Part D of the access arrangement information provided information for the purposes of demonstrating compliance of the pricing methods with the requirements of chapter 7 of the Access Code.

557. Western Power did not make any reference to price lists in the body of its proposed access arrangement and did not propose to submit price lists to the Authority for annual approval (pursuant to section 4.36(a) of the Access Code). Notwithstanding this, Western Power provided a price list as Appendix 5 of the proposed access arrangement, indicating reference tariffs for the proposed reference services.

558. Western Power did not submit price list information as a separate document, but indicated that the detail contained within its pricing methods should provide sufficient information relevant to its price list.¹⁴¹

Draft Decision

Reference Tariff Levels and Structures

559. In its Draft Decision, the Authority indicated that it was satisfied that the pricing method and reference tariffs proposed by Western Power:

¹⁴¹ Original access arrangement information, page 170.

- are consistent with recovery of the target revenue for reference services (as proposed by Western Power) and consistent with the objective of section 7.3(a) of the Access Code;
 - meet the objectives of section 7.4 of the Access Code, in particular the “smoothing” of the revenue requirements across the access arrangement period and the tariff re-balancing constraint proposed by Western Power as part of its price control (see section 5.3.1 of this Final Decision) is consistent with the objectives of sections 7.4(c) and (d) of the Access Code for users to be able to predict likely annual changes in tariffs and for the avoidance of “price shocks” in levels of reference tariffs from year to year; and
 - met the requirements of section 7.7 of the Access Code, with the calculation of transmission and distribution prices to have uniform application to those users consuming less than 1 MVA.¹⁴²
560. The Authority indicated, however, that Western Power had provided insufficient information in its proposed access arrangement and access arrangement information for the Authority to determine whether, and to what extent, the proposed pricing methods and reference tariffs are consistent with the objective of section 7.3(b) of the Access Code: that reference tariffs fall between the incremental costs and stand-alone cost of service provision for the relevant user.
561. The Authority also indicated that Western Power had provided insufficient information for the Authority to determine whether the proposed structure of reference tariffs is consistent with the requirements of section 7.6 of the Access Code: that the incremental costs of service provision are to be recovered through charges that vary with usage or demand, and the remainder of costs of service provision are to be recovered by charges that do not vary with usage or demand.
562. In view of the absence of sufficient information to demonstrate compliance of the reference tariffs with the requirements of sections 7.3(b) and 7.6 of the Access Code, the Authority required that the following amendment be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 53

Western Power to demonstrate that the revised price lists and price list information meet the requirements under chapter 7 of the Access Code.

Discounts

563. The Authority indicated in its Draft Decision that each of the proposed discounting policies (for prudent discounts and for distributed generation) is consistent with section 7.11 of the Access Code.
564. However, in each policy (clauses 9.15 and 9.19 of Western Power’s proposed access arrangement) the provision of a discount was indicated to be conditional upon the Authority first approving the proposed discount. In its Draft Decision, the Authority indicated that it does not have any role during the life of an access arrangement in approving individual discounts before they

¹⁴² Original access arrangement information, Appendix 6, page 39.

become operative, as was proposed by Western Power. The Authority required Western Power to amend its proposed discounting method to remove the element that requires the Authority to approve individual discounts.

Draft Decision Amendment 54

Western Power to delete references in clauses 9.15 and 9.19 of the proposed access arrangement that require the Authority's approval of discounts.

Tariff equalisation contribution

565. The amendment to the Access Code to add section 7.12 and the requirement to include any tariff equalisation contributions as a tariff component for users of the distribution network was made only after Western Power had submitted its proposed access arrangement. Accordingly, Western Power had not addressed tariff components to recover the amount of tariff equalisation contributions in its proposed access arrangement.
566. The Authority indicated in its Draft Decision that it expected that the proposed access arrangement would be amended to address matters relating to the tariff equalisation contribution prior to the ultimate approval of the proposed access arrangement.

Price List and Price List Information

567. The Authority noted in the Draft Decision the discretion conferred on it by section 4.36(b) of the Access Code in determining whether the access arrangement should require Western Power to submit price lists to the Authority for approval. The Authority determined that submission of price lists to the Authority for approval would improve the operation of the access arrangement and, accordingly, determined that this should be required under section 4.36(b) of the Access Code.
568. The Authority determined that the price list submitted as Appendix 5 of the proposed access arrangement did not meet the requirements of the Access Code in two respects:
- the price list may cause confusion as a result of indicating loss factors that may be applied in the calculation of reference tariffs, but which are not, in fact, a matter for determination in relation to reference tariffs; and
 - the price list did not indicate reference tariffs for all relevant exit points.
569. The Authority also determined that the price list information is necessary to address a number of matters including:
- the allocation of target revenue to various covered services or tariffs, enabling the Authority to adequately consider the levels of the reference tariffs;
 - the manner in which tariffs are applied to users;
 - identification of the reference services that are provided under the various reference tariffs and what additional non-reference services are available;
 - the application of distance-related (per-kilometre) charges for the RT5, RT6, RT7 and RT8 reference tariffs; and

- the application of connection charges or connection prices for reference tariff TRT2.
570. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 55

Western Power to specify prices for all reference services within the price list.

Draft Decision Amendment 56

Western Power to resubmit its proposed price list and submit price list information consistent with the requirements of chapter 8 of the Access Code.

Draft Decision Amendment 57

Western Power to clarify the purpose, effect and period of application of the loss factors specified in its tariff schedule relative to the Independent Market Operator's role.

Submissions from Interested Parties on the Draft Decision

571. Alinta Sales Pty Ltd submitted that the Authority should obtain sufficient information to satisfy itself that the revenue received from each reference tariff recovers the forward-looking costs of providing the reference services offered under each reference tariff, and that cross-subsidisation is not occurring.
572. Alinta Sales Pty Ltd also submitted that the Authority should consider whether, under the reference tariffs that will be established by the access arrangement, there will be a "price shock" from the level of existing tariffs. Alinta Sales Pty Ltd further submitted that, if a step change in tariffs is likely to occur when the access arrangement is implemented, Western Power should be required to include a mechanism in the access arrangement to reduce or eliminate the price shock.
573. The Western Australian Sustainable Energy Association submitted that it is concerned that there are insufficient signals being sent to users, for instance through appropriate time of use tariffs and interval metering, so that costs are not being appropriately passed on to where they are incurred, leading to usage which is inefficient and costly. The Association indicated that it does not believe that the simple differentiation of peak and off peak charging appropriately represents the costs associated with the provision of network services, particularly when considering the high peaks of summer, and that it considers that a more detailed differentiation of transmission and distribution pricing is appropriate and will provide more appropriate price signals to customers.

Revised Proposed Access Arrangement

574. Western Power has incorporated substantial revisions in section 9 of the revised proposed access arrangement (titled "pricing method") to indicate compliance of the pricing methods with the requirements of the Access Code. These revisions are indicated as follows.

9 Pricing method

Purpose

9.1 Pursuant to section 5.1(e) of the Code and Chapter 7 of the Code, this section describes the pricing method applied by Western Power.

Network pricing objectives

9.2 Western Power's pricing method is designed to achieve the objectives set out in sections 7.3 and 7.4 of the Code.

9.3 Without compromising the objectives set out in sections 7.3 and 7.4 of the Code, Western Power's pricing method seeks to recover the [costs of providing reference services](#) ~~target revenue~~ from users in a manner that is simple, practical and equitable.

Overview of Pricing Method

9.4 Reference tariffs are derived from an analysis of the cost of service provision which entails:

- (a) identifying the costs of providing reference services;
- (b) allocating the costs of providing reference services to particular customer groups;
- (c) translating the costs of serving particular customer groups to the costs of providing reference tariffs; and
- (d) determining a structure of reference tariffs in a manner that reflects the underlying cost structure, in accordance with section 7.6 of the Code.

9.5 The transmission costs relating to reference services [A1 to A10 and B1](#) ~~RT1 to RT4~~ are expressed so that these costs can be incorporated in the relevant reference tariff in a cost reflective manner.

9.6 Reference tariffs for [reference services A11 and B2](#) ~~TRT1 and TRT2~~ are location-specific and are published for each electrical node.

Pricing method – compliance with Code requirements in detail

9.7 [This section of the Access Arrangement explains how the pricing method complies with the Code requirements.](#) ~~The cost of service for each reference service is determined as follows:~~

- (a) ~~Each network's allocation of target revenue which relates to the provision of covered services is apportioned across the asset classes that comprise each network based on the replacement cost of each asset class. This allocation process creates asset-related covered service revenue pools.~~
- (b) ~~The asset-related covered service revenue pools are then allocated to various groups of consumers, based on each group's relative usage of the assets. This allocation process creates cost pools for each consumer group.~~
- (c) ~~Each consumer group used in this analysis consists of consumers that have similar characteristics in terms of the nature of their physical connection to the network and the size and pattern of their energy consumption. These groups are:~~
 - (i) ~~transmission connected generators;~~
 - (ii) ~~transmission connected loads;~~
 - (iii) ~~distribution – high voltage >1 MVA maximum demand;~~
 - (iv) ~~distribution – high voltage <1 MVA maximum demand;~~
 - (v) ~~distribution – low voltage >1 MVA maximum demand;~~

- ~~(vi) distribution – general business large (300-1000 kVA maximum demand);~~
- ~~(vii) distribution – general business medium (100-300 kVA maximum demand);~~
- ~~(viii) distribution – general business small (15-100 kVA maximum demand);~~
- ~~(ix) distribution – small business (<15 kVA maximum demand);~~
- ~~(x) residential;~~
- ~~(xi) street lighting; and~~
- ~~(xii) unmetered supplies.~~

~~9.8 Reference tariffs take into account the metering information available for each reference service. Reference tariffs are derived from the cost of service determined for each of the consumer groups.~~

~~9.9 Reference tariffs are structured so that usage-related charges properly reflect the incremental costs to Western Power of providing reference services, in accordance with section 7.6 of the Code.~~

Recovery of forward-looking efficient costs of providing reference services

9.8 In accordance with section 7.3(a) of the Code, reference tariffs are designed to recover forward-looking costs of providing reference services. It is recognised that the total forward-looking costs for the provision of network services relate to the provision of reference and non-reference services.

9.9 Non-reference service revenue is recovered on a fee-for-service basis and reflects that component of the forecast costs related to the provision of non-reference services.

9.10 Reference tariffs are designed to recover the forward-looking costs for the provision of reference services. Capital contributions are charged in accordance with Western Power’s capital contributions policy. In general terms, capital contributions seek to recover in net present value terms any shortfall between the expected revenue from reference tariffs and the costs of connection.

Reference tariffs should be between the incremental and the stand-alone cost of service provision.

9.11 In accordance with section 7.3(b)(i) and (ii) of the Code, reference tariffs are set to at least recover the incremental cost, but to be less than the stand-alone cost of service provision.

9.12 The incremental and stand-alone cost of service for each of the reference services A5, A6, A7, A8, and B1 are determined by calculation at a customer level. The following table gives the sum of the incremental costs, the sum of the stand-alone costs, and the sum of the forecast revenue recovered from the customers for each of these reference tariffs.

<u>Reference Service</u>	<u>Reference Tariff</u>	<u>Incremental Cost Of Service (\$000 per annum)</u>	<u>Stand-Alone Cost of Service Provision (\$000 per annum)</u>	<u>Forecast Revenue Recovered from Reference Tariff (\$000 per annum)</u>
<u>A5</u>	<u>RT5</u>	<u>4,846</u>	<u>55,691</u>	<u>5,682</u>
<u>A6</u>	<u>RT6</u>	<u>17,495</u>	<u>70,877</u>	<u>21,177</u>
<u>A7</u>	<u>RT7</u>	<u>35,339</u>	<u>52,274</u>	<u>44,929</u>
<u>A8</u>	<u>RT8</u>	<u>5,583</u>	<u>10,169</u>	<u>8,734</u>
<u>B1</u>	<u>RT11</u>	<u>555</u>	<u>52,274</u>	<u>555</u>

9.13 The incremental cost of service for reference services A1, A2, A3, A4, A9, and A10 are determined by allocation of incremental costs for the network to each tariff. The following table gives the sum of the incremental costs, the sum of the stand-alone costs, and the sum of the forecast revenue recovered from the customers for each of these reference tariffs.

<u>Reference Service</u>	<u>Reference Tariff</u>	<u>Incremental Cost Of Service (\$000 per annum)</u>	<u>Stand-Alone Cost of Service Provision (\$000 per annum)</u>	<u>Forecast Revenue Recovered from Reference Tariff (\$000 per annum)</u>
<u>A1</u>	<u>RT1</u>	<u>204,897</u>	<u>264,392</u>	<u>247,929</u>
<u>A2</u>	<u>RT2</u>	<u>81,208</u>	<u>135,024</u>	<u>89,645</u>
<u>A3</u>	<u>RT3</u>	<u>6,329</u>	<u>59,525</u>	<u>7,198</u>
<u>A4</u>	<u>RT4</u>	<u>67,687</u>	<u>121,028</u>	<u>68,639</u>
<u>A9</u>	<u>RT9</u>	<u>12,300</u>	<u>64,475</u>	<u>12,911</u>
<u>A10</u>	<u>RT10</u>	<u>563</u>	<u>53,640</u>	<u>1,062</u>

9.14 For the transmission reference tariffs TRT1 and TRT2 (refer to Appendix 7 of this Access Arrangement for more detail), location specific nodal prices are derived using the T-Price computer model. T-Price is a transmission network pricing software package provided by Rolib Pty Ltd and is used by all Australian utilities and the National Electricity Market Management Company (NEMMCO). This model establishes a price reflecting average costs at each network node. On the basis that T-price is used to derive prices and is the industry standard, it is considered that the prices are efficient and consistent with the objectives of the Code and in particular the objectives of chapter 7 of the Code.

Charges paid by different users of a reference service

9.15 In accordance with section 7.4(a) of the Code, the charges paid by different users of a reference service differ only to the extent necessary to reflect differences in the average cost of service provision to the users.

9.16 Each of the reference tariffs takes into account the metering information available for each reference service, and therefore contains components that vary with usage or demand. In addition reference tariffs RT5, RT6, RT7, RT8, RT11, TRT1 and TRT2 vary with location. Within the requirements of clause 7.7 of the Code, these components reflect the differences in average cost of different users of the same reference service.

Reasonable requirements of users

9.17 In accordance with section 7.4(b) of the Code, the structure of reference tariffs has been set to reasonably accommodate the requirements of users collectively. This has been achieved by developing the tariff structure through a consultative process that involved Government and industry stakeholders. Most tariffs have been in place since 2001 and are accepted as being appropriate for the provision of reference services.

Structure of tariffs should enable a user to predict the likely annual changes.

9.18 In accordance with section 7.4(c) of the Code, users can predict the likely annual changes in reference tariffs. All reference tariffs are defined for the first year of the Access Arrangement. For the remainder of the access arrangement period side constraints limit the variation of any tariff component. In addition the forecast tariff revenue has been smoothed across the access arrangement period to facilitate smooth price movements.

Avoidance of price shock

9.19 In accordance with section 7.4(d) of the Code, the structure of reference tariffs is designed to avoid price shock, principally by the imposition of side constraints on annual price movements. In addition the forecast tariff revenue has been smoothed across the access arrangement period so that price movements will be smoothed across each year.

Tariff components

9.20 In accordance with section 7.6 of the Code, reference tariffs have been designed to recover the cost of service provision in a cost reflective manner. The Code requires the incremental cost of service provision to be recovered by tariff components that vary with usage, and the costs in excess of the incremental costs to be recovered through tariff components that do not vary with usage.

9.21 This requirement has been achieved through the method described in the "Price List Information" document, in which, subject to section 7.7 of the Code, price components have been derived to recover the cost of service provision in accordance with the objectives set out in sections 7.3 and 7.4 of the Code.

9.22 Reference tariffs are structured so that usage-related charges properly reflect the incremental costs to Western Power of providing reference services, in accordance with section 7.6 of the Code.

Policy on prudent discounting

9.23~~9.10~~ Western Power may discriminate between users in its pricing of services to the extent that it is necessary to do so to aid economic efficiency, by:

- (a) entering into an agreement with a user to apply a discount to the equivalent tariff to be paid by the user for a covered service; and
- (b) then, recovering the amount of the discount from other users of reference services through reference tariffs.

9.24~~9.11~~ In exercising its discretion with regard to prudent discounting, Western Power will have regard to the pricing objectives in sections 7.3 and 7.4 of the Code.

9.25~~9.12~~ Western Power may offer a prudent discount if the existing user or applicant seeking access to the SWIN is able to demonstrate that another supply option will provide a comparable service at a lower price than that offered by Western Power's reference services and reference tariffs.

9.26~~9.13~~ The existing user or applicant must provide Western Power with sufficient details of the cost of the other option to enable Western Power to calculate the annualised cost of the other option.

9.27~~9.14~~ Western Power's discounted price offer will be set to reflect the higher of:

- (a) the cost of the other option, or
- (b) the incremental cost of service provision.

~~9.15~~ Information supporting the discount including details of the other option will be submitted by Western Power to the Authority on a confidential basis. The offer and acceptance of a discount will be conditional on the Authority's approval that the discount is prudent.

Policy on discounts for distributed generation

9.28~~9.16~~ In accordance with section 7.11 of the Code, Western Power will offer to a user who connects distributed generating plant to the SWIS, a share of any reductions in either or both of Western Power's capital-related costs or non-capital costs which arise as a result of the entry point for distributed generating plant being located in a particular part of the SWIN by:

- (a) entering into an agreement with a user to apply a discount to the equivalent tariff to be paid by the user for a covered service; and
- (b) then, recovering the amount of the discount from other users of reference services through reference tariffs.

~~9.299-17~~ The amount of the total discount available under section 9.28 will be determined by Western Power as the forecast capital-related costs and non-capital costs that would be incurred if the distributed generating plant were not to connect minus the forecast capital-related costs and non-capital costs that would be incurred if the distributed generating plant were to connect. The cost analysis will be conducted over a period of at least 10 years, depending on the availability and accuracy of data. A discount will only be payable if the amount calculated in accordance with this section ~~9.299-17~~ is greater than zero.

~~9.309-18~~ The discount calculated in accordance with section ~~9.299-17~~ will be calculated in present value terms and, using the [real pre-tax](#) WACC, converted to an equivalent annualised discount for a defined period of time, as agreed by the parties. Nothing in this calculation prevents the discount exceeding 100% of the equivalent tariff.

~~9.19~~ Information supporting the calculation of the discount will be submitted by Western Power to the Authority on a confidential basis. The offer and acceptance of a discount will be conditional on the Authority's approval that the discount meets the requirements of:

- ~~(a) the Code; and~~
- ~~(b) this Access Arrangement.~~

575. Western Power includes a price list as a revised Appendix 5 of the revised proposed access arrangement, indicating the structure of reference tariffs. An additional clause 3.10 has been included in the revised proposed access arrangement information to require Western Power to submit proposed price lists to the Authority for approval prior to the commencement of each pricing year of the access arrangement period:

[3.10 In accordance with section 8.1 of the Code this Access Arrangement requires Western Power to submit a proposed price list, together with price list information, to the Authority for approval at least 45 business days before the start of each pricing year \(except for the first pricing year\).](#)

576. Western Power has replaced Appendix 6 of its proposed access arrangement with a new Appendix 6 in the revised proposed access arrangement, titled "price list information" which provides a detailed description of the allocation of target revenue to reference services and to the components of the reference tariff for each reference service. Appendix 6 of the revised proposed access arrangement comprises, for the most part, the description of cost allocation that was provided as section 5 of part D of the access arrangement information submitted with the proposed access arrangement.

577. For each of the transmission and distribution networks, a value of revenue to be recovered from reference services is calculated as:

$$\begin{aligned} \text{Reference service revenue} &= \text{target revenue} \\ &\quad - \text{non-reference service revenue} \\ &\quad - \text{capital contributions} \end{aligned}$$

578. For the transmission network, reference service revenue is allocated to cost pools at each branch and node of the transmission network. Allocation is on the basis of the proportion of asset value (gross, or undepreciated, optimised

deprival value) attributed to assets in each cost pool. The cost pools in the transmission network (and applied at each branch and node) are:

- connection services for exit points (high voltage);
- connection services for exit points (low voltage);
- connection services for entry points;
- use of system for loads;
- use of system for generators;
- common service for loads;
- control system services for loads;
- control system services for generators; and
- metering.

579. Costs are allocated to particular users of the transmission network by a process of network analysis that estimates the use of each network element by each connection point, involving:

- determining the annual revenue requirement (ARR) for individual transmission shared network assets;
- determining the network load and generation pattern;
- performing a load-flow to calculate the MVA loading on network elements;
- determining the allocation of generation to loads;
- determining the utilisation of each asset on the network by each connection point;
- allocating the revenue requirement of individual network elements to each user based on the assessed usage share; and
- determining the total cost allocated to each connection point by adding the share of the costs of each individual network element attributed to each point in the network.

580. Western Power indicates that transmission tariffs are derived by dividing the cost pool, either in its entirety or at a zone substation level, by the assigned maximum demand applying to those assets, in particular:

- connection charges are determined for each user individually and calculated to reflect the actual connection assets that apply to each user, with the connection price being uniform across each entry and exit points and reflecting the total annual costs allocated to the connection assets divided by the total usage at each point; and
- use of system charges are determined according to contracted maximum demand and declared sent-out capacity of each user.

581. Western Power indicates that it undertakes the cost allocation and tariff determination for the transmission reference services using the “T-price” model, which Western Power further indicates is used by all transmission businesses in Australia.

582. For the distribution network, Western Power indicates that reference service revenue is allocated to cost pools, also on the basis of the proportion of asset value (gross, or undepreciated, optimised deprival value) attributed to assets in each cost pool. The cost pools in the distribution network are:
- high voltage network;
 - low voltage network;
 - transformers;
 - streetlight assets;
 - metering; and
 - administration.
583. Costs from each pool are allocated to customer groups and locational zones. The customer groups correspond to the reference services defined by Western Power:
- high voltage >1MVA maximum demand;
 - high voltage <1MVA maximum demand;
 - low voltage >1MVA maximum demand;
 - general business large (300-1,000 kVA maximum demand);
 - general business medium (100-300 kVA maximum demand);
 - general business small (15-100 kVA maximum demand);
 - small business (<15 kVA maximum demand);
 - residential;
 - street-lights; and
 - unmetered supplies.
584. Location zones applied for users with maximum demand in excess of 1 MVA are:
- CBD location zone;
 - urban locational zones (including country towns of Geraldton and Kalgoorlie);
 - rural locational zone;
 - mixed locational zone; and
 - mining locational zone.
585. Western Power summarises its allocation of costs to cost pools, customer classes and locational zones as follows:
- allocation of reference service revenue to cost pools in proportion to asset value associated with each cost pool;
 - derivation of stand-alone cost and minimum cost of service for each high-voltage and low-voltage contracted maximum demand customer with demand greater than 1 MVA;

- setting of zonal tariffs for high-voltage contracted maximum demand customers so that the high voltage network revenue recovered from these customers is within the range of stand-alone cost and minimum cost of service, and determine the revenue to be recovered from these tariffs and customers;
 - determine the residual amount of costs in the high-voltage network cost pool that is to be recovered from non-contracted maximum demand customers;
 - determine anytime maximum demands for each of the “non-contracted maximum demand” customer groups, and adjust these demands for loss factors for each group to determine the actual usage of each asset class by each customer group;
 - allocate the (residual) high voltage, network, transformers and low voltage network costs to each of the customer groups based on the loss factor adjusted demands of each customer group.
586. The allocation of (residual) high-voltage, network, transformer and low-voltage network costs to customers groups occurs by:
- for the capital-related costs of high-voltage lines, allocation of a proportion to cost on a per-user basis determined as the notional cost (gross replacement cost) of assets that would be required to provide a “minimal” service as a proportion of the cost of assets required to provide a “full capacity” service, with the remainder of the cost allocated on a demand basis (with no costs allocated to street lighting for reason that street lighting makes no contribution to peak loads);
 - for the non-capital costs of high-voltage lines, allocation of 50 per cent of costs on a per-user basis and 50 per cent on a demand basis (with no costs allocated to street lighting for reason that street lighting makes no contribution to peak loads);
 - for the capital costs of transformers, allocation of capital costs on a demand basis (with no costs of high-voltage transformers allocated to street lighting for reason that street-lighting makes no contribution to peak loads);
 - allocation of low-voltage network costs predominantly to low-use customers (residential and small to medium businesses) on the basis that it is these users that constitute the greatest use of the low-voltage network;
 - allocation of street-light costs on the basis of average cost per light;
 - allocation of metering costs on a per-user basis;
 - allocation of administration costs on the basis of specific charges to the largest-customer groups and on the basis of anytime maximum demand to other customer groups.
587. Western Power has proposed tariff structures for each reference service summarised in Table 75.

Table 75 Western Power proposed structures of reference tariffs

Reference service and reference tariff	Fixed charge	Distribution charge	Transmission charge	Other charges
A1 – Anytime Energy (Residential) Exit Service (RT1)	\$/year	c/kWh	c/kWh	Fixed metering charge (\$/year); Variable metering charge (c/kWh)
A2 – Anytime Energy (Business) Exit Service (RT2)	\$/year	c/kWh	c/kWh	Fixed metering charge (\$/year); Variable metering charge (c/kWh)
A3 – Time of Use Energy (Small) Exit Service (RT3)	\$/year	c/kWh on-peak c/kWh off-peak	c/kWh on-peak c/kWh off-peak	Fixed metering charge (\$/year); On peak & off peak variable metering charge (c/kWh)
A4 – Time of Use Energy (Large) Exit Service (RT4)	\$/year	c/kWh on-peak c/kWh off-peak	c/kWh on-peak c/kWh off-peak	Fixed metering charge (\$/year); On peak & off peak variable metering charge (c/kWh)
A5 – High Voltage Metered Demand Exit Service (RT5)	–	Fixed charges for different demand ranges (\$/year); Variable charge for demand in excess of lower bound of range (\$/kVA/year). Off-peak discount.	Fixed charges for different demand ranges (\$/year); Variable charge for demand in excess of lower bound of range (\$/kVA/year). Off-peak discount.	Fixed metering charge (\$/meter/year); Demand-length charge (\$/kVA.km/year) for >1 MVA
A6 – Low Voltage Metered Demand Exit Service (RT6)	–	Fixed charges for different demand ranges (\$/year); Variable charge for demand in excess of lower bound of range (\$/kVA/year). Off-peak discount.	Fixed charges for different demand ranges (\$/year); Variable charge for demand in excess of lower bound of range (\$/kVA/year). Off-peak discount.	Fixed metering charge (\$/meter/year); Demand-length charge (\$/kVA.km/year) for >1 MVA
A7 – High Voltage Contract Maximum Demand Exit Service (RT7)	–	Fixed charge \$/year. constant across substations; Variable charge (\$/kVA/year) for >1000 kVA varying with substation.	Fixed charge \$/year. constant across substations; Variable charge (\$/kVA/year) for >1000 kVA varying with substation.	Admin. charge (\$/day); Fixed metering charge (\$/meter/year); Demand-length charge (\$/kVA.km/year) for >1 MVA; Low voltage price (\$/year & \$/kVA/year); Excess network usage charge
A8 – Low Voltage Contract Maximum Demand Exit Service (RT8)	–	Fixed charge \$/year. constant across substations; Variable charge (\$/kVA/year) for >1000 kVA varying with substation.	Fixed charge \$/year. constant across substations; Variable charge (\$/kVA/year) for >1000 kVA varying with substation.	Admin. charge (\$/day); Fixed metering charge (\$/meter/year); Demand-length charge (\$/kVA.km/year) for >1 MVA; Excess network usage charge

Reference service and reference tariff	Fixed charge	Distribution charge	Transmission charge	Other charges
A9 – Streetlighting Exit Service (RT9)	\$/year	c/kWh	c/kWh	Charge for street-light asset (\$/annum)
A10 – Un-Metered Supplies Exit Service (RT10)	\$/year	c/kWh	c/kWh	–
A11 – Transmission Exit Service (TRT1)	–	–	Common service price for contracted maximum demand (\$/kW/year) Use of system charge for relevant zone substation and for contracted maximum demand (\$/kW/year)	Fixed user-specific charge for connection assets (\$/kW/day) Fixed metering charge (\$/meter/year); Control system service price (\$/kW/year); Excess network usage charge
B1 – Distribution Entry Service (RT11)	–	Fixed charge \$/kW/year, for relevant zone substation and for declared sent-out capacity	–	Fixed connection charge (\$/kW/year); Fixed metering charge (\$/meter/year); Control system service price (\$/kW/annum); Demand-length charge (\$/kVA.km/year) for >1 MVA; Excess network usage charge
B2 – Transmission Entry Service (TRT2)	–	–	Use of system charge for relevant zone substation and for declared sent-out capacity (\$/kW/year)	Fixed user-specific charge for connection assets (\$/kW/day) Fixed metering charge (\$/meter/year); Control system service price (\$/kW/year); Excess network usage charge

Final Decision

588. For the purposes of demonstrating compliance with the requirements of the Access Code for pricing methods, price lists and price list information, Western Power has provided information in corresponding sections of the revised proposed access arrangement and revised access arrangement information. As there is some duplication and overlap of information in these sections of the access arrangement documents, the Authority has considered these sections collectively in assessing compliance of the revised proposed access arrangement with the relevant requirements of the Access Code and required amendments under the Draft Decision.
589. As an initial matter, the Authority notes that the revised proposed access arrangement incorporates the new clause 3.10 that requires Western Power to

submit a proposed price list to the Authority for approval prior to the commencement of each pricing year of the access arrangement period. While the Authority did not require such a provision to be included in the access arrangement as a specific required amendment under the Draft Decision, the Authority did determine that submission of price lists to the Authority for approval would improve the operation of the access arrangement and, accordingly, determined that this should be required under section 8.1 of the Access Code. The Authority is satisfied that the new clause 3.10 of the revised proposed access arrangement meets this requirement.

590. Draft Decision Amendment 53 required that Western Power amend the proposed access arrangement to demonstrate that the revised price lists and price list information meet the requirements under chapter 7 of the Access Code.
591. Section 7.3(a) of the Access Code requires that reference tariffs recover the forward-looking efficient costs of providing reference services.
592. In Appendix 6 of the revised proposed access arrangement, Western Power has indicated the amounts of revenue forecast to be generated from reference tariffs given forecasts of demand for reference services, and indicated that the total forecast revenue is equal to the required reference-service revenue. The Authority also notes that under the “revenue-cap” price control included by Western Power in the revised proposed access arrangement, there is a reconciliation of actual and required revenue and an adjustment of reference tariffs to account for any over-recovery or under-recovery of revenue relative to the revenue requirement. In coming to this Final Decision, the Authority has not sought to verify that the reference tariffs proposed by Western Power are forecast to return an amount of revenue equal to the required reference-service revenue.
593. The Authority will verify that the reference tariffs comply with the price control prior to final approval of the access arrangement. The information provided by Western Power in Appendix 6 of the revised proposed access arrangement supports, but does not definitively verify, that the relevant charges of reference tariffs are forecast to return the revenue requirement for the 2006/07 year. Verification will require full details of forecast demand for each reference tariff charge and details of the calculation of forecast revenue from each charge.
594. Accordingly, the Authority considers that the price list information provided by Western Power as Appendix 6 of the revised proposed access arrangement does not meet the requirements of the Access Code.
595. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 5

The revised proposed access arrangement should be amended to include, as part of the price list information, full details of calculations to verify that the component charges of reference tariffs are forecast to return the required reference service revenue for the 2006/07 year.

596. The Authority notes that the verifying calculations contemplated by Required Amendment 5 would appropriately be provided in the form of spreadsheet calculations. The Authority further notes that some elements of these calculations may necessarily be held to be commercially sensitive and required to be kept confidential. The Authority is willing to accommodate any reasonable requirements for confidentiality in the submission of the price list information.
597. Section 7.3(b) of the Access Code requires that the reference tariff applying to a user is equal to or greater than the incremental cost of providing a service to that user; and that the reference tariff applying to a user is equal to or less than the stand-alone cost of providing a service to that user.
598. Western Power has addressed the requirements of section 7.3(b) of the Access Code by consideration of values of reference tariffs relative to stand-alone cost and incremental cost for each reference service.
599. For reference services A1 (anytime energy residential), A2 (anytime energy business), A3 (time of use energy small), A4 (time of use energy large), A9 (streetlights) and A10 (un-metered supplies), Western Power has determined reference tariffs as average costs across customers and units of energy. Incremental cost and stand-alone costs have been considered only in terms of the total costs of providing services to all customers of each reference service. Western Power indicates that the forecast revenue collected in total for each reference service is greater than the total incremental cost and less than the total stand-alone cost of providing each reference service.¹⁴³
600. For reference services A5 (high voltage metered demand), A6 (low voltage metered demand), A7 (high voltage contract maximum demand), A8 (low voltage contract maximum demand), and B1 (distribution entry service), Western Power has determined incremental cost, stand-alone cost and forecast revenue at the level of individual customers. Charts of these values, by customer, indicate that customer revenue falls within the range of incremental cost and stand-alone cost for the vast majority of customers.¹⁴⁴ Western Power indicates that “no pricing structure can be guaranteed to meet the Code requirement in every individual case ... [f]or example if the price is reduced so that the charge is below the stand-alone cost for every single customer, there emerges cases where the price is then below the incremental cost for some other customers”. Also for these reference services, Western Power indicates the total incremental and stand-alone costs of providing services to all customers of each reference service, and that the forecast revenue collected for each reference service is greater than the total incremental cost and less than the total stand-alone cost.¹⁴⁵
601. For the transmission reference tariffs TRT1 and TRT2, Western Power has not determined incremental and stand-alone costs. Rather, Western Power contends that the reference tariffs determined for these services are efficient and consistent with the requirements of chapter 7 of the Access Code, on the basis that the reference tariffs are determined as location-specific nodal prices and are derived using an industry-standard model for determination of

¹⁴³ Revised proposed access arrangement, clause 9.13.

¹⁴⁴ Revised proposed access arrangement, Appendix 6.

¹⁴⁵ Revised proposed access arrangement, clause 9.12.

transmission prices that is used by all Australian utilities and the National Electricity Market Management Company.¹⁴⁶

602. The Authority notes that determination of incremental and stand-alone costs for the provision of each reference service is conceptually and practically difficult in circumstances where many reference services are provided by an integrated electricity network. As such, the values of incremental and stand-alone cost determined by Western Power for reference services are derived from subjective judgements on appropriate (and practical) definitions of incremental and stand-alone costs. Notwithstanding this, the Authority is satisfied that Western Power has made all reasonable attempts to determine values of incremental and stand-alone costs and has determined values of reference tariffs within these bounds. Accordingly, the Authority is satisfied that the reference tariffs proposed by Western Power are consistent with the objectives of section 7.3(b) of the Access Code. The Authority is satisfied, based on the above, that the forecast revenue collected for each reference service will be greater than the total incremental cost and less than the total stand-alone cost.

603. In coming to this conclusion, the Authority has taken into account that:

- for most services provided by the distribution system, in particular for services to customers with small energy demands, the stand-alone costs of service provision would be likely to be very high and substantially in excess of the average cost of supply;
- for most services, the incremental costs of service provision are likely to be predominantly costs of connection, administration, metering and capacity requirements, and there are generally particular tariff components for these elements of costs, suggesting that the reference tariffs will at least cover incremental costs;
- it may not, as Western Power states, be practically possible to determine reference tariffs that would result in *all* users and customers paying tariffs within the range of incremental and stand-alone cost; and
- for customers with large energy demands, potential for bypass of the network would discourage Western Power from setting reference tariffs in excess of stand-alone cost.

604. In view of the finding that the reference tariffs proposed by Western Power are consistent with the objectives of section 7.3(b) of the Access Code, the Authority is satisfied that the reference tariffs do not provide for cross subsidies between users or customers – a concern raised in submissions from Alinta Sales Pty Ltd and the Western Australian Sustainable Energy Association.

605. Section 7.4(a) of the Access Code establishes the objective that the charges paid by different users of a reference service should differ only to the extent necessary to reflect differences in the average cost of service provision to the users.

606. For reference services A1 (anytime energy residential), A2 (anytime energy business), A3 (time of use energy small), A4 (time of use energy large), A9 (streetlights) and A10 (un-metered supplies), Western Power has determined

¹⁴⁶ Revised proposed access arrangement, clause 9.14.

reference tariffs as average costs across customers and units of energy, and the same charges apply for all exit points. For reference services A5 (high voltage metered demand), A6 (low voltage metered demand), A7 (high voltage contract maximum demand), A8 (low voltage contract maximum demand), A11 (transmission entry service), B1 (distribution entry service) and B2 (transmission entry service), Western Power has determined location-specific tariffs and indicates that these tariffs reflect differences in average costs of service provision at different exit points.

607. On the basis of this information, the Authority accepts that the structures of reference tariffs proposed by Western Power meet the requirements of section 7.4(a) of the Access Code.
608. Section 7.4(b) of the Access Code establishes the objective that the structure of reference tariffs accommodates the reasonable requirements of users collectively, so far as is consistent with the Code objective.
609. Western Power indicates that the structure of most reference tariffs is consistent with tariffs that have been in place since 2001, and that the tariff structure has been developed through a consultative process with the Government and industry stakeholders.
610. The Authority accepts that Western Power has structured reference tariffs in a manner consistent with existing tariffs. The Authority also notes that no submissions made in respect of the proposed access arrangement have taken issue with the structures of tariffs. Accordingly, the Authority accepts that the reference tariffs are in accordance with the objective of section 7.4(b) of the Access Code.
611. Section 7.4(c) of the Access Code establishes the objective that the structure of reference tariffs enables a user to predict the likely annual changes in reference tariffs during the access arrangement period. Section 7.4(d) of the Access Code establishes the objective that the structure of reference tariffs avoids price shocks (that is, sudden material tariff adjustments between succeeding years).
612. Western Power has not drawn attention to any features of the structures of reference tariffs that affect changes in reference tariffs from year to year. Rather, Western Power cites the “side-constraint” feature of its price control as limiting the change of reference tariff charges from year to year (refer to section 5.3.1 of this Final Decision) and indicates that tariff shocks would also be reduced by determining reference tariffs in each year in accordance with a “smoothed” year-to-year series of required revenue.
613. The Authority accepts that there are no obvious features in the structures of reference tariffs that could give rise to unexpected changes in tariffs or tariff shocks from year to year. The Authority accordingly accepts that the structures of reference tariffs are consistent with the objectives of sections 7.4(c) and (d) of the Access Code.
614. Section 7.6 of the Access Code establishes requirements for the structure of reference tariffs, being that the incremental cost of service provision should be recovered by tariff components that vary with usage or demand; and any amount in excess of the incremental cost of service provision should be recovered by tariff components that do not vary with usage or demand.

615. For most reference services, the incremental costs of service provision are likely to be predominantly costs associated with connection, administration, metering and network capacity. Western Power has generally established particular tariff components for these elements of costs that are charged according to a relevant cost driver and Western Power's identification of the value of costs in each case. The Authority accepts that this reference tariff structure and determination is broadly consistent with the requirements of section 7.6 of the Access Code.
616. Section 7.7 of the Access Code requires that tariffs applying to a "standard tariff user" in respect of a "standard tariff exit point" should not vary with differences in geographic locations of the exit points. A standard tariff exit point is defined under the Access Code as an exit point in respect of which the contracted maximum demand under a contract for services is less than 1 MVA. A standard tariff user is defined as a user who transfers electricity out of a network at a standard tariff exit point.
617. The reference services and reference tariffs that would apply to standard tariff exit points and standard tariff users are reference services A1 (anytime energy residential), A2 (anytime energy business), A3 (time of use energy small), A4 (time of use energy large), A9 (streetlights) and A10 (un-metered supplies). For all of these reference services, Western Power has established reference tariffs with charges that do not vary with the locations of exit points. Accordingly, the Authority is satisfied that the reference tariffs meet the requirements of section 7.7 of the Access Code.
618. Section 7.9 of the Access Code provides for a service provider to allow discounts to be selectively offered to users and for the value of the discount to be recovered from other users of reference services. Section 7.11 requires that an access arrangement include a detailed policy setting out how such discounts will be applied.
619. Western Power has included in its revised proposed access arrangement a policy for discounts under section 7.9 of the Access Code ("prudent discounts"), indicating that Western Power may offer a prudent discount if the existing user or applicant seeking access to the SWIN is able to demonstrate that another supply option will provide a comparable service at a lower price than that offered by Western Power's reference services and reference tariffs, and subject to:
- the existing user or applicant providing Western Power with sufficient information to enable Western Power to calculate the annualised cost of the other option; and
 - the discounted price being the higher of the cost of the other option or the incremental cost of service provision.
620. The Authority is of the view that discounts under section 7.9 of the Access Code would meet the Code Objective if, by offering the service at a discount, the overall average cost of services to users remains unchanged or is reduced. This would occur if the offering of discounts results in greater use of the network (by avoiding by-pass of the network) and the discounted tariff is equal to or greater than the incremental cost of service provision. As Western Power's policy for provision of prudent discounts is consistent with these requirements, the Authority is satisfied that the policy meets the requirements of sections 7.9 and 7.11 of the Access Code.

621. Section 7.10 provides for discounts for users connecting distributed generation plant, and for the value of the discount to be recovered from other users of reference services. Section 7.11 requires that an access arrangement include a detailed policy setting out how such discounts will be applied.
622. Western Power has included in its revised proposed access arrangement a policy for discounts under section 7.10 of the Access Code, indicating that Western Power may offer a discount to a user who connects distributed generating plant to the SWIS with the amount of the discount to be determined as the difference in cost incurred by Western Power with and without connection of the distributed generation. The Authority is satisfied that this policy meets the requirements of sections 7.10 and 7.11 of the Access Code.
623. Section 7.12 of the Access Code requires that any amount of tariff equalisation contributions included in the target revenue be recovered through a tariff component for one or more reference services provided in respect of exit points on the distribution system. Section 7.12 further requires that any such tariff component must be equitable in effect as between users in respect of reference services provided in respect of exit points on the distribution system and be otherwise consistent with the Code objective.
624. The Authority considers that compliance with section 7.12 of the Access Code requires that the amount of tariff equalisation contributions be recovered through reference tariffs for one or more distribution reference services.
625. An amount of tariff equalisation contributions has been included in the determination of target revenue under Western Power's revised proposed access arrangement (refer to section 5.2.1 of this Final Decision). Western Power has included this amount as part of the target revenue to be recovered from tariffs charges for services in respect of the distribution system.
626. Accordingly, the Authority is satisfied that the pricing methods meet the requirements of section 7.12 of the Access Code.
627. Draft Decision Amendment 54 required that Western Power delete references in clauses 9.15 and 9.19 of the proposed access arrangement that required the Authority's approval of discounts.
628. In its revised proposed access arrangement, Western Power has deleted clauses 9.15 and 9.19 of the proposed access arrangement. The Authority is satisfied that, by deletion of these clauses, the revised proposed access arrangement incorporates Draft Decision Amendment 54.
629. Draft Decision Amendment 55 required that Western Power amend its price list to specify prices for all reference services.
630. The concern of the Authority that gave rise to Draft Decision Amendment 55 was the failure of the price list of the proposed access arrangement to indicate connection prices for all exit points of the Transmission Exit Service (reference service A11) and entry points of the Transmission Entry Service (reference service B2).

631. Western Power has responded to this amendment by having a single connection charge specified for the Distribution Entry Service (reference service B1 and reference tariff RT11)¹⁴⁷ and an indication for the Transmission Exit Service (reference service A11 and reference tariff TRT1) and Transmission Entry Service (reference service B2 and reference tariff TRT2) that the reference tariffs for these reference services include “a User specific charge that is to be an amount per day which reflects the costs to Western Power of providing the Connection Assets under an Access Contract, which may consist of capital and non-capital costs”.¹⁴⁸ Western Power has *not* included in its price list:
- the connection prices for the Transmission Exit Service that were indicated in the price list under the proposed access arrangement for generators connected either directly to the transmission network at less than 66 kV or to the distribution network;
 - the connection charges for the Transmission Entry Service that were indicated in the price list under the proposed access arrangement for generators connected to the transmission network at 66 kV or greater, except where the charge is determined subject to specific connection arrangements for a user; and
 - the connection prices for the Transmission Entry Service that were indicated in the price list under the proposed access arrangement for generators connected either directly to the transmission network at less than 66 kV or to the distribution network.
632. The Authority notes that Western Power’s objection to publishing connection charges and prices for all entry and exit points is that the connection prices for some of these points are determined by individual negotiation with the user of the reference service and subject to confidentiality. This would appear to apply, however, to a minority of connection points and the price list of the proposed access arrangement included connection charges at rates (\$) for particular substations and connection prices at a uniform rate (in \$/kW/annum) for the vast majority of substations.
633. The Authority understands that the costs of providing the connection element of the Transmission Entry Service and Transmission Exit Service are included in the required reference-service revenue and, accordingly, the connection charges form part of the reference tariffs. The values of connection assets are included in the capital base for the SWIN and the associated capital-related costs, as well as the non-capital costs, incurred in provision of the “connection” element of these reference services are included in the target revenue. Western Power has not indicated in the revised proposed access arrangement that the connection element of these services is provided as a non-reference service.
634. Taking these matters into account, the Authority is of the view that it is preferable for the price list to state connection charges where these charges are determined at a standard rate or are not considered confidential. The Authority accepts that it may not be appropriate to state these charges in the

¹⁴⁷ Revised proposed access arrangement, Appendix 5, Table 4.

¹⁴⁸ Revised proposed access arrangement, Appendix 5.

price list in the relatively few cases where these charges have been determined by individual negotiation with users and are held to be confidential.

635. The Authority requires the following amendment to the revised proposed access arrangement before it will be approved.

Required Amendment 6

The price list provided as Appendix 5 of the revised proposed access arrangement should be amended to include charges made in respect of the provision and operation of connection assets for reference services A11 (Transmission Exit Service) and B2 (Transmission Entry Service) except where the charges are determined by negotiation and subject to confidentiality.

636. Draft Decision Amendment 56 required that Western Power resubmit its proposed price list and submit price list information consistent with the requirements of chapter 8 of the Access Code.
637. The concerns of the Authority that gave rise to Draft Decision Amendment 56 were ambiguity in the price list as to how some tariff elements would be applied (in particular the application of loss factors, distance-based charges and connection charges) and the absence in the proposed access arrangement and access arrangement information of a consolidated document that meets the requirements for price list information.
638. In the price list provided to the Authority as Appendix 5 of the revised proposed access arrangement, Western Power has made revisions to the original price list including:
- removal of loss factors from the price list other than in respect of an indication that a loss-adjusted declared sent out capacity is applied in determining reference tariff charges for the Distribution Entry Service (reference service B1);
 - greater detail on the application of distance-based charges for the high-voltage metered demand service, low voltage metered demand service, high voltage contracted maximum demand service and low voltage contracted maximum demand service (reference services A5, A6, A7 and A8); and
 - removal of the specification of charges in respect of connection assets for the transmission entry service and transmission exit service (reference services B2 and A11).
639. The Authority has reviewed the price list of the revised proposed access arrangement and is satisfied that sufficient information is provided to enable a user to determine how reference tariff charges are applied (subject to the Authority's determination on the specification of charges in respect of connection assets as set out above).
640. Draft Decision Amendment 57 required that Western Power clarify the purpose, effect and period of application of the loss factors specified in its tariff schedule relative to the Independent Market Operator's role.

641. Western Power has amended its price list (Appendix 5 of the revised proposed access arrangement) to remove loss factors from the price list in light of the obligations of the Independent Market Operator under section 2.27.3 of the Wholesale Electricity Market Rules. Reference is still made to loss factors in calculating the reference tariff for the Distribution Entry Service (reference service B1) as a loss-adjusted declared sent out capacity is required in determining the total charges applicable under the reference tariff. In this case, the description of the reference tariff has been revised to indicate that the loss factor applied in determining the total charges is derived from the relevant loss factor published by the Independent Market Operator.¹⁴⁹ With these amendments having been made, the Authority is satisfied that the revised proposed access arrangement incorporates Draft Decision Amendment 57.
642. As a final matter relating to the pricing methods and price list, the Authority has given attention to the submission from Alinta Sales Pty Ltd that the Authority should consider whether, under the reference tariffs that will be established by the access arrangement, there will be a “price shock” from the level of existing tariffs and whether Western Power should be required to include a mechanism in the access arrangement to reduce or eliminate any price shock.
643. To enable consideration of changes in electricity transmission and distribution tariffs with introduction of the access arrangement, the Authority obtained information from Western Power indicating changes to tariffs from the tariffs that applied in 2005/06 to those that would apply in 2006/07 under the revised proposed access arrangement as submitted by Western Power (Appendix C). This information indicates that the reference tariffs that would be introduced in 2006/07, under the revised proposed access arrangement, would entail changes in transmission and distribution tariffs from 2005/06 as summarised in Table 76.

Table 76 Summary of changes in transmission and distribution tariffs from the tariffs that applied in 2005/06 to those that would apply in 2006/07 under the revised proposed access arrangement as submitted by Western Power

Reference service and reference tariff	Summary of changes in transmission and distribution tariffs that would occur with introduction of the revised proposed access arrangement
A1 – Anytime Energy (Residential) Exit Service (RT1)	Approximately 10 per cent increase in the variable charge (c/kWh) and 0.2 per cent decrease in the fixed charge (\$/annum) resulting in an average increase in the effective tariff (c/kWh) of 7.4 per cent.
A2 – Anytime Energy (Business) Exit Service (RT2)	7.2 per cent increase in the variable charge (c/kWh) and a 0.2 per cent decrease in the fixed charge (\$/annum) resulting in an average increase in the effective tariff (c/kWh) of 6.6 per cent.
A3 – Time of Use Energy (Small) Exit Service (RT3)	21.5 per cent increase in the on peak charge (c/kWh), no change in the off peak charge and (2.1 per cent) decrease in the fixed charge (\$/annum) resulting in an average increase in the effective tariff (c/kWh) of 11.5 per cent.

¹⁴⁹ The loss factor is indicated in the price list as: “The loss factor used to calculate the loss-factor adjusted declared sent-out capacity is the relevant portion from the generator to the zone substation of the loss factor published by the Independent Market Operator for that generator” (Revised proposed access arrangement information, Appendix 5, page 12.)

Reference service and reference tariff	Summary of changes in transmission and distribution tariffs that would occur with introduction of the revised proposed access arrangement
A4 – Time of Use Energy (Large) Exit Service (RT4)	7.9 per cent increase in the on peak charge (c/kWh), no change in the off peak charge and (0.1 per cent) increase in the fixed charge (\$/annum) resulting in an average increase in the effective tariff (c/kWh) of 6.3 per cent.
A5 – High Voltage Metered Demand Exit Service (RT5)	4.3 per cent decrease to 0.4 per cent increase in the fixed maximum demand charge demand upon the demand band. 4.0 per cent decrease to 0.4 per cent increase in the excess demand charge depending upon the demand band. Average change in the effective tariff (c/kWh) for typical customers of –0.5 per cent to 0.7 per cent.
A6 – Low Voltage Metered Demand Exit Service (RT6)	0.3 per cent decrease to 450.5 per cent increase in the fixed maximum demand charge demand upon the demand band. 4.6 per cent decrease to 0.4 per cent increase in the excess demand charge depending upon the demand band. Average change in the effective tariff (c/kWh) for typical customers of –0.2 per cent to 1.4 per cent.
A7 – High Voltage Contract Maximum Demand Exit Service (RT7)	Average change in the effective tariff (c/kWh) for typical customers of –4.3 per cent to 4.4 per cent depending upon demand, power factor, load factor, pricing zone and distance from zone substation.
A8 – Low Voltage Contract Maximum Demand Exit Service (RT8)	Average change in the effective tariff (c/kWh) for typical customers of –2.2 per cent to 6.3 per cent depending upon demand, power factor, load factor, pricing zone and distance from zone substation.
A9 – Streetlighting Exit Service (RT9)	No change
A10 –Un-Metered Supplies Exit Service (RT10)	No change
Transmission nodal prices	4.15 per cent decrease to 2.15 per cent increase depending on the substation.

644. The information provided by Western Power indicates significant increases in tariffs would occur with commencement of the revised proposed access arrangement for reference services A1 to A4, with average increases in the effective tariff (c/kWh) of 6.3 to 11.5 per cent.

645. Western Power has provided further information to the Authority indicating (currently) forecast changes in average charges (c/kWh) in 2007/08 and 2008/09 of:

- 1.7 per cent in 2007/08 and –2.8 per cent in 2008/09 for transmission;
- –0.4 per cent in 2007/08 and 0.4 per cent in 2008/09 for distribution; and
- 0.3 per cent in 2007/08 and 1.1 per cent in 2008/09 for bundled transmission and distribution.¹⁵⁰

646. The substantial increases in reference tariffs indicated for 2006/07 with only relatively modest changes in tariffs forecast for 2007/08 and 2008/09 appears

¹⁵⁰ Financial model provided by Western Power to the Authority (WE#3262109V2.XLS dated 2 November 2006).

to result from Western Power's intent to implement the revenue-cap price control using "smoothed" values of total revenue over the access arrangement period so as to avoid price shocks in the latter two years of the access arrangement period.

647. In principle, it would be possible for Western Power to determine transmission and distribution tariffs such that the increases in tariffs indicated by Western Power for 2006/07 would be spread more evenly across the access arrangement period, while maintaining the same value of revenue in present value terms. In practice, this is complicated by the access arrangement coming into effect well after the start of the 2006/07 year. Nevertheless, the Authority considers that meeting the objective of section 7.4(d) of the Access Code (to avoid price shocks) the price control should be implemented in a manner such that, to the extent practically achievable, increases or decreases in tariffs over the access arrangement period are spread across all years of the period and tariff shocks are avoided.
648. The Authority requires the following amendment to the revised proposed access arrangement before it will be approved.

Required Amendment 7

The price list provided as Appendix 5 of the revised proposed access arrangement should be amended to reflect an implementation of the price control that, as far as practical, smooths changes in reference tariffs across the access arrangement period.

649. The access arrangement will only come into effect towards the end of the 2006/07 year, rather than 1 July 2006 as initially expected. For this reason, and due to compliance with Required Amendment 7, the tariffs that may be introduced by Western Power on commencement of the access arrangement will most likely differ from those indicated in Appendix C of this Final Decision. As part of its Further Final Decision, the Authority will confirm that the reference tariffs comply with the price control. Taking into account the price lists proposed by Western Power to date, the Authority envisages that the reference tariffs to be implemented under the access arrangement will result in increases in bundled transmission and distribution charges for small electricity customers that are in the order of 7 to 12 per cent over 2005/06 tariffs, depending upon the applicable reference service. This increase in transmission and distribution tariffs will not, however, affect retail electricity prices for these customers while retail electricity prices remain regulated under the *Energy Operators (Powers) Act 1979* and *Energy Operators (Electricity Retail Corporation) (Charges) By-laws 2006*.
650. Changes in transmission and distribution tariffs applicable to other electricity customers will depend upon the applicable reference services for these customers and the particular characteristics of the customers in terms of their electricity consumption.

5.4. Adjustments to Target Revenue in the Next Access Arrangement Period

5.4.1. Introduction

651. Sections 6.6 to 6.32 of the Access Code provide for the target revenue for an access arrangement period to be adjusted to reflect certain events or outcomes of the previous access arrangement period. In the circumstances of the access arrangement for the SWIN, these provisions of the Access Code provide (to the extent enabled by the access arrangement) for the target revenue for the second access arrangement period (due to commence in July 2009) to be adjusted for the relevant events or outcomes in the first access arrangement period.
652. The events and outcomes that may give rise to adjustments to target revenue under these sections of the Access Code are:
- the service provider incurring certain costs during the first access arrangement period as a result of force majeure events;
 - the service provider incurring greater or lesser non-capital costs or capital related costs as a result of changes in the Technical Rules for the SWIN;
 - the amount, nature and timing of new facilities investment in the first access arrangement period being different to that forecast for that period, consistent with an investment adjustment mechanism set out in the access arrangement;
 - demand growth and/or efficiency gains achieved by the service provider, consistent with a gain sharing mechanism set out in the access arrangement;
 - the service provider achieving service standards during the first access arrangement period that are different to the service standard benchmarks established in the access arrangement, consistent with a service standards adjustment mechanism set out in the access arrangement.
653. The Authority's consideration of the relevant provisions of the proposed access arrangement and revised proposed access arrangement is set out in the following sections of this Final Decision.
654. In addition to the particular provisions for adjustment under sections 6.6 to 6.32 of the Access Code, Western Power has included in its revised proposed access arrangement a mechanism for the adjustment of target revenue in the second access arrangement to reflect differences between forecast and actual values of capital contributions during the first access arrangement period. This element of the revised proposed access arrangement is addressed in section 5.2.5 of this Final Decision, which deals with Western Power's proposed general treatment of capital contributions and the new facilities investment financed by capital contributions.

5.4.2. Unforeseen Force Majeure Events

Access Code Requirements

655. Sections 6.6 to 6.8 of the Access Code provide for the target revenue determined for an access arrangement period to be adjusted for costs incurred in the previous access arrangement period as a result of unforeseen force-majeure events, subject to certain conditions:

6.6 If:

- (a) during the previous access arrangement period, a service provider incurred capital-related costs or non-capital costs as a result of a force majeure event; and
- (b) the service provider was unable to, or is unlikely to be able to, recover some or all of the costs (“unrecovered costs”) under its insurance policies; and
- (c) at the time of the force majeure event the service provider had insurance to the standard of a reasonable and prudent person (as to the insurers and the type and level of insurance),

then subject to section 6.8 an amount may be added to the target revenue for the covered network for the next access arrangement period in respect of the unrecovered costs.

6.7 Nothing in section 6.6 requires the amount added under section 6.6 in respect of unrecovered costs to be equal to the amount of unrecovered costs.

6.8 An amount must not be added under section 6.6 in respect of capital-related costs or non-capital costs, to the extent that they exceed the costs which would have been incurred by a service provider efficiently minimising costs.

Proposed Access Arrangement

656. In clause 5.4 of its proposed access arrangement Western Power noted the ability to adjust the target revenue for the next regulatory period for force majeure events and prescribed a methodology in Appendix 7 of its proposed access arrangement.¹⁵¹ The methodology proposed by Western Power would provide for costs attributed to force majeure events (net of any insurance payment or other cost recovery) to be added to the target revenue in the next access arrangement period, with adjustments to reflect inflation and the time value of money, implemented by escalation by the nominal weighted average cost of capital, and with the amount of adjustment “smoothed” over all years of the access arrangement period.

Draft Decision

657. The Authority indicated in its Draft Decision that it considered Western Power's proposed methodology to make adjustments to target revenue for unforeseen events to be generally consistent with the relevant provisions of the Access Code. The Authority indicated, however, that consistency with the financial model applied by Western Power in the determination of target revenue would require that the adjustments be specified in real, rather than nominal terms, and the “smoothing” of the revenue adjustment over the access arrangement

¹⁵¹ Proposed access arrangement, Appendix 7, Section 10, page 32.

period to be undertaken as part of the overall specification of the revenue requirement for the access arrangement period rather than as a separate exercise.

658. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 27

Western Power to amend its access arrangement Appendix 7, section 10 formula to determine in real terms the aggregate allowance proposed to be included at commencement of the next access arrangement period.

Submissions from Interested Parties on the Draft Decision

659. No submissions were received from interested parties.

Revised Proposed Access Arrangement

660. Western Power has included in its revised proposed access arrangement changes to chapter 5, addressing the adjustment of target revenue for unforeseen events. The affected clauses are as follows.

Adjusting target revenue for unforeseen events

5.4 If a force majeure event occurs which results in Western Power incurring unrecovered costs during the first access arrangement period then Western Power will, as part of its proposed access arrangement for the next access arrangement period, provide a report to the Authority setting out:

- (a) a description of the nature of the force majeure event;
- (b) a description of the insurance cover that Western Power had in place at the time of the force majeure event; and
- (c) a fair and reasonable estimate of the unrecovered costs borne by Western Power during the first access arrangement period as a result of the occurrence of the force majeure event.

5.5-4 In accordance with sections 6.6 to 6.8 of the Code, an amount will be added to the target revenue for the covered network for the next access arrangement period in respect of the unrecovered costs relating to a force majeure event which occurred in the first access arrangement period.—~~Details of the methodology applied to give effect to this adjustment are provided in Appendix 7 of this Access Arrangement.~~

5.6 The determination by the Authority of any amounts under section 5.5 of this Access Arrangement must:

- (a) be based on the Authority's reasonable assessment of the report or reports provided by Western Power pursuant to section 5.4 of this Access Arrangement;
- (b) be in accordance with the principles contained in section 4.28 of the Code;
- (c) take account of the effects of inflation, both in this access arrangement period and the next access arrangement period; and
- (d) take account of the time value of money as reflected by the real pre-tax WACC as applied in this access arrangement period and the next access arrangement period.

Final Decision

661. Draft Decision Amendment 27 required Western Power to amend its proposed access arrangement (in particular the formula of Appendix 7, section 10) to determine in real terms the aggregate allowance proposed to be included at commencement of the next access arrangement period.
662. The Authority notes that the content of Appendix 7 of the proposed access arrangement does not form part of the revised proposed access arrangement, reflecting changes made by Western Power to the price control in response to required amendments under the Draft Decision.
663. The Authority is satisfied that clauses 5.4 to 5.6 of the revised proposed access arrangement reflect the provisions of sections 6.6 to 6.8 of the Access Code, and provide for adjustments to target revenue in the next access arrangement period to be determined in a manner consistent with calculation of target revenue in real dollar values, and consistent with the requirements of Draft Decision Amendment 27.
664. The Authority considers, however, that clause 5.6 of the revised proposed access arrangement seeks to place an obligation on the Authority to determine the amount to be added to Target Revenue in respect of unforeseen events. These obligations are in addition to any obligations of the Authority under the Access Code.
665. The access arrangement cannot create a function or obligation for the Authority in this way. Clause 5.6 should be drafted to set out the methodology to be applied by Western Power in determining an amount to be added to target revenue. Any such determination would then be assessed by the Authority during the course of the Authority's assessment of proposed revisions to the access arrangement.
666. The Authority requires the following amendment to the revised proposed access arrangement before it will be approved.

Required Amendment 8

Clause 5.6 of the revised proposed access arrangement should be amended to state the methodology to be applied by Western Power to determine the amount to be added to target revenue to reflect unforeseen force majeure events.

5.4.3. *Changes to the Technical Rules*

Access Code Requirements

667. Sections 6.9 to 6.12 of the Access Code provide for the target revenue determined for an access arrangement period to be adjusted upwards or downwards to reflect additional costs or cost savings, respectively, incurred in the previous access arrangement period as a result of changes to the Technical Rules in the previous access arrangement period.

Proposed Access Arrangement

668. In clauses 5.5 and 5.6 of its proposed access arrangement Western Power noted the ability to adjust the target revenue (either upwards or downwards) for technical rule changes at the next regulatory period. Western Power proposed a methodology to make these adjustments in Appendix 7 of its proposed access arrangement.¹⁵² The methodology proposed by Western Power provides for costs or cost savings attributed to technical rule changes to be added to the target revenue in the next access arrangement period, with adjustments to reflect inflation and the time value of money implemented by escalation by the nominal weighted average cost of capital, and with the amount of adjustment “smoothed” over all years of the access arrangement period.

Draft Decision

669. In its Draft Decision, the Authority indicated that the methodology proposed by Western Power for adjustment of total revenue to include costs or cost savings incurred in the previous access arrangement period as a result of technical rule changes was deficient in that it does not identify any technical rule changes that Western Power currently foresees for the access arrangement period, nor does it identify the costs or cost savings associated with any foreseen technical rule changes.

670. The Authority also indicated in its Draft Decision that consistency with the financial model applied by Western Power in the determination of target revenue would require that the adjustments be specified in real, rather than nominal terms, and the “smoothing” of the revenue adjustment over the access arrangement period be undertaken as part of the overall specification of the revenue requirement for the access arrangement period rather than as a separate exercise.

671. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 28

Western Power to separately identify and substantiate in its access arrangement all relevant forecast capital and non-capital costs attributable to technical rules for the first access arrangement period.

Draft Decision Amendment 29

Western Power to amend its access arrangement Appendix 7, section 9 by specifying a formula for adjusting target revenue for technical rule changes in a manner that determines in real terms the aggregate allowance proposed to be included at commencement of the next access arrangement period.

Submissions from Interested Parties on the Draft Decision

672. Alinta Sales Pty Limited submitted that it supports an approach that will allow Western Power’s target revenue to be adjusted at the end of an access arrangement period in order to take into account changes in costs associated with amendments to the technical rules. Alinta Sales Pty Limited further

¹⁵² Proposed access arrangement, Appendix 7, page 31.

submitted, however, that it agrees with the Authority's view that the methodology set out in Appendix 7 to the proposed access arrangement does not contain the necessary degree of transparency.

Revised Proposed Access Arrangement

673. Western Power has included in its revised proposed access arrangement changes to chapter 5, addressing the adjustment of target revenue for changes to the Technical Rules. The affected clauses are as follows.

Adjusting target revenue for technical rule changes

5.7 If the technical rules are amended during the first access arrangement period, Western Power will, as part of its proposed access arrangement for the next access arrangement period, provide a report to the Authority setting out:

- (a) a description of the nature and timing of the impact of the technical rule change on Western Power's operating and capital costs for the first access arrangement period; and
- (b) a fair and reasonable estimate of the additional costs (or cost savings) accruing to Western Power as a result of that technical rule change.

~~5.85.5~~ In accordance with sections 6.9 to 6.12 of the Code, the Authority will determine an amount to be added ~~an amount will be added~~ to the target revenue for the covered network for the next access arrangement period in respect of the costs arising from a technical rule change which occurred in the first access arrangement period. ~~Details of the methodology applied to give effect to this adjustment are provided in Appendix 7 of this Access Arrangement.~~

~~5.95.6~~ If the technical rule change leads to a cost saving, then the Authority will determine an amount to be deducted ~~an amount will be deducted~~ from the target revenue for the covered network for the next access arrangement period in accordance with sections 6.9 to 6.12 of the Code. ~~Details of the methodology applied to give effect to this adjustment are provided in Appendix 7 of this Access Arrangement.~~

5.10 The determination by the Authority of any amounts under sections 5.8 and 5.9 of this Access Arrangement must:

- (a) be based on the Authority's reasonable assessment of the report or reports provided by Western Power pursuant to section 5.7 of this Access Arrangement;
- (b) be in accordance with the principles contained in section 4.28 of the Code;
- (c) take account of the effects of inflation, both in this access arrangement period and the next access arrangement period; and
- (d) take account of the time value of money as reflected by the real pre-tax WACC as applied in this access arrangement period and the next access arrangement period.

Final Decision

674. Draft Decision Amendment 28 required Western Power to separately identify and substantiate in its access arrangement all relevant forecast capital and non-capital costs attributable to Technical Rules for the first access arrangement period. This required amendment reflected the provision under section 6.9 of the Code for Western Power to only add an amount to target revenue in the next access arrangement period in respect of costs for which no allowance was made in the access arrangement for the first access

arrangement period and which the service provider could not have reasonably foreseen, and to deduct an amount from target revenue in the next access arrangement period in respect of costs for which an allowance had been made.

675. Western Power has not incorporated the information required under Draft Decision Amendment 28 into the revised proposed access arrangement or the access arrangement information. Rather, Western Power has included provisions in the revised proposed access arrangement to explicitly provide for a report to be submitted to the Authority containing an assessment of the impacts of changes to the Technical Rules on Western Power's costs so that the Authority may determine the amount to be added to or deducted from target revenue in the next access arrangement period.
676. The Technical Rules for the SWIN were still being developed during the time of the Authority's assessment of Western Power's revised proposed Access Arrangement. After giving further consideration to the matter of adjustments of target revenue for changes to the Technical Rules, the Authority notes that there would be substantial practical difficulties for Western Power to explicitly identify the extent to which the forecasts of non-capital costs and new facilities investment for the first access arrangement period are contingent upon particular elements, or envisaged elements, of the technical rules. Taking these matters into account, the Authority accepts that an appropriate approach to consider adjustments to total revenue would be an *ex post* consideration of changes to technical rules during the first access arrangement period and the implications of these changes for the costs incurred by Western Power, with an onus on Western Power to provide information on the changes to costs that occurred. Accordingly, the Authority is satisfied that the new and amended provisions of clauses 5.7 to 5.9 of the revised proposed access arrangement address the reasons of the Authority for requiring Draft Decision Amendment 28.
677. Draft Decision Amendment 29 required Western Power to amend its proposed access arrangement (in particular the formula of Appendix 7, section 10) to determine in real terms the aggregate allowance proposed to be included at commencement of the next access arrangement period.
678. The Authority notes that the content of Appendix 7 of the proposed access arrangement does not form part of the revised proposed access arrangement, reflecting changes made by Western Power to the price control in response to required amendments under the Draft Decision.
679. The Authority is satisfied that clause 5.10 of the revised proposed access arrangement provides for adjustments to target revenue in the next access arrangement period to be determined in a manner consistent with calculation of target revenue in real dollar values, and consistent with the requirements of Draft Decision Amendment 29.
680. The Authority considers, however, that clause 5.10 of the revised proposed access arrangement seeks to place obligations on the Authority in respect of a determination of an amount to be added to Target Revenue in respect of changes to the Technical Rules. These obligations are in addition to any obligations of the Authority under the Access Code.

681. The access arrangement cannot create a function or obligation for the Authority in this way. Clause 5.10 should be drafted to set out the methodology to be applied by Western Power in determining an amount to be added to target revenue. Any such determination would then be assessed by the Authority during the course of the Authority's assessment of proposed revisions to the access arrangement.
682. The Authority requires the following amendment to the revised proposed access arrangement before it will be approved.

Required Amendment 9

Clause 5.10 of the revised proposed access arrangement should be amended to state the methodology to be applied by Western Power to determine the amount to be added to target revenue to reflect changes in the Technical Rules.

5.4.4. *Investment Adjustment Mechanism*

Access Code Requirements

683. As an element in the calculation of a service provider's total costs of providing services, forecast values of new facilities investment in each year of the access arrangement are added to the capital base. The forecast values of new facilities investment are also taken into account in determination of depreciation allowances.
684. It is likely that the actual new facilities investment during an access arrangement period will differ from the forecast made prior to the period. This difference may be in terms of the type of assets, timing and/or cost of the new facilities investment.
685. Sections 6.13 to 6.18 of the Access Code provide for an access arrangement to include an "investment adjustment mechanism" that indicates how any difference between forecast and actual new facilities investment (the "investment difference") is to be treated by the Authority at the next access arrangement review.
686. Section 6.15 of the Access Code specifically requires the inclusion of an investment adjustment mechanism when the form of price control adopted is as described in section 6.2(a) of the Access Code (a price control established with reference to the service provider's approved total costs), which is mandatory for the first access arrangement period.
687. Section 6.16 of the Access Code specifies that the investment adjustment mechanism may provide for adjustments to be made to total revenue for none, some, or all of the extent of any investment difference:
- 6.16 Without limiting the types of investment adjustment mechanism which may be contained in an access arrangement, an investment adjustment mechanism may provide that:

- (a) adjustments are to be made to the target revenue for the next access arrangement in respect of the full extent of any investment difference; or
- (b) no adjustment is to be made to the target revenue for the next access arrangement in respect of any investment difference.

688. Section 6.17 sets out requirements for the investment adjustment mechanism:

6.17 An investment adjustment mechanism must be:

- (a) sufficiently detailed and complete to enable the Authority to apply the investment adjustment mechanism at the next access arrangement review; and
- (b) without limiting this Code, consistent with the gain sharing mechanism (if any) in the access arrangement;
- (c) consistent with the Code objective.

689. Section 6.18 of the Access Code states that an investment adjustment mechanism in an access arrangement applies at the next access arrangement review.

Proposed Access Arrangement

690. Western Power set out an investment adjustment mechanism in clauses 5.7 and 5.24 to 5.26, and Appendix 7 of its proposed access arrangement.

691. Western Power's proposed investment adjustment mechanism allowed for nomination of certain new facilities investments and assets as qualifying for (or being covered by) the investment adjustment mechanism. Differences in the capital-related costs for these assets (and associated new facilities investment) between the forecast asset values (taking into account forecast new facilities investment) and actual asset values (taking into account actual new facilities investment) would be added to (or subtracted from) the revenue requirement for the next access arrangement period, with appropriate adjustments to reflect the time value of money and inflation. The difference between the forecast and actual capital-related costs (or revenue requirements) relating to the assets covered by the investment adjustment mechanism was defined in the proposed access arrangement (section 5.3 of Appendix 7) as the investment difference. The capital related costs refer to the rate of return on asset value and depreciation.

692. Western Power nominated certain transmission projects as "qualifying" for the investment adjustment mechanism in the current access arrangement period (Appendix 8 of the proposed access arrangement). Western Power advised the Authority that no new facilities investment for these projects was included in the forecast of new facilities investment presented as part of the proposed access arrangement. As such, Western Power's proposed investment adjustment mechanism would operate to include the capital-related costs for these projects in the target revenue for the next access arrangement period to the extent that the projects proceed in the current access arrangement period and to the extent that the new facilities investment on these projects pass relevant tests under the Access Code to be included in the capital base.

Draft Decision

693. In its Draft Decision, the Authority indicated a number of concerns with the investment adjustment mechanism proposed by Western Power:

- the investment adjustment mechanism applies only to certain elements of new facilities investment for the transmission network and does not apply to new facilities investment for the distribution network;
 - the specification of the investment adjustment mechanism in Appendix 7 of the proposed access arrangement is ambiguous and may imply that the investment adjustment mechanism would have effect during the first access arrangement period, which would be contrary to section 6.18 of the Access Code; and
 - the specification of the capital projects to which the investment adjustment mechanism applies lacks detail on the forecast costs and timing of the relevant new facilities investment and on the extent to which the costs have been included in the forecast new facilities investment taken into account in determination of the total cost of providing services.
694. The Authority gave consideration to the scope of capital works to which the investment adjustment mechanism should apply and determined that the mechanism should apply to all new facilities investment with the exception of that undertaken to improve service reliability, to which an incentive mechanism should be established to motivate efficiency gains in the new facilities investment.
695. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 30

Western Power to apply the investment adjustment mechanism to transmission and distribution network new facilities investment.

Draft Decision Amendment 31

Western Power's forecast capital expenditure categories to be in accordance with the capital expenditure categories by asset class and expenditure type as detailed in the Capital Expenditure section of [the] Draft Decision.

Draft Decision Amendment 32

Western Power to include an investment adjustment mechanism that compares forecast capital expenditure categories against actual capital expenditure by asset class and expenditure type.

Draft Decision Amendment 33

Western Power to provide a methodology for accounting between actual and forecast investment adjustment mechanism differences in real terms.

Draft Decision Amendment 34

Western Power to propose a reliability driven capital expenditure incentive mechanism.

Submissions from Interested Parties on the Draft Decision

696. No submissions were received from interested parties.

Revised Proposed Access Arrangement

697. Western Power has incorporated revised provisions for an investment adjustment mechanism in its revised proposed access arrangement, as follows.

Investment adjustment mechanism

~~5.11~~^{5.7} In accordance with sections 6.13 to 6.18 of the Code, an investment adjustment mechanism applies in relation to this Access Arrangement. The calculation of the investment adjustment mechanism is explained in sections ~~5.49 to 5.53~~^{24 to 5.26}, and details of the methodology applied to give effect to this adjustment are provided in Appendix ~~7~~⁸ of this Access Arrangement.

...

~~5.49~~^{5.24} In the next access arrangement period, the Authority will make an allowance (positive or negative) in Western Power's target revenue to reflect the investment difference, in accordance with the investment adjustment mechanism set out below methodology described in Appendix 7 of this Access Arrangement.

5.50 The investment adjustment mechanism will apply to both transmission and distribution capital expenditure. The purpose of the investment adjustment mechanism is to adjust Western Power's target revenue in the next access arrangement period in a manner that exactly corrects for the economic loss or gain to Western Power as a result of forecasting errors in relation to particular categories of capital expenditure (the investment difference) in this access arrangement period. In order to give effect to this purpose, the investment adjustment mechanism must take account of:

- (a) The effects of inflation, both in this access arrangement period and the next access arrangement period;
- (b) The time value of money as reflected by the real pre-tax WACC as applied in this access arrangement period and the next access arrangement period; and
- (c) The cost of depreciation and the value of capital additions to the capital base at the next access arrangement period.

5.51 Given the requirements of the investment adjustment mechanism as described in section 5.50 above, Western Power's preferred approach is to:

- (a) use the Authority's revenue model (as adopted in this access arrangement period) to calculate the difference in present value terms between:
 - i. The target revenue that would have been calculated for this access arrangement period if the investment difference had been zero (i.e. there was no forecasting error in relation to the capital expenditure categories that are subject to the investment adjustment mechanism); and
 - ii. The target revenue that actually applied in this access arrangement period.

The adjustment to target revenue in the next access arrangement period should be such that its present value is equal to the present value of the difference described in (a) above.

~~5.25~~ The investment difference must make Western Power financially neutral as a result of any difference between the revenue amounts FQE_t and AQE_t , where:

~~FQE_t is the revenue allowance in respect of the forecast qualifying capital expenditure relating to the investment adjustment mechanism as detailed in section 5.19 of this Access Arrangement; and~~

~~AQE_t is a notional revenue allowance for each year of this Access Arrangement in respect of actual qualifying transmission capital expenditure, in accordance with the methodology described in Appendix 7 of this Access Arrangement.~~

- 5.52 For the avoidance of doubt, the target revenue that actually applied in this access arrangement period includes the deemed capital contributions as set out in sections 5.29 and 5.40 of this Access Arrangement, and not the actual capital contributions received. In assessing the target revenue for the purposes of 5.51(a)(i), Western Power may elect to exclude a particular capital contribution or contributions in accordance with sections 5.30 and 5.41 of this Access Arrangement, in order to give effect to section 2.5 of the Code. For an explanation of the rationale for this approach, please refer to Appendix 8 of this Access Arrangement.
- 5.53 For the purposes of calculating the investment adjustment mechanism, the categories of capital expenditure that are used in calculating the investment difference are:
- (a) Capital expenditure arising from the connection of new generation capacity to the transmission or distribution network from 1 July 2006;
 - (b) Capital expenditure arising from the connection of new load to the transmission or distribution network from 1 July 2006; and
 - (c) Capital expenditure in relation to the augmentation of the capacity of the transmission or distribution networks for the provision of covered services from 1 July 2006.
- ~~5.26 The actual qualifying capital expenditure is the actual transmission capital expenditure incurred by Western Power in respect of the following works:~~
- ~~(a) the connection of new generation capacity to the transmission network that Western Power has not classified as announced or committed by 1 August 2005; and~~
 - ~~(b) the connection of new consumers to the transmission network that Western Power has not classified as announced or committed by 1 August 2005; and~~
 - ~~(c) qualifying capital expenditure projects as listed in Appendix 8 of this Access Arrangement.~~
698. Western Power no longer includes in the revised proposed access arrangement a list of particular capital projects to which the investment adjustment mechanism relates (that was included as Appendix 8 of the proposed access arrangement), instead indicating in section 5.53 of the revised proposed access arrangement the types of new facilities investment to which the investment adjustment mechanism applies. Appendix 7 of the revised proposed access arrangement provides explanatory information in the price control that includes the following information on the investment adjustment mechanism:
- Western Power also proposes an investment adjustment mechanism (IAM) which addresses differences between forecast and actual capital expenditure for particular categories of capital expenditure. This adjustment is different in nature to the [correction factor of the price control], as the latter adjusts for differences between allowed and actual revenue – whereas the IAM adjusts for differences in capital expenditure (or cost) forecasts. The IAM applies to capital expenditure that Western Power believes is especially difficult to forecast.
699. In its submission of revised forecasts of new facilities investment to the Authority in September 2006, Western Power set out a proposal to extend the application of the investment adjustment mechanism to a further four categories of new facilities investment:
- investment in the distribution network associated with the rural power improvement program (RPIP);

- investment in the distribution network associated with the state underground power project (SUPP);
- investment in information technology associated with the distribution network; and
- investment in information technology associated with the distribution transmission network.¹⁵³

Final Decision

700. The Authority has given further consideration to the extent to which new facilities investment in the SWIN should be subject to the investment adjustment mechanism. The Authority recognises that an investment adjustment mechanism would operate to negate any advantage or disadvantage to a service provider resulting from actual new facilities investment in an access arrangement period varying from the forecast new facilities investment for that period. A service provider may gain advantage from such a variance if actual new facilities investment is less than the forecast new facilities investment and/or the timing of actual new facilities investment is deferred relative to the forecast. Under these circumstances, the amount of capital costs able to be recovered under reference tariffs (and based in part on the forecast of new facilities investment) would be in excess of the amount that would have been recovered had reference tariffs been calculated on the basis of the actual new facilities investment. Conversely, a service provider may be disadvantaged by a variance between actual and forecast new facilities investment if actual new facilities investment is greater than the forecast new facilities investment and/or the timing of actual new facilities investment is advanced relative to the forecast. Under these circumstances, the amount of capital-related costs able to be recovered under reference tariffs (and based in part on the forecast of new facilities investment) would be less than the amount that would have been recovered had reference tariffs been calculated on the basis of the actual new facilities investment.
701. In general, the Authority considers that it is desirable that the service provider keep the benefits of any out-performance of cost forecasts and incur the costs of any under-performance. This is the basis of the scheme of incentive regulation, whereby the service provider is faced with an incentive to minimise costs.
702. An investment adjustment mechanism could partially or fully “undo” the incentive for a service provider to out-perform the forecasts of new facilities investment. To the extent that this occurs, an investment adjustment mechanism may be inconsistent with the Code objective (in respect of efficiency of investment). Opportunities for an investment adjustment mechanism to operate consistently with the Code objective are therefore limited to situations where the incentive structure under the Code would fail to operate as normally expected. There are two principal circumstances where this might occur.
703. Firstly, there may be circumstances where there is the prospect of a service provider deferring, inefficiently, new facilities investment relative to the forecast for the access arrangement period. Some deferral of new facilities investment

¹⁵³ Letter from Western Power to the Economic Regulation Authority, 26 September 2006.

relative to a forecast may be efficient and a desirable outcome of incentive regulation, for example, if a service provider implements new work practices or technologies that could not have been anticipated when forecasts for the access arrangement period were being developed and that enable old assets to be kept in service for longer than anticipated with a consequent reduction in the long-term cost of service provision. However, some deferral of new facilities investment may be inefficient in the sense that it reduces service standards or increases the long-term costs of service provision, for example, where a service provider defers making new connections or upgrading assets with a consequent reduction in service availability and/or reliability, and/or an increase in the long-term cost of service provision. Such inefficient deferral of new facilities investment has been indicated to have possibly been an unintended consequence of efficiency carryover mechanisms implemented for capital costs under the access arrangements for the Victorian electricity distributors.¹⁵⁴

704. Secondly, there may be circumstances where there is uncertainty over whether some elements of the service provider's capital works program will proceed, for example, where a capital project is contingent upon a new load or a new generator. In such circumstances, savings in costs resulting from a project not proceeding do not necessarily represent an efficiency gain and there is no reason why a service provider should benefit from the cost savings if the relevant new facilities investment was included in the forecast for the access arrangement period. Conversely, if the relevant new facilities investment was not included in the forecast for the access arrangement period due to uncertainty over whether the projects would proceed, there would be justification for compensating the service provider for the capital-related costs that it incurred and which would have been included in the determination of reference tariffs if the projects has been included in the original forecast of new facilities investment.
705. Taking the above matters into account, the Authority has considered the required amendments to the proposed access arrangement set out in the Draft Decision and the investment adjustment mechanism proposed by Western Power in its revised proposed access arrangement.
706. Draft Decision Amendment 30 required that Western Power apply the investment adjustment mechanism to transmission and distribution network new facilities investment, rather than just a limited range of capital projects related to the transmission network.
707. In clause 5.53 of the revised proposed access arrangement, Western Power has included an investment adjustment mechanism that covers classes of capital works that are undertaken for the purposes of meeting increases in demand for network services (either as connections or increased capacity) and which account for about 65 per cent of new facilities investment and for which demand is relatively uncertain (being dependent upon decisions of users and customers). Western Power has excluded from the investment adjustment mechanism those capital works related to improvements in reliability of the networks or which are of a "refurbishment and renewals" nature and which are less uncertain as the programmes of capital works are planned by Western

¹⁵⁴ Essential Services Commission, October 2005, Electricity Distribution Price Review 2006-10 Final Decision Volume 1 Statement of Purpose and Reasons, page 416.

Power.¹⁵⁵ In submission of revised forecasts of new facilities investment to the Authority in September 2006, Western Power set out a proposal to extend the application of the investment adjustment mechanism to investment associated with the rural power improvement program, investment associated with the state underground power project and investment in information technology associated with either the transmission network or distribution network.

708. The Authority is satisfied that the scope of capital works indicated in the revised proposed access arrangement to be included in the investment adjustment mechanism is consistent with the requirements of the Access Code. The Authority is also satisfied that application of the investment adjustment mechanism to investment associated with the rural power improvement program and state underground power project is consistent with the requirements of the Access Code as the extent of investment under both of these programs is determined by government decisions that are outside of the control of Western Power.
709. The Authority is not satisfied, however, that application of the investment adjustment mechanism to new facilities investment in information technology assets is consistent with the requirements of the Access Code and the Code objective. The Authority considers that investment in information technology assets should be able to be planned by Western Power with reasonable certainty and that the Code objective is better met by determining target revenue in accordance with a forecast of new facilities investment in this category and not applying the investment adjustment mechanism to this investment.
710. The Authority requires the following amendment to the revised proposed access arrangement before it will be approved.

Required Amendment 10

The revised proposed access arrangement or access arrangement information should be amended so that the investment adjustment mechanism is applied to new facilities investment undertaken for augmentation of the distribution system under the regional power improvement program and state underground power program. The investment adjustment mechanism should not be applied to investment in information technology assets.

711. Draft Decision Amendment 31 required that Western Power present forecasts of new facilities investment in accordance with asset categories that were applied by the Authority in the Draft Decision for the purposes of calculating depreciation allowances. Draft Decision Amendment 32 required that the investment adjustment mechanism provide for a comparison of forecast of new facilities investment against actual new facilities investment in each category of asset class and expenditure type.

¹⁵⁵ Western Power, Response to the Required Amendments, Part A, section 3.13.

712. These amendments were required for the purpose of ensuring that there is sufficient information set out in the access arrangement for determining differences between forecast and actual new facilities investment, by asset class, when the investment adjustment mechanism is applied. This is necessary for the calculation of increments or decrements to target revenue in the second access arrangement period arising from differences in notional depreciation allowances for forecast and actual new facilities investment.
713. In Appendix A of Appendix 6 of the revised access arrangement information, Western Power has provided a “capital projects list” that lists capital works categorised by the “driver” of the investment providing a breakdown of forecast investment across asset classes. The Authority is satisfied that this capital projects list provides a sufficient basis for implementation of the investment adjustment mechanism.
714. Draft Decision Amendment 33 required that Western Power provide a methodology for accounting for investment differences in the investment adjustment mechanism in real terms.
715. The Authority is satisfied that clause 5.50 of the revised proposed access arrangement provides for adjustments to target revenue in the next access arrangement period to be determined in a manner consistent with calculation of target revenue in real dollar values, and consistent with the requirements of Draft Decision Amendment 33.
716. Draft Decision Amendment 34 required Western Power to propose an incentive mechanism for reliability-driven new facilities investment.
717. Western Power has not included any specific provisions in the revised proposed access arrangement to provide incentives for efficiency gains in forecast new facilities investment for reliability-driven new facilities investment. In its submission to the Authority subsequent to the Draft Decision, Western Power indicates that incentives for efficiency are provided by exclusion of this category of capital expenditure from the investment adjustment mechanism.
718. In accordance with the reasoning set out in paragraphs 701 to 704 of this Final Decision, the Authority is satisfied that the investment adjustment mechanism set out in the revised proposed access arrangement incorporates Draft Decision Amendment 34.
719. In addition to addressing required amendments under the Draft Decision, Western Power has incorporated an additional provision in the investment adjustment mechanism of the revised proposed access arrangement that allows Western Power to exclude from the investment adjustment mechanism, certain new facilities investment that is financed by capital contributions. The exclusion of certain new facilities investment from the investment adjustment mechanism is part of the more general proposal by Western Power to exclude certain costs and revenues from consideration under the price control and has been addressed by the Authority at paragraphs 521 to 529 of this Final Decision. Consistent with the Authority’s determination on this proposal in the more general context of the price control, the Authority is of the view that Western Power’s provision for certain new facilities investment to be excluded from the investment adjustment mechanism is not consistent with the requirements of the Access Code.

720. The Authority requires the following amendment to the revised proposed access arrangement.

Required Amendment 11

The revised proposed access arrangement should be amended to remove provision under clause 5.52 for exclusion of new facilities investment from consideration under the investment adjustment mechanism, other than where the relevant new facilities investment occurs for the provision of excluded services or other services that are not covered services.

5.4.5. Gain Sharing Mechanism

Access Code Requirements

721. Sections 6.19 to 6.23 of the Access Code provide for an access arrangement to include a gain sharing mechanism.
722. A gain sharing mechanism is defined in section 6.19 of the Access Code:
- 6.19 A “gain sharing mechanism” is a mechanism:
- (a) in an access arrangement which the Authority must apply at the next access arrangement review to determine an amount to be included in the target revenue for one or more of the following access arrangement periods; and
 - (b) which operates as set out in sections 6.20 to 6.28 [of the Access Code].
723. Section 6.20 of the Access Code states that an access arrangement must include a gain sharing mechanism unless the Authority determines that a gain sharing mechanism is not necessary to achieve the objective in section 6.4(a)(ii) of the Access Code.
724. Sections 6.21 and 6.22 of the Access Code set out the objectives and requirements for a gain sharing mechanism:
- 6.21 A gain sharing mechanism must have the objective of:
- (a) achieving an equitable allocation over time between users and the service provider of innovation and efficiency gains in excess of efficiency and innovation benchmarks; and
 - (b) being objective, transparent, easy to administer and replicable from one access arrangement to the next; and
 - (c) giving the service provider an incentive to reduce costs or otherwise improve productivity in a way that is neutral in its effect on the timing of such initiatives.
- {For example, a service provider should not have an artificial incentive to defer an innovation until after an access arrangement review.}
- 6.22 A gain sharing mechanism must be sufficiently detailed and complete to enable the Authority to apply the gain sharing mechanism at the next access arrangement review, including by prescribing the basis on which returns are to be determined for the purposes of section 6.23.

725. An access arrangement that includes a gain sharing mechanism must also include efficiency and innovation benchmarks in accordance with section 5.25 of the Access Code.

Proposed Access Arrangement

726. Western Power did not include a gain sharing mechanism in its proposed access arrangement and indicated that a gain sharing mechanism was not included in the proposed access arrangement for reasons that:¹⁵⁶

- Western Power lacked the resources to develop a gain sharing mechanism;
- Western Power proposes to expand network investment and operating expenditure and a gain sharing mechanism, which would reward reduced expenditure, would be inconsistent with this objective, and it would be more appropriate to introduce a gain sharing mechanism when costs reach a steady state;
- there are no established “innovation and efficiency” benchmarks (consistent with the requirements of section 5.26 of the Access Code) against which to operate a gain sharing mechanism and, if the benchmarks were established at this time, they would be developed in an environment of significant change in which it would be very difficult to determine appropriate parameters; and
- the disaggregation of Western Power into four independent business units is likely to create cost uncertainty and change-management challenges in the forthcoming access arrangement period.

Western Power also made general reference to internal systems that, in its view, would encourage Western Power to pursue efficiencies.

Draft Decision

727. In its Draft Decision, the Authority determined that it is not necessary for the access arrangement to include a gain sharing mechanism. The reasons for this determination were:

- there is a lack of historical cost and efficiency information for Western Power that would enable forecast of costs to be determined with sufficient confidence to apply a gain sharing mechanism that would increase the benefits to Western Power from out-performance of the forecasts; and
- other elements of the access arrangement provide sufficient incentive for Western Power to make efficiency gains, including a price control that allows Western Power to keep the benefits of out-performance of cost forecasts for the term of the access arrangement period.

¹⁵⁶ Access arrangement information, pages 158,159.

Submissions from Interested Parties on the Draft Decision

728. Alinta Sales Pty Ltd submitted that, contrary to the Authority's Draft Decision:

... the initial access arrangement should contain a gain sharing mechanism and efficiency and innovation benchmarks, and that Western Power should receive a financial incentive (or penalty) for achieving (or not achieving) its service standard targets.

Alinta does not accept that the limited empirical cost and performance data that is available is an insurmountable barrier to preparing an effective gain sharing mechanism and efficiency and innovation benchmarks. Other jurisdictions have been able to identify industry norms that can be applied for these purposes, and Alinta submits that the same can be done in Western Australia.

Alinta notes, however, that it should not be necessary for such benchmarking and gain sharing mechanisms to be assessed annually. Instead, Alinta submits that a review of the targets and achievements and the end of the access arrangement period should provide a sufficient incentive for Western Power, and will enable the [Authority] to receive a clearer indication of overall, long-term trends.

...

In relation to the gain sharing mechanism, Alinta observes that if Western Power is incurring gains during the initial access arrangement period, these benefits should be returned to users (even if those returns are smaller than may be the case in subsequent access arrangement periods). Whilst Alinta recognises the concerns raised by Western Power, it is submitted that it would be beneficial to introduce a gain sharing mechanism now.

Alinta notes that section 6.20 of the Access Code provides that an access arrangement must contain a gain sharing mechanism unless the [Authority] determines that a gain sharing mechanism is not necessary to achieve the objective set out in section 6.4(a)(ii) of the Access Code (being to reward a service provider for efficiency gains and innovation beyond the efficiency and innovation benchmarks). Alinta maintains that Western Power has not established that a gain sharing mechanism is not necessary to achieve that objective.

Revised Proposed Access Arrangement

729. Consistent with its proposed access arrangement and the Authority's Draft Decision, Western Power has not included a gain sharing mechanism in its revised proposed access arrangement.

Final Decision

730. In view of the submission from Alinta Sales Pty Ltd, the Authority has given further consideration to whether the access arrangement should include a gain sharing mechanism.

731. The absence of a gain sharing mechanism in the access arrangement for the first access arrangement period does not mean that Western Power has no incentive to make efficiency gains over this period. Rather, an incentive for efficiency gains arises from the ability of Western Power to retain the benefits of any out-performance of the cost forecasts that underlie the determination of target revenue and reference tariffs for the first access arrangement period. The effect of including a gain sharing mechanism in the access arrangement would be to increase the incentive for efficiency gains by allowing Western

Power to retain the benefits not only in the first access arrangement period but also, through a “carryover mechanism” to continue to capture benefits in the second access arrangement period.

732. A key consideration for the Authority in determining whether the access arrangement should include a gain sharing mechanism is the degree of confidence that the Authority can have that the forecasts of costs made for the first access arrangement period represent a reasonable view, at the current time, of the costs that will be incurred by Western Power acting to efficiently minimise costs and that can be used as a basis for establishing efficiency benchmarks. Establishing a gain sharing mechanism in circumstances where there is limited confidence in the cost forecasts and efficiency benchmarks could result in Western Power being inappropriately rewarded for an out-performance of cost forecast that results from the original forecasts being excessive or, if the gain sharing mechanisms include provision for “negative carryovers”, Western Power being inappropriately penalised for under-performance against cost forecasts that result from the original forecasts being too low.
733. One of the main sources of evidence that the Authority uses to determine whether forecasts of costs represent efficient costs is records of actual costs incurred by the regulated business. In the case of Western Power, the Authority considers that records of actual costs do not provide a reliable indication of efficient costs for the current Western Power business as the records of actual costs were derived from costs of the previous Western Power Corporation prior to the disaggregation of that business. The Authority does not consider that it is able, at the current time, to establish efficiency benchmarks and a gain sharing mechanism that can be relied on to provide incentives for efficiency gains rather than inappropriately exposing Western Power to potential windfall gains or losses. Accordingly, in the Authority’s view, a gain sharing mechanism is not necessary to achieve the objective in section 6.4(a)(ii) of the Access Code as incentives exist in the access arrangement for Western power to make efficiency gains and a gain sharing mechanism is unlikely to achieve the objective due to the lack of information to derive effective efficiency benchmarks.
734. The Authority therefore maintains the determination that it is not necessary for the access arrangement to include a gain sharing mechanism for the first access arrangement period.

5.4.6. Service Standard Adjustment Mechanism

Access Code Requirements

735. Section 6.30 of the Access Code requires that an access arrangement include a service standards adjustment mechanism, defined in section 6.29:
- 6.29 A “service standards adjustment mechanism” is a mechanism in an access arrangement detailing how the service provider’s performance during the access arrangement period against the service standard benchmarks is to be treated by the Authority at the next access arrangement review.

736. Section 6.31 of the Access Code sets out the requirements for the service standards adjustment mechanism:

6.31 A service standards adjustment mechanism must be:

- (a) sufficiently detailed and complete to enable the Authority to apply the service standards adjustment mechanism at the next access arrangement review; and
- (b) consistent with the Code objective.

737. Section 6.32 of the Access Code indicates that the service standards adjustment mechanism applies at the next access arrangement review.

Proposed Access Arrangement

738. Clauses 5.10 to 5.13 of the proposed access arrangement included a service standard adjustment mechanism. The mechanism set out in the proposed access arrangement provided for a financial reward or penalty to be applied in the second access arrangement period in the event that measurements of service standards in the first access arrangement period were to fall outside “deadband ranges” around the service standard benchmarks established for each of the transmission and distribution networks.¹⁵⁷

739. For transmission services, Western Power proposed service standards for:

- circuit availability - to measure network availability; and
- system minutes interrupted - to record the effect on customers.

740. The proposed service standards adjustment mechanism for the transmission network would apply against the service standard benchmarks for:

- circuit availability, with a financial incentive (or penalty) of 0.1 per cent of target revenue for every 0.1 percentage point by which measured circuit availability exceeds (or is less than) the service standard benchmark; and
- system minutes interrupted, with a financial incentive (or penalty) of 0.05 per cent of target revenue for every amount of 0.1 by which measured system minutes interrupted is less than (or exceeds) the service standard benchmark.

741. The proposed service standards adjustment mechanism for the distribution network would apply against the service standard benchmarks for the duration of service interruptions (SAIDI), with a financial incentive (or penalty) of between \$161,000 and \$225,000 for every SAIDI minute by which measured SAIDI for the urban network is less than (or exceeds) the service standard benchmark, and a financial incentive (or penalty) of between \$12,300 and \$17,000 for every SAIDI minute by which measured SAIDI for the rural network is less than (or exceeds) the service standard benchmark.

¹⁵⁷ The service standard benchmarks are addressed in section 4.2 of this Final Decision.

Draft Decision

742. In its Draft Decision, the Authority indicated that it does not consider that the Access Code necessarily requires that an access arrangement include a service standard adjustment mechanism that provides financial incentives for Western Power to meet or out-perform its service standard benchmarks.
743. The Authority also determined that it would be inappropriate to include financial incentives for improvements for out-performance of service standard benchmarks where there is a paucity of historical data on service standards and the potential effect of a service standard adjustment mechanism.
744. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 35

Western Power to amend its proposed service standard adjustment mechanism to remove the incentive payments from the transmission network service standard adjustment mechanism.

Draft Decision Amendment 36

Western Power to amend its proposed service standard adjustment mechanism to remove the incentive payments from the distribution network service standard adjustment mechanism.

Submissions from Interested Parties on the Draft Decision

745. Alinta Sales Pty Ltd submitted that the Authority should require that a service standard adjustment mechanism be included in the access arrangement:

Alinta is surprised that the [Authority] has adopted the approach of requiring Western Power to remove the proposed financial incentives (or penalties) from the Service Standards Adjustment mechanism (SSAM). In Alinta's view, the better way to address this issue would be to focus on identifying appropriate targets for Western Power, while maintaining the financial incentive to achieve those targets.

Alinta submits that if the [Authority] is concerned about the risk of a windfall benefit to Western Power from such incentives, that issue can be adequately addressed by either proposing stricter standards, or by carefully limiting the level of payments available.

On the [Authority's] proposed approach, Alinta is concerned that Western Power will have no real incentive to reach its targets. In Alinta's view, just because the Access Code does not necessarily require the inclusion of a financial component in the SAM, the [Authority] should not opt out of giving this issue full consideration.

However, Alinta does not support the position of the [Authority] on the issue of transparency, and the question of whether improvements in service standards are attributable to access arrangement funded strategies or to Western Power's own network management initiatives. In Alinta's view the SSAM must promote the necessary level of transparency for users.

Alinta also has some concerns about the aspect of the SSAM proposed in clauses 5.12(b) and 5.13(b). In Alinta's view, it would be preferable for the applicable reward or penalty to be calculated across the whole of the access arrangement period, rather than for each individual year. This is because optimal results may be achieved by acting outside of targets for one year, in

order to achieve longer-term improvements. The SSAM as currently proposed may not encourage this sort of forward planning.

Revised Proposed Access Arrangement

746. The revised proposed access arrangement incorporates revisions to the service standard adjustment mechanism that remove provisions for financial incentives for Western Power to meet or out-perform its service standard benchmarks, and adds provisions that require Western Power to report on performance against service standards. The revisions incorporated in the revised proposed access arrangement are indicated as follows:

Service standards adjustment mechanism (“SSAM”)

~~5.15-10~~ In accordance with section 6.30 of the Code, a service standard adjustment mechanism applies in relation to this Access Arrangement.

~~5.16-14~~ In accordance with section 6.29 of the Code, Western Power’s performance during this access arrangement period will be measured annually against the performance ranges defined by the tables in sections 5.22, 5.23 and 5.24 of this Access Arrangement ~~each of the service standard benchmarks described in sections 3.13 and 3.16 of this Access Arrangement.~~

~~SSAM applying to transmission reference services~~

~~5.12~~ At the next access arrangement review the Authority will apply a financial reward or penalty to Western Power in relation to Western Power’s actual performance in providing transmission reference services, which reward or penalty is to be calculated as follows:

(a) ~~Western Power’s actual performance will be calculated on the basis of the service standard definitions in section 3.15 of this Access Arrangement.~~

(b) ~~The reward or penalty applicable under the SSAM shall be calculated once for each year of the access arrangement period as: the incentive rate shown in the table below multiplied by the difference between the actual performance and the service standard benchmark (denoted as “Target” in the table below), only where actual performance is between:~~

(i) ~~the “Low Limit” and the “Lower bound” of the Deadband shown in the table below; or~~

(ii) ~~the “High Limit” and the “Upper bound” of the Deadband shown in the table below.~~

		Lower bound	Target	Upper bound		
Circuit Availability (%)	97.6	98.1	98.6	99.1	99.6	\$269,000 per 0.1% circuit availability
System Minutes Interrupted (meshed network)	4.8	5.8	8.3	10.8	11.8	\$134,000 per 0.1 System Minute Interrupted

(c) ~~Subject to section 5.12(d), the present value as at the access arrangement review date of the annual SSAM reward or penalty calculated for each year of the first access arrangement period will be included in the determination of Western Power’s target revenue for the second access arrangement period.~~

- (d) ~~The present value of amounts calculated in accordance with section 5.12 (c) will be calculated using the WACC which applies in the first access arrangement period.~~

~~SSAM applying to reference services for users connected to the distribution network~~

~~5.13 At the next access arrangement review the Authority will apply a financial reward or penalty to Western Power in relation to Western Power's actual performance in providing reference services to users connected to the distribution network, which reward or penalty is to be calculated as follows:~~

- (a) ~~Western Power's actual performance will be calculated on the basis of the service standard definitions in section 3.12 of this Access Arrangement.~~
- (b) ~~The reward or penalty applicable under the SSAM shall be calculated once for each year of the access arrangement period as: the incentive rate shown in the table below multiplied by the difference between the actual performance and the service standard benchmark (denoted as "Target" in the table below), only where actual performance is between:

 - (i) ~~the "Low Limit" and the "Lower bound" of the Deadband shown in the table below; or~~
 - (ii) ~~the "High Limit" and the "Upper bound" of the Deadband shown in the table below.~~~~

			Lower bound	Target	Upper bound		
SAIDI – Urban (Minutes)	2006/07	194	218	242	266	290	\$161,000
	2007/08	181	203	226	249	271	\$186,000
	2008/09	156	176	195	215	234	\$225,000
SAIDI – Rural (Minutes)	2006/07	407	458	509	5609 [sic]	611	\$12,300
	2007/08	381	428	476	524	571	\$14,200
	2008/09	328	369	410	451	492	\$17,000

- (c) ~~Subject to section 5.13(d), the present value as at the access arrangement review date of the annual SSAM reward or penalty calculated for each year of the first access arrangement period will be included in the determination of Western Power's target revenue for the second access arrangement period.~~
- (d) ~~The present value of amounts calculated in accordance with section 5.13(c) will be calculated using the WACC which applies in the first access arrangement period.~~

5.17 The tables in sections 5.22, 5.23 and 5.24 of this Access Arrangement define the lower and upper limits of normal network performance for the transmission and distribution networks. These upper and lower limits establish the range of network performance for these networks which is, for the purpose of the service standard adjustment mechanism, defined as normal performance.

5.18 Where Western Power's actual performance falls within the normal performance range, no action is required by Western Power or the Authority.

5.19 Where Western Power’s actual performance falls outside the low or high limits of the normal performance range for any performance measure, Western Power is required to make a submission to the Authority within 40 business days of the end of the relevant financial year as follows:

- (a) where performance is superior, Western Power will explain the actions taken by Western Power’s management, staff and contractors and any other factors that have led to the service improvement; or
- (b) where performance is inferior, Western Power will explain the reasons for the poor performance and the corrective action taken or to be taken by Western Power to ensure that future performance is improved; and
- (c) in either case, Western Power will indicate whether performance is expected to fall outside the normal performance range in future financial years.

5.20 At the next access arrangement review, the Authority will consider the submissions made by Western Power in setting new benchmarks and approving related capital and operating expenditure for the next access arrangement period.

5.21 For the avoidance of doubt, no financial penalties or bonuses will apply in the first or subsequent access arrangement period as a result of this service standard adjustment mechanism.

5.22 The table below establishes the normal performance range for transmission network performance.

Transmission service standard – normal performance

		<u>Low Limit</u>	<u>High Limit</u>
<u>Circuit Availability (%)</u>	<u>2006/07</u>	<u>97.7%</u>	<u>98.7</u>
	<u>2007/08</u>	<u>97.7%</u>	<u>98.7</u>
	<u>2008/09</u>	<u>97.7%</u>	<u>98.7</u>
<u>System Minutes Interrupted (meshed network)</u>	<u>2006/07</u>	<u>7.0</u>	<u>8.6</u>
	<u>2007/08</u>	<u>7.0</u>	<u>8.6</u>
	<u>2008/09</u>	<u>7.0</u>	<u>8.6</u>
<u>System Minutes Interrupted (radial network)</u>	<u>2006/07</u>	<u>3.5</u>	<u>4.3</u>
	<u>2007/08</u>	<u>3.5</u>	<u>4.3</u>
	<u>2008/09</u>	<u>3.5</u>	<u>4.3</u>

5.23 The table below establishes the normal performance range for distribution performance as measured by SAIDI.

Distribution service standard as measured by SAIDI – normal performance

		<u>Low Limit</u>	<u>High Limit</u>
<u>SAIDI - SWIN (Minutes)</u>	<u>2006/07</u>	<u>249</u>	<u>305</u>
	<u>2007/08</u>	<u>233</u>	<u>285</u>
	<u>2008/09</u>	<u>202</u>	<u>246</u>
<u>SAIDI - CBD (Minutes)</u>	<u>2006/07</u>	<u>19</u>	<u>24</u>
	<u>2007/08</u>	<u>18</u>	<u>22</u>
	<u>2008/09</u>	<u>16</u>	<u>19</u>
<u>SAIDI - Urban (Minutes)</u>	<u>2006/07</u>	<u>220</u>	<u>268</u>
	<u>2007/08</u>	<u>206</u>	<u>252</u>
	<u>2008/09</u>	<u>177</u>	<u>217</u>
<u>SAIDI - Rural (Minutes)</u>	<u>2006/07</u>	<u>458</u>	<u>560</u>
	<u>2007/08</u>	<u>428</u>	<u>524</u>
	<u>2008/09</u>	<u>369</u>	<u>451</u>

5.24 The table below establishes the normal performance range for distribution performance as measured by SAIFI.

Distribution service standard as measured by SAIFI – normal performance

		<u>Low Limit</u>	<u>High Limit</u>
<u>SAIFI - SWIN (Average interruptions per annum)</u>	<u>2006/07</u>	<u>3.10</u>	<u>3.78</u>
	<u>2007/08</u>	<u>2.90</u>	<u>3.54</u>
	<u>2008/09</u>	<u>2.50</u>	<u>3.06</u>
<u>SAIFI - CBD (Average interruptions per annum)</u>	<u>2006/07</u>	<u>0.29</u>	<u>0.35</u>
	<u>2007/08</u>	<u>0.27</u>	<u>0.33</u>
	<u>2008/09</u>	<u>0.23</u>	<u>0.29</u>
<u>SAIFI - Urban (Average interruptions per annum)</u>	<u>2006/07</u>	<u>3.04</u>	<u>3.72</u>
	<u>2007/08</u>	<u>2.84</u>	<u>3.48</u>
	<u>2008/09</u>	<u>2.45</u>	<u>2.99</u>
<u>SAIFI - Rural (Average interruptions per annum)</u>	<u>2006/07</u>	<u>3.71</u>	<u>4.53</u>
	<u>2007/08</u>	<u>3.47</u>	<u>4.24</u>
	<u>2008/09</u>	<u>2.99</u>	<u>3.65</u>

Final Decision

747. Draft Decision Amendments 35 and 36 required revisions of the proposed access arrangement to remove provisions that would provide financial incentives for Western Power to meet or out-perform its service standard benchmarks. The Authority is satisfied that the revised proposed access arrangement incorporates these required amendments.
748. The Authority has given consideration to the submission from Alinta Sales Pty Ltd that the service standard adjustment mechanism should include financial incentives for the out-performance of service standards established for the first access arrangement period. In this regard, the Authority refers to its consideration of service standard benchmarks in section 4.2 of this Final Decision. An important element of the Authority's consideration of service standard benchmarks was that the setting of benchmarks is made difficult by a lack of historical data on service quality. Taking this into account, the Authority considers that there is currently insufficient information on historical service quality to set benchmarks with the necessary degree of confidence that the inclusion of financial incentives would not inappropriately expose Western Power to windfall losses, or enable Western Power to make windfall gains without having engaged in activities for the improvement of service quality.

6. Efficiency and Innovation Benchmarks

Access Code Requirements

749. Section 5.1(j) of the Access Code provides for an access arrangement to include efficiency and innovation benchmarks.
750. Section 5.25 of the Access Code states that an access arrangement that contains a gain sharing mechanism *must* include efficiency and innovation benchmarks, and an access arrangement that does not contain a gain sharing mechanism *may* contain efficiency and innovation benchmarks.
751. Section 5.26 of the Access Code sets out the requirements for efficiency and innovation benchmarks:
- 5.26 Efficiency and innovation benchmarks must:
- (a) if the access arrangement contains a gain sharing mechanism, be sufficiently detailed and complete to permit the Authority to make a determination under section 6.25 at the next access arrangement review; and
 - (b) provide an objective standard for assessing the service provider's efficiency and innovation during the access arrangement period; and
 - (c) be reasonable.
752. Section 6.25 of the Access Code relates to the implementation of a gain sharing mechanism and provides, generally, that a gain sharing mechanism may only operate to carry over benefits (a surplus) from efficiency gains or innovation in one access arrangement period to the target revenue of a service provider in the next access arrangement period if the achieved efficiency gains or innovation is in excess of the efficiency and innovation benchmarks.

Proposed Access Arrangement

753. Western Power did not include a gain sharing mechanism in its proposed access arrangement. Accordingly, Western Power determined not to include efficiency and innovation benchmarks in its proposed access arrangement.¹⁵⁸
754. In its access arrangement information Western Power asserted that it would be appropriate to conduct a thorough assessment of the need for, and the design options for, a gain sharing mechanism at the next access arrangement review and that it undertakes to establish, during the course of the first access arrangement period, data collection and performance monitoring processes to facilitate the development of appropriate efficiency and innovation benchmarks that would apply from the commencement of the second access arrangement period.¹⁵⁹

Draft Decision

755. The Authority determined in its Draft Decision that the access arrangement need not include a gain sharing mechanism or a service standard adjustment mechanism that includes financial incentives for reason, in part, that there was inadequate historical information on efficiency and service standards for a gain sharing mechanism and service standard adjustment mechanism to be established. Consistent with this determination, the Authority also determined that the access arrangement need not include efficiency and innovation benchmarks for the first access arrangement period.

Submissions from Interested Parties on the Draft Decision

756. Alinta Sales Pty Ltd submitted that, contrary to the Authority's Draft Decision:

... the initial access arrangement should contain a gain sharing mechanism and efficiency and innovation benchmarks, and that Western Power should receive a financial incentive (or penalty) for achieving (or not achieving) its service standard targets.

Alinta does not accept that the limited empirical cost and performance data that is available is an insurmountable barrier to preparing an effective gain sharing mechanism and efficiency and innovation benchmarks. Other jurisdictions have been able to identify industry norms that can be applied for these purposes, and Alinta submits that the same can be done in Western Australia.

Alinta Notes, however, that it should not be necessary for such benchmarking and gain sharing mechanisms to be assessed annually. Instead, Alinta submits that a review of the targets and achievements and the end of the access arrangement period should provide a sufficient incentive for Western Power, and will enable the [Authority] to receive a clearer indication of overall, long-term trends.

...

Alinta submits that by not including efficiency and innovation benchmarks in the Proposed Access Arrangement, Western Power will have no real incentive to reduce costs and increase efficiency. In Alinta's view this is not a reasonable outcome.

¹⁵⁸ Proposed access arrangement, clause 5.9.

¹⁵⁹ Original access arrangement information, page 160.

If, as Alinta has submitted above, a gain sharing mechanism should be included in the Proposed Access Arrangement, then efficiency and innovation benchmarks are also required.

Revised Proposed Access Arrangement

757. Consistent with its proposed access arrangement and the Authority's Draft Decision, Western Power has not included a efficiency and innovation benchmarks in its revised proposed access arrangement.

Final Decision

758. The Authority has considered the submission from Alinta Sales Pty Ltd contending that the access arrangement should include efficiency and innovation benchmarks. For the reasons set out in this Final Decision at sections 4.2, 5.4.5 and 5.4.6, the Authority has determined that it is not necessary that the access arrangement for the first access arrangement period include a gain sharing mechanism or a service standard adjustment mechanism that involves financial incentives. Consistent with this determination, the Authority maintains that it is not necessary for the access arrangement for the first access arrangement period to include efficiency and innovation benchmarks.

7. Supplementary Matters

7.1. Introduction and General Matters

Access Code Requirements

759. Section 5.1(k) of the Access Code states that an access arrangement must include provisions dealing with "supplementary matters". Section 5.27 of the Access Code indicates that supplementary matters comprise:

- balancing;
- line losses;
- metering;
- ancillary services;
- stand-by;
- trading;
- settlement; and
- any other matter in respect of which arrangements must exist between a user and a service provider to enable the efficient operation of the covered network and to facilitate access to services, in accordance with the Code objective.

760. Section 5.28 of the Access Code sets out the manner in which an access arrangement must deal with supplementary matters:

- 5.28 An access arrangement must deal with a supplementary matter in a manner which:
- (a) to the extent that the supplementary matter is dealt with in:
 - (i) an enactment under Part 9 of the Act; or
 - (ii) the 'market rules' as defined in section 121(1) of the Act, applying to the covered network – is consistent with and facilitates the treatment of the supplementary matter in the enactment or market rules; and
 - (b) to the extent that the supplementary matter is dealt with:
 - (i) in a written law other than as contemplated under section 5.28(a); and
 - (ii) in a manner which is not inconsistent with the requirement under section 5.28(a) to the extent that it applies to the covered network, is consistent with and facilitates the treatment of the supplementary matter in the written law; and
 - (c) otherwise – in accordance with the technical rules applying to the covered network and the Code objective.

General Treatment of Supplementary Matters

761. Western Power has addressed in its proposed access arrangement and revised proposed access arrangement each of the supplementary matters listed in section 5.17 of the Access Code. Generally, Western Power has addressed each of these matters by reference to other relevant statutory instruments: the Market Rules or *Electricity Industry Metering Code 2005 (Metering Code)*.
762. Western Power also included in the proposed access arrangement and revised proposed access arrangement general clauses providing for the possibility that the Market Rules and/or the Metering Code may not have effect at the time the access arrangement comes into effect:
- 10.8 Interim arrangements may be required in the event that the Wholesale Electricity Market Rules or the Electricity Industry Metering Code 2005 is not operational at the commencement of this Access Arrangement.
 - 10.9 The interim arrangements referred to in section 10.8 of this Access Arrangement will reflect working practices immediately prior to the commencement of this Access Arrangement or as otherwise reasonably directed by the Authority.
763. Subsequent to the Authority's Draft Decision, Alinta Sales Pty Ltd submitted that it is generally comfortable with Western Power's existing work practices continuing in the event that the commencement of the wholesale electricity market is delayed. Alinta Sales Pty Ltd also submitted, however, that a mechanism should be included in clauses 10.8 and 10.9 of the access arrangement to ensure that, if Western Power wishes to change any of the existing work practices during the interim period, particularly tariffs, then a suitable consultation and approval process should be implemented.
764. The Authority has given consideration to the submission from Alinta Sales Pty Ltd but takes the view that clauses 10.8 and 10.9 of the revised proposed

access arrangement do not contemplate any change in work practices and, taking into account that the Metering Code substantially commenced on 23 December 2005 and the Market Rules are now in effect, these clauses provide sufficient protection for users.

765. The Authority's assessment of the revised proposed access arrangement in respect of supplementary matters is set out in the following sections of this Final Decision.

7.2. Balancing

Access Code Requirements

766. "Balancing" is a process undertaken by the Independent Market Operator for meeting deviations of electricity supply from electricity consumption.
767. Balancing is addressed by the Market Rules.¹⁶⁰
768. Section 5.28(a) of the Access Code states that to the extent that a supplementary matter is dealt with in the Market Rules, the proposed supplementary matter must be consistent with, and facilitate the treatment of, the supplementary matter in the Market Rules.

Proposed Access Arrangement

769. Western Power addressed balancing in clause 10.1 of its proposed access arrangement as follows:

Balancing requirements under the Access Arrangement shall be in accordance with the Wholesale Electricity Market Rules, subject to section 10.8 of this Access Arrangement.

Draft Decision

770. The Authority determined that, as balancing is dealt with in the Market Rules and as Western Power has not sought to alter or add to the provisions for balancing under the Market Rules, the provisions of the proposed access arrangement dealing with balancing comply with the requirements of section 5.28 of the Access Code.

Submissions from Interested Parties on the Draft Decision

771. No submissions were received from interested parties.

Revised Proposed Access Arrangement

772. Western Power has not incorporated any change in the revised proposed access arrangement in relation to the supplementary matter of balancing.

¹⁶⁰ Market Rules, chapter 6.

Final Decision

773. In accordance with its Draft Decision, the Authority maintains the view that, as balancing is dealt with in the Market Rules and as Western Power has not sought to alter or add to the provisions for balancing under the Market Rules, the provisions of the revised proposed access arrangement dealing with balancing comply with the requirements of section 5.28 of the Access Code.

7.3. Line Losses

Access Code Requirements

774. “Line losses” are losses of electrical power from the electricity transmission and distribution networks and are manifest by a difference between the energy sent out by power stations and the energy transferred out of the network.

775. Line losses are dealt with in the Market Rules through the determination of loss factors.¹⁶¹

776. Section 5.28(a) of the Access Code states that to the extent that a supplementary matter is dealt with in the Market Rules, the proposed supplementary matter must be consistent with, and facilitate the treatment of, the supplementary matter in the Market Rules.

Proposed Access Arrangement

777. Western Power addressed line losses in its proposed access arrangement as follows:¹⁶²

Requirements for the treatment of line losses under the Access Arrangement shall be in accordance with the Wholesale Electricity Market Rules, subject to section 10.8 of this Access Arrangement.

Draft Decision

778. The Authority determined that, as line losses are dealt with in the Market Rules and as Western Power has not sought to alter or add to the provisions for line losses under the Market Rules, the provisions of the proposed access arrangement dealing with line losses comply with the requirements of section 5.28 of the Access Code.

Submissions from Interested Parties on the Draft Decision

779. No submissions were received from interested parties.

Revised Proposed Access Arrangement

780. Western Power has not incorporated any change in the revised proposed access arrangement in relation to the supplementary matter of balancing.

¹⁶¹ Market Rules, clause 2.27.

¹⁶² Proposed access arrangement, clause 10.2.

Final Decision

781. In accordance with its Draft Decision, the Authority maintains the view that, as line losses are dealt with in the Market Rules and as Western Power has not sought to alter or add to the provisions for line losses under the Market Rules, the provisions of the revised proposed access arrangement dealing with line losses comply with the requirements of section 5.28 of the Access Code.

7.4. Metering

Access Code Requirements

782. “Metering” refers to the process of measuring the quantities of electrical power transferred into or out of the network, including the provision of metering equipment, meter reading and the handling of metering data.

783. Metering is dealt with in the Metering Code.

784. Section 5.28(b) of the Access Code states that to the extent that a supplementary matter is dealt with in a written law (other than as contemplated under section 5.28(a) of the Access Code), the proposed supplementary matter must be consistent with, and facilitate the treatment of, the supplementary matter in that written law.

Proposed Access Arrangement

785. Western Power addressed metering in its proposed access arrangement as follows:¹⁶³

Metering requirements under the Access Arrangement shall be in accordance with the Electricity Industry Metering Code 2005, subject to section 10.8 of this Access Arrangement.

786. While Western Power’s proposed access arrangement indicated that metering activities would be undertaken in accordance with the Metering Code, metering services form part of services offered under the access arrangement. In particular:

- metering assets form part of the capital base and the capital related costs form part of the non-capital costs included in the total costs of providing covered services;
- costs of metering activities form part of the non-capital costs included in the total costs of providing covered services; and
- metering charges are included in reference tariffs (Appendix 5 of the proposed access arrangement).

Draft Decision

787. As part of its Draft Decision, the Authority gave consideration to whether metering services should be included in reference services, and described as

¹⁶³ Proposed access arrangement, clause 10.3.

part of those services and with metering charges included as part of reference tariffs, or whether metering services could be described, and offered under, another instrument, as could be interpreted from clause 10.3 of Western Power's proposed access arrangement.

788. The Authority determined that metering services should be included in, or offered as, reference services and relevant charges included in reference tariffs, albeit that the metering services, and charges for these services, would still have to be consistent with provisions of the Metering Code. The Authority accordingly determined that a number of inconsistencies between the proposed access arrangement and the Metering Code needed to be resolved.
789. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 58

Western Power to confirm in its access arrangement the inclusion of the type, supply, installation and maintenance of meters applicable to reference services in accordance with the required amendments to Reference Services in [the] Draft Decision.

Draft Decision Amendment 59

Western Power to confirm in its access arrangement the meter reading type and frequency included in the reference services in accordance with the required amendments to the Reference Services and Standard Access Contract in [the] Draft Decision.

Draft Decision Amendment 60

Western Power to confirm in its access arrangement the treatment for meter upgrades in accordance with the required amendments to the Capital Contributions Policy in [the] Draft Decision.

Draft Decision Amendment 61

Western Power to confirm in its access arrangement the elements of metering charges in reference tariffs in accordance with the required amendments to Pricing Methods and Price Lists in [the] Draft Decision.

Submissions from Interested Parties on the Draft Decision

790. Alinta Sales Pty Ltd submitted that it supports the Authority's approach to the issue of charges for metering services, indicating a view that the total cost for delivery of reference services should be included in the reference tariffs, with no additional costs to be imposed.

Revised Proposed Access Arrangement

791. In its revised proposed access arrangement, Western Power has included descriptions of all reference services (Appendix 7). The descriptions of all reference services, except for reference services A9 (streetlighting exit service) and A10 (unmetered supplies exit service), indicate that the reference services each include a "standard meter service". "Standard meter service" is indicated in Appendix 7 of the revised proposed access arrangement to be defined in the model service level agreement that was approved by the Economic Regulation Authority under the Metering Code on 30 March 2006. The model service level agreement indicates that:

“Standard Metering Services” means those services described as “standard” or “default” services in Schedule 2, and the cost of which is included in the tariffs, for covered services contracted between Western Power and the User in an access contract.

792. Schedule 2 of the model service level agreement describes the standard metering services by designating meter types for particular customer characteristics (indicative annual volume bands at connection points), meter-reading schedules for each meter type and service standards for each meter type (with the standards indicating the time period after scheduled meter-read dates within which meter-read data will be provided).
793. Schedule 2 also indicates that a “meter upgrade” is performed as a standard metering service in response to an actual or projected increase in consumption at a metering connection point.
794. Western Power has also incorporated changes to its price list under the revised proposed access arrangement (Appendix 5, Tables 13, 14 and 15) to include a metering charge in the reference tariffs for all the reference services for which a metering service is included as part of the reference service.

Final Decision

795. Draft Decision Amendments 58, 59 and 60 required Western Power to amend the proposed access arrangement to include, within the descriptions of reference services, indications of the meters and metering services that are included as part of reference services, and the treatment within reference services of meter upgrades. Western Power has incorporated this information in the descriptions of reference services set out in Appendix 7 of the revised proposed access arrangement by cross references to relevant parts of the model service level agreement for metering under the Metering Code. The Authority is satisfied that these changes to the proposed access arrangement incorporate the Draft Decision Amendments 58, 59 and 60 and meet the requirements of section 5.28 of the Access Code by being consistent with the Metering Code and facilitating the treatment of metering under the Metering Code.
796. Draft Decision Amendment 61 required that the proposed access arrangement be revised to include metering charges in reference tariffs in accordance with the required amendments to pricing methods and price lists. Western Power has revised its specification of reference tariffs in the price list to include explicit metering charges. Taking into account the Authority’s determination on the pricing methods and price list provided as part of the revised proposed access arrangement (section 5.3.2 of this Final Decision), the Authority is satisfied that the revised proposed access arrangement incorporates Draft Decision Amendment 61.

7.5. Ancillary Services

Access Code Requirements

797. “Ancillary services” are services that are required to maintain the security and reliability of the power system, facilitate orderly trading in electricity and ensure that supplies of electricity are of acceptable quality.

798. Ancillary services are dealt with in the Market Rules.¹⁶⁴

799. Section 5.28(a) of the Access Code states that to the extent that a supplementary matter is dealt with in the Market Rules, the proposed supplementary matter must be consistent with, and facilitate the treatment of, the supplementary matter in the Market Rules.

Proposed Access Arrangement

800. Western Power addressed the provision of ancillary services in its proposed access arrangement as follows:¹⁶⁵

Requirements for the treatment of ancillary services under the Access Arrangement shall be in accordance with the Wholesale Electricity Market Rules, subject to section 10.8 of this Access Arrangement.

Draft Decision

801. The Authority determined that, as the provision of ancillary services is dealt with in the Market Rules and as Western Power has not sought to alter or add to the provisions for ancillary services under the Market Rules, the provisions of the proposed access arrangement dealing with ancillary services comply with the requirements of section 5.28 of the Access Code.

Submissions from Interested Parties on the Draft Decision

802. No submissions were received from interested parties.

Revised Proposed Access Arrangement

803. Western Power has not incorporated any change in the revised proposed access arrangement in relation to the supplementary matter of ancillary services.

Final Decision

804. In accordance with its Draft Decision, the Authority maintains the view that, as ancillary services are dealt with in the Market Rules and as Western Power has not sought to alter or add to the provisions for ancillary services under the Market Rules, the provisions of the revised proposed access arrangement dealing with ancillary services comply with the requirements of section 5.28 of the Access Code.

7.6. Stand-by

Access Code Requirements

805. “Stand-by” is the provision of stand-by generation capacity for the purpose of providing electrical power to the network at particular locations to ensure that

¹⁶⁴ Market Rules, chapter 3.

¹⁶⁵ Proposed access arrangement, clause 10.4.

electrical power is able to be transferred from the network to meet demand at a particular time.

806. Section 5.28(c) of the Access Code states that to the extent that a supplementary matter is not dealt with in the Market Rules or a written law, the access arrangement must deal with a supplementary matter in accordance with the Technical Rules applying to the covered network and the Code objective.

Proposed Access Arrangement

807. Western Power did not include any substantive provisions in the proposed access arrangement in relation to stand-by generation, indicating that there is no requirement for stand-by generation under the Market Rules, and the requirement for stand-by generation has been superseded by the Market Rules and is no longer applicable.¹⁶⁶

Draft Decision

808. In its Draft Decision, the Authority concurred with the position of Western Power that any possible role of the access arrangement in providing for stand-by generation has been superseded by the Market Rules. Accordingly, the Authority determined that the absence of any substantive provision in the proposed access arrangement dealing with stand-by generation is consistent with the Code objective.

Submissions from Interested Parties on the Draft Decision

809. No submissions were received from interested parties.

Revised Proposed Access Arrangement

810. Western Power has not incorporated any change in the revised proposed access arrangement in relation to the supplementary matter of stand-by generation.

Final Decision

811. In accordance with its Draft Decision, the Authority maintains the view that, as the concept of stand-by generation is dealt with in the Market Rules and as Western Power has not sought to alter or add to the provisions for stand-by generation under the Market Rules, the absence of provisions in the revised proposed access arrangement dealing with stand-by generation is in accordance with the requirements of section 5.28 of the Access Code.

¹⁶⁶ Proposed access arrangement, clause 10.5; original access arrangement information, section 11.4.5.

7.7. Trading

Access Code Requirements

812. “Trading” refers to the trading of electrical power in the wholesale electricity market.
813. Trading is dealt with generally in the Market Rules.
814. Section 5.28(a) of the Access Code states that to the extent that a supplementary matter is dealt with in the Market Rules, the proposed supplementary matter must be consistent with, and facilitate the treatment of, the supplementary matter in the Market Rules.

Proposed Access Arrangement

815. Western Power addressed trading in its proposed access arrangement as follows:¹⁶⁷

Trading requirements under the Access Arrangement shall be in accordance with the Wholesale Electricity Market Rules, subject to section 10.8 of this Access Arrangement.

816. Clause 10.8 of the proposed access arrangement indicated that:

Interim arrangements may be required in the event that the Wholesale Electricity Market Rules or the Electricity Industry Metering Code 2005 is not operational at the commencement of this Access Arrangement.

Draft Decision

817. The Authority determined that, as trading is dealt with in the Market Rules and as Western Power has not sought to alter or add to the provisions for trading under the Market Rules, the provisions of the proposed access arrangement dealing with trading comply with the requirements of section 5.28 of the Access Code.

Submissions from Interested Parties on the Draft Decision

818. No submissions were received from interested parties.

Revised Proposed Access Arrangement

819. Western Power has not incorporated any change in the revised proposed access arrangement in relation to the supplementary matter of trading.

Final Decision

820. In accordance with its Draft Decision, the Authority maintains the view that, as trading is dealt with in the Market Rules and as Western Power has not sought to alter or add to the provisions for trading under the Market Rules, the

¹⁶⁷ Proposed access arrangement, clause 10.6.

provisions of the revised proposed access arrangement dealing with trading comply with the requirements of section 5.28 of the Access Code.

7.8. Settlement

Access Code Requirements

821. “Settlement” refers to the *ex post* determination of transactions in the electricity market and the entitlements and liabilities of the parties to the transactions.
822. Settlement is dealt with in the Market Rules.¹⁶⁸
823. Section 5.28(a) of the Access Code states that to the extent that a supplementary matter is dealt with in the Market Rules, the proposed supplementary matter must be consistent with, and facilitate the treatment of, the supplementary matter in the Market Rules.

Proposed Access Arrangement

824. Western Power addressed settlement in its proposed access arrangement as follows:¹⁶⁹

Settlement requirements under the Access Arrangement shall be in accordance with the Wholesale Electricity Market Rules, subject to section 10.8 of this Access Arrangement.

825. Clause 10.8 of the proposed access arrangement indicated that:

Interim arrangements may be required in the event that the Wholesale Electricity Market Rules or the Electricity Industry Metering Code 2005 is not operational at the commencement of this Access Arrangement.

Draft Decision

826. The Authority determined that, as settlement is dealt with in the Market Rules and as Western Power has not sought to alter or add to the provisions for settlement under the Market Rules, the provisions of the proposed access arrangement dealing with settlement comply with the requirements of section 5.28 of the Access Code.

Submissions from Interested Parties on the Draft Decision

827. No submissions were received from interested parties.

Revised Proposed Access Arrangement

828. Western Power has not incorporated any change in the revised proposed access arrangement in relation to the supplementary matter of settlement.

¹⁶⁸ Market Rules, chapter 9.

¹⁶⁹ Proposed access arrangement, clause 10.7.

Final Decision

829. In accordance with its Draft Decision, the Authority maintains the view that, as settlement is dealt with in the Market Rules and as Western Power has not sought to alter or add to the provisions for settlement under the Market Rules, the provisions of the revised proposed access arrangement dealing with settlement comply with the requirements of section 5.28 of the Access Code.

8. Revision of the Access Arrangement

Access Code Requirements

830. Section 5.1(l) of the Access Code requires that an access arrangement include provisions dealing with the submission of proposed revisions to the access arrangement and “trigger events”.
831. Sections 5.29 to 5.33 of the Access Code set out requirements for an access arrangement to make provision for submission to the Authority of proposed revisions of the access arrangement and for the commencement of a revised access arrangement, and for the term of an access arrangement period:
- 5.29 An access arrangement must specify:
- (a) a revisions submission date; and
 - (b) a target revisions commencement date.
- 5.30 For the first access arrangement:
- (a) the revisions submission date must be at least 6 months before the target revisions commencement date under section 5.30(b); and
 - (b) the target revisions commencement date must be no more than 3 years after the access arrangement start date.
- 5.31 Subject to section 5.32, for access arrangements other than the first access arrangement:
- (a) the revisions submission date must be at least 6 months before the target revisions commencement date; and
 - (b) the target revisions commencement date must be 5 years after the start of the access arrangement period, unless a different date is proposed by the service provider and the different date is consistent with the Code objective.
- 5.32 The Authority:
- (a) in determining whether an access arrangement period of longer than 5 years is consistent with the Code objective must have regard to:
 - (i) the likely advantages of the approval (including by way of reduced regulatory costs); and
 - (ii) the likely disadvantages of the approval;
 and
 - (b) if it determines that an access arrangement period of longer than 5 years is consistent with the Code objective, must consider whether to require under section 5.34 that the access arrangement include one or more trigger events.

- 5.33 Section 5.32(a) does not limit the matters to which the Authority may have regard.
832. A trigger event is defined at section 1.3 of the Access Code as a set of one or more circumstances specified in an access arrangement under section 5.1(l)(ii) of the Access Code, the occurrence of which requires a service provider to submit proposed revisions to the Authority.
833. Sections 5.34 to 5.36 of the Access Code set out requirements for the access arrangement to include a specification of trigger events.
- 5.34 If it is consistent with the Code objective an access arrangement may specify one or more trigger events.
- 5.35 To avoid doubt, under section 5.34, an access arrangement may specify a trigger event which was not proposed by the service provider.
- 5.36 Before determining whether a trigger event is consistent with the Code objective the Authority must consider:
- (a) whether the advantages of including the trigger event outweigh the disadvantages of doing so, in particular the disadvantages associated with decreased regulatory certainty; and
 - (b) whether the trigger event should be balanced by one or more other trigger events.

{Example: The service provider may wish to include a trigger event allowing it to reopen the access arrangement if actual covered service consumption is more than x% below forecast. However, if the Authority were minded to allow such a trigger event, it may also require the inclusion of a complementary trigger event requiring the service provider to reopen the access arrangement if covered service consumption is more than y% above forecast.}

Proposed Access Arrangement

834. The proposed access arrangement included provision for a revisions submission date of 31 December 2008, and a target revisions commencement date of 1 July 2009.¹⁷⁰
835. Clause 8.1 of the proposed access arrangement also included a number of trigger events:
- 8.1 Pursuant to section 4.37 of the Code the following events are trigger events:
- (a) a decision by the Authority; or Government; or an appointed agent or industry body that imposes costs on Western Power in order to facilitate the development of market rules or the introduction of contestability;
 - (b) a decision by the Authority; or Government; or an appointed agent or industry body that requires Western Power to reorganise or restructure its operations; and
 - (c) any significant unforeseen development which has a materially adverse impact on the service provider and which is:
 - (i) outside the control of the service provider; and

¹⁷⁰ Proposed access arrangement, clause 1.6.

- (ii) not something that the service provider, acting in accordance with good electricity industry practice, should have been able to prevent or overcome; and
 - (iii) an event the impact of which is so substantial that the Authority considers that the advantages of making the variation before the end of the access arrangement period outweigh the disadvantages, having regard to the impact of the variation on regulatory certainty.
836. Western Power further submitted that trigger events should only apply to “cover circumstances that potentially require material changes to the access arrangement”.¹⁷¹
837. Western Power provided the following justification for its proposed trigger events.
- The inclusion of each trigger event reduces the company’s financial exposure to defined events that are beyond its control and which, if eventuated, would have a material impact on the financial performance of the company.
 - The company could therefore reasonably claim that if the proposed trigger event provision were not allowed either:
 - network prices would need to reflect the higher risks borne by shareholders (which would be less conducive to efficient use of the network); or
 - investment in networks would be lower than would otherwise be the case.
 - Either of the two outcomes listed immediately above would be inconsistent with the Code objective, and therefore the inclusion of the proposed trigger events in the company’s access arrangement is warranted, and meets the requirements of section 5.34.

Draft Decision

838. The Authority noted in its Draft Decision that the target revisions commencement date proposed by Western Power implies an access arrangement period of three years, consistent with the maximum term permitted by section 5.30(b) of the Access Code.
839. The revisions submission date proposed by Western Power is six months prior to the target revisions commencement date. The Authority determined in its Draft Decision that the period of six months is not sufficient to assess proposed revisions with adequate public consultation and, accordingly, determined that the revisions submission date was not consistent with the Code objective. Accordingly, the Authority determined that a period of nine months between the revisions submission date and the target revisions commencement date is necessary.
840. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

¹⁷¹ Proposed access arrangement information, page 193.

Draft Decision Amendment 63

The Authority requires Western Power to amend clause 1.5 of its access arrangement to reflect a revisions submission date of 1 October 2008.

841. In its consideration of the trigger events included by Western Power in the proposed access arrangement, the Authority noted that two of the proposed trigger events (clauses 8.1(a) and (b) of the proposed access arrangement) relate largely to circumstances in which Western Power may incur costs not contemplated in forecasts of costs underlying the determination of target revenue and reference tariffs. The Authority noted that such circumstances could be effectively dealt with under section 4.38 of the Access Code, which effectively acts as a “pass-through” provision, allowing for the re-opening of the price control and pricing methods of an access arrangement where a significant unforeseen development occurs that impacts on the service provider in a substantial way. Accordingly, the Authority considered that it was not necessary for the access arrangement to include trigger events of this nature.

Draft Decision Amendment 62

Western Power to delete trigger events at clauses 8.1(a) and (b) of its proposed access arrangement.

842. The third trigger event proposed by Western Power (clause 8.1(c) of the proposed access arrangement) would allow the re-opening of the access arrangement in its entirety following any significant unforeseen development, an example of which is a force majeure event. The Authority determined that service providers should be entitled to revisit an access arrangement should an event beyond its control have a material impact on the ability to provide covered services. Accordingly, the Authority determined that this trigger event is consistent with section 5.36 of the Access Code and the Code objective.

Submissions from Interested Parties on the Draft Decision

843. Alinta Sales Pty Ltd submitted that it supports the Authority’s requirement that clauses 8.1(a) and (b) of the proposed access arrangement be deleted.
844. Alinta Sales Pty Ltd also submitted that, in clause 8.1(c) of the proposed access arrangement, the words “materially adverse impact” should be replaced with “material impact”, ensuring that the trigger events mechanism applies in the same way to events that decrease Western Power’s costs as to those that increase costs. Alinta Sales Pty Ltd indicated that it views this as an equitable and reasonable way to approach the issue of trigger events.

Revised Proposed Access Arrangement

845. Western Power has incorporated revisions in the revised proposed access arrangement to indicate, at clause 1.5, a revisions submission date of 1 October 2008, and to delete clauses 8.1(a) and (b) of the proposed access arrangement.

1.5 Pursuant to section 5.29(a) of the Code, the revisions submission date for this Access Arrangement is [1 October 2008](#) ~~31 December 2008~~.

1.6 Pursuant to section 5.29(b) of the Code, the target revisions commencement date for this Access Arrangement is 1 July 2009.

...

- 8.1 Pursuant to section 4.37 of the Code the following event is a trigger event:
- ~~(a) A decision by the Authority; or Government; or an appointed agent or industry body that imposes costs on Western Power in order to facilitate the development of market rules or the introduction of contestability;~~
 - ~~(b) A decision by the Authority; or Government; or an appointed agent or industry body that requires Western Power to reorganise or restructure its operations; and~~
 - (a)(e) Any significant unforeseen development which has a materially adverse impact on the service provider and which is:
 - (i) outside the control of the service provider; and
 - (ii) not something that the service provider, acting in accordance with good electricity industry practice, should have been able to prevent or overcome; and
 - (iii) an event the impact of which is so substantial that the Authority considers that the advantages of making the variation before the end of the access arrangement period outweigh the disadvantages, having regard to the impact of the variation on regulatory certainty.

Final Decision

846. By the change of revisions submission date and deletion of the trigger events in clauses 8.1(a) and (b) of the proposed access arrangement, the Authority is satisfied that the revised proposed access arrangement incorporates Draft Decision Amendments 62 and 63.
847. The Authority has given further consideration to the trigger event included in the revised proposed access arrangement at clause 8.1(a) (clause 8.1(c) of the proposed access arrangement).
848. The Authority is required by section 5.36 of the Access Code to consider whether:
- the advantages of including the trigger event outweigh the disadvantages of doing so, in particular the disadvantages associated with decreased regulatory certainty; and
 - whether the trigger event should be balanced by one or more other trigger events.
849. It is relevant to the first of these considerations that the trigger event is designed to shelter Western Power from the risk of increases in costs beyond forecasts. The trigger event would only have effect if Western Power itself considered that the event (and the increase in costs) warranted a review of the access arrangement and the associated costs.
850. In regard to the second of the above factors, the Authority has given consideration to the submission from Alinta Sales Pty Ltd that the trigger event of clause 8.1(a) of the revised proposed access arrangement should apply in the same way to events that decrease Western Power's costs as to those that increase costs. The Authority considers that the events contemplated by this clause are generally events that give rise to a disruption to the operations and/or assets of the transmission and distribution networks, and that a disruption is more likely to give rise to an increase in costs than a decrease in costs. Accordingly, the Authority takes the view that it is not necessary for the

trigger event specified by clause 8.1(a) to be balanced by a trigger event relating to events that give rise to cost reductions to Western Power.

851. Taking the above matters into account, the Authority is satisfied that the trigger event established by clause 8.1(a) of the revised proposed access arrangement is consistent with the Code objective.
852. Section 8.1(a)(iii) of the revised proposed access arrangement contemplates a role of the Authority in determining whether the “impact” of an event is sufficiently “substantial” that the trigger event should operate. The Authority is generally of the view that an access arrangement should not create a role for the Authority that is not otherwise a statutory role or function. Section 4.37(c) of the Access Code provides that the service provider must notify the Authority that a trigger event has occurred, implying that the Service Provider determines whether a trigger event has occurred without seeking the Authority’s view. Accordingly, the Authority does not have a role of the type contemplated by clause 8.1(a)(iii) of the revised proposed access arrangement.
853. The Authority requires the following amendment to the revised proposed access arrangement before it will be approved.

Required Amendment 12

Clause 8.1(a)(iii) of the revised proposed access arrangement should be amended to remove the role of the Authority in determining whether a trigger event has occurred.

9. Standard Access Contracts

9.1. Introduction

854. Section 5.1(b) of the Access Code requires that an access arrangement include a standard access contract for each reference service. The requirements for standard access contracts are set out in sections 5.3 to 5.5 of the Access Code:

5.3 A standard access contract must be:

- (a) reasonable; and
- (b) sufficiently detailed and complete to:
 - (i) form the basis for a commercially workable access contract; and
 - (ii) enable a user or applicant to determine the value represented by the reference service at the reference tariff.

5.4 A standard access contract may:

- (a) be based in whole or in part upon the model standard access contract, in which case, to the extent that it is based on the model standard access contract, any matter which in the model standard access contract is left to be completed in the Access Arrangement, must be completed in a manner consistent with:
 - (i) any instructions in relation to the matter contained in the model standard access contract; and
 - (ii) section 5.3; and
 - (iii) the Code objective;
 and
- (b) be formulated without any reference to the model standard access contract and is not required to reproduce, in whole or in part, the model standard access contract.

{Note: The intention of this section 5.4(b) is to ensure that the service provider is free to formulate its own standard access contract which complies with section 5.3 but is not based on the model standard access contract.}

5.5 The Authority:

- (a) must determine that a standard access contract is consistent with section 5.3 and the Code objective to the extent that it reproduces without material omission or variation the model standard access contract; and
- (b) otherwise must have regard to the model standard access contract in determining whether the standard access contract is consistent with section 5.3 and the Code objective.

855. Western Power included three standard access contracts in its proposed access arrangement: “electricity transfer access contract”; “connection access contract”; and “interconnection works agreement”.

856. The Authority’s considerations and determinations in respect of each of the standard access contracts included in the proposed access arrangement, and revisions made by Western Power to (and in respect of) each of these

standard access contracts in the revised proposed access arrangement are set out in the following sections of this Final Decision.

9.2. Connection Access Contract

Proposed Access Arrangement

857. As part of its proposed access arrangement, Western Power included a standard access contract for connection services: the connection access contract.
858. The connection access contract comprised terms and conditions for a contract between Western Power and an electricity customer (who is usually the controller of a connection point). The connection access contract was intended to apply where the user of network services and the controller of the connection point are different persons. Such a contract was contemplated by clause 6.2(c) of the proposed electricity transfer access contract.
859. The connection access contract proposed by Western Power consisted of all terms and conditions of the electricity transfer access contract except for those directly dealing with electricity transfer.¹⁷²
860. Western Power stated the following reasons for including the connection access contract in the access arrangement as a standard access contract:

Three key matters underpinned Western Power's thinking in developing the [standard access contract] and in considering the implications of alternative approaches that may be adopted in addressing particular matters within a standard access contract, namely:

- the access contract should deal with the reference services defined in the access arrangement, being exit and entry services.
- the party receiving connection services (a non-reference service) may not be the contracted recipient of exit or entry services.
- the original contracting party to the construction of connection assets for which a contribution was required may not be a party to a contract for reference services.

Western Power is of the firm belief that providing contractual clarity around these matters promotes competition in upstream and downstream markets (such as generation and retail) not only by facilitating economically efficient investment by Western Power but also by providing certainty to participants and potential entrants to upstream and downstream markets.

Consequently, Western Power includes ... [a] separate connection contract for connection services where the party to that contract (usually a controller) is not party to an electricity transfer contract.¹⁷³

Draft Decision

861. In its Draft Decision, the Authority took the view that the connection access contract could not fall within the definition of a standard access contract as the

¹⁷² Original access arrangement information, Appendix 10, page 10.

¹⁷³ Original access arrangement information, Appendix 10, page 3.

connection services to which the contract would relate were not proposed by Western Power to be reference services with related reference tariffs. While the Authority gave consideration to whether a connection service should be a reference service, the Authority determined that this was not necessary for the proposed access arrangement to comply with the requirements of the Access Code.

862. The Authority determined that the connection access contract should not form part of the proposed access arrangement as it cannot be regarded as a standard access contract. The Authority further determined to not exercise its discretion under section 4.29 of the Access Code to allow the proposed access arrangement to include the connection access contract as an element of an access arrangement that is additional to elements required under section 5.1 of the Access Code.
863. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 112

Western Power to remove the Connection Access Contract from the proposed access arrangement.

Submissions from Interested Parties on the Draft Decision

864. Alinta Sales Pty Ltd made the following submission:

Alinta agrees with the ERA that the Connection Access Contract should not be a Standard Access Contract, but only because Western Power has not proposed a connection service as a reference service in the Proposed Access Arrangements. However, Alinta reiterates the concern stated in section 3.4 of Alinta Limited Submissions, that Western Power's access arrangement should include a connection service as a reference service.

865. Verve Energy made the following submission

2. The deletion, reference Draft Decision required Amendment ("DDRA") 112, of a CAC is noted with concern, however.
3. The Electricity Networks Access Code ("ENAC") expressly anticipates that covered services may include connection services that do not involve the transfer of electricity, with 'connection service' defined as "the right to connect facilities at equipment at a connection point." A note under this definition states "*Note: A connection service is the right to physically connect to the network, and will regulate technical compliance etc. It is not the same thing as an entry service or exit service, which are the right to transfer electricity.*"
4. Additionally the Model Access Contract in Appendix 3 to the ENAC ("MSAC") allows for two types of contract:
 - (a) the "capacity contract" in Parts A, B and D, which is a contract for an entry/exit service; and
 - (b) the "technical compliance contract" in Parts A, C and D which is a contract for a connection service.
5. In considering why a "connection service" may be desirable and commonly used, an example is where one entity (eg the generation operator, or the end user) has technical control of the plant and another (eg a retailer) has the commercial responsibility for the transfer of electrons. The retailer may want nothing to do with the technical operation of any entry points or exit points. In

addition the generator may want to maintain control over the technical aspects of the connection. This would become particularly relevant where a generator is selling electricity to multiple retailers (say a specific retailer for a specific generating location) and wants to ensure consistent technical compliance at each connection point.

6. Thus, it may be appropriate for the retailer to be bound only by some types of contractual provisions (eg contracted capacity (CMD, DSOC etc, payment/tariff, liability, customer transfer, curtailment), with the controller of the plant being bound by the technical provisions (eg directions from system operator, technical rules, complying with good electricity industry practice, liability etc).
7. The MSAC contemplated that a User might have a Capacity Contract which did not contain the technical compliance provisions, but Western Power structured its PAA differently – there is a contract which contains both the capacity provisions and the technical compliance provisions, or a contract which contains just the technical compliance provisions. Verve Energy submits that the ERA might wish to consider whether there should be a capacity-only contract available for the situation where a User does not have any hands on technical role but has one or more Designated Controllers instead.
8. The PAA did not specify the Connection Service as Reference Service. However, it did include standard terms and conditions for the Connection Service. It is likely that Verve Energy will, or might want, a connection contract. We believe therefore that ERA should ensure that a connection service is available:
 - (a) preferably as a reference service;
 - (b) but failing that as a non reference service on specified terms and conditions.
9. Verve Energy understands that this is permissible under the ENAC and the ERA is requested to reconsider its decision to reject a CAC.

Revised Proposed Access Arrangement

866. Western Power has incorporated revisions into the revised proposed access arrangement to delete the connection access contract.

Final Decision

867. The Authority is satisfied that, by removing the connection access contract, Western Power has incorporated Draft Decision Amendment 112 into the revised proposed access arrangement.
868. The Authority notes the submissions from Alinta Sales Pty Ltd and Verve Energy requesting that a connection service be made a reference service. This matter has been addressed at section 4.1 of this Final Decision, with the Authority determining to not require that a connection service be made a separate reference service. Accordingly, there is no requirement for the access arrangement to include a standard access contract for a connection service.

9.3. Interconnection Works Agreement

Proposed Access Arrangement

869. As part of its proposed access arrangement,¹⁷⁴ Western Power included a standard access contract for services provided to a user or another party where the services comprise the construction by Western Power of facilities and equipment required for the transfer of electricity into or out of the network: the interconnection works agreement. The facilities and equipment that would be constructed under the interconnection works agreement would include any or all of:

- an augmentation to Western Power's network;
- shared facilities; or
- facilities and equipment of the other party to be connected to Western Power's network (connection facilities).

870. The interconnection works agreement contained provisions relating to the:

- provision of construction services by Western Power to the other party in relation to shared facilities and connection facilities, and payment for such services; and
- construction by Western Power of a network augmentation and the payment of contributions by the other party with respect to any augmentation to Western Power's network.

871. In support of the inclusion of an interconnection works agreement in the access arrangement, Western Power stated:

The standard IWA replicates the requirements of the payment contract, the works contract and the payment in-kind contract referred to in the various appendices in the Code. In the Code, the MAC addressed these matters in Schedule 5. Given that a party to an IWA, such as the developer of a subdivision may not be required to sign an access contract, Western Power has created this separate contract.

The IWA meets the requirements under the Code specifically:

- A2.103 – terms included in an access offer (as set out in the applications and queuing policy);
- A4.12(b) – security provisions in the payment contract (as set out in the capital contributions policy);
- A4.14(a) – financial provision for contribution (as set out in the capital contributions policy);
- A4.14(c)(i) – adjustment of periodic payments (as set out in the capital contributions policy);
- A4.14(c)(i) – reimbursement of up-front payment (as set out in the capital contributions policy);
- A4.21 – security provisions (as set out in the capital contributions policy).

¹⁷⁴ Proposed access arrangement, Appendix 4C.

Western Power will always require a signed payment contract or works contract prior to commencing any augmentation. This will either be in the form of the IWA or for augmentations involving less technical and commercial risk, in the form of a signed offer. In such circumstances, the terms of the offer will be similar to those of an IWA but with no greater contractual obligation than would exist under the IWA.¹⁷⁵

872. Western Power further stated:

The IWA recognises that applicants might request Western Power to perform some of the applicant's works, or Western Power might choose to tender for the applicant's works (works related to excluded services), and so these works have been foreshadowed in the standard IWA for convenience as 'Customer Works'. Where appropriate due to the different nature of the works, different provisions have been specified for the Customer Works and the Western Power Works.

It is important to ensure an appropriate allocation of risks, given that unlike a normal contractor, Western Power cannot reasonably refuse to undertake the works. Therefore, Western Power will accept capped insurable liabilities only, and will require a third party indemnity for persons associated with the applicant.

One notable feature of the IWA is that Western Power has included a liquidated damages provision capped at a maximum of \$500,000 for the Western Power Works. Liquidated damages for the Customer Works will be treated as any other commercial matter to be negotiated between the parties.

In other respects, the IWA is similar to normal construction contracts, allowing for the difference in final ownership of the assets being constructed.¹⁷⁶

Draft Decision

873. In its Draft Decision, the Authority noted that the undertaking of works under an interconnection works agreement would not fall within the scope of any of the reference services proposed by Western Power to be included in the access arrangement. Such works would therefore be regarded as non-reference services. There is no obligation on Western Power to include terms and conditions for non-reference services in the access arrangement and the interconnection works agreement therefore falls within the scope of section 4.29 of the Access Code that provides for an access arrangement to include something other than the required elements of an access arrangement as set out in section 5.1 of the Access Code, subject to the Authority's approval having regard to the Code objective.

874. Western Power sought to justify inclusion of the interconnection works agreement in the proposed access arrangement on the grounds of providing parties with commercial clarity. The Authority took the view that prescribing commercial terms and conditions and thereby providing parties with "commercial clarity" is not necessarily consistent with the promotion of the Code objective. Rather, it would be the content of the prescribed terms and conditions that would determine whether the Code objective will or will not be promoted. The Authority further took the view that the interconnection works agreement would not add anything to relevant aspects of the applications and queuing policy and capital contributions policy in facilitating agreement

¹⁷⁵ Original access arrangement information, Appendix 10, page 10.

¹⁷⁶ Original access arrangement information, Appendix 10, page 11.

between Western Power and another party in respect of works that could fall under an interconnection works agreement. Accordingly, the Authority determined that the interconnection works agreement would not have the effect of promoting the Code objective and should not be included in the access arrangement.

875. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 113

Western Power to remove the Interconnection Works Agreement from the proposed access arrangement.

Submissions from Interested Parties

876. Newmont Australia Limited made the following submission:

Additionally, the Authority has required Western Power to delete its proposed Interconnection Works Agreement (IWA) from its Proposed Access Arrangement.

The IWA contains provisions relating to the:

- provision of construction services by Western Power to the other party in relation to shared facilities and connection facilities, and payment for such services; and
- construction by Western Power of a network augmentation and the payment of capital contributions by the other party with respect to any augmentation to Western Power's network.

The Authority states that "As the Access Code contemplates SACs applying to reference services only – and in the absence of a demonstrable basis that construction related services satisfy the criteria of a reference service – the proposed IWA is not assessed as complying with section 5.3(b)(iii) of the Access Code."

The Authority notes that Western Power seeks to justify inclusion of the IWA in the proposed access arrangement on the grounds of providing parties with commercial clarity. We support this intent as a means of expediting access arrangements with Western Power and as a means of providing increased certainty of commercial arrangements for new entrants. While we have some concerns regarding certain clauses in the IWA, the removal of the proposed IWA from the Access Arrangements appears to be generally counter to project proponent's commercial interests.

Revised Proposed Access Arrangement

877. Western Power has incorporated revisions into the revised proposed access arrangement to delete the interconnection works agreement.

Final Decision

878. The Authority is satisfied that, by removing the interconnection works agreement, Western Power has incorporated Draft Decision Amendment 113 into the revised proposed access arrangement.

879. Newmont Australia Limited submitted that it is desirable for the access arrangement to include the interconnection works agreement. The Authority

notes, however, that interconnection works are not reference services under the access arrangement and that the Access Code requires only that the access arrangement includes terms and conditions for reference services.

9.4. Electricity Transfer Access Contract

9.4.1. Proposed Access Arrangement

880. Western Power included a standard access contract for the provision of reference services as Appendix 4A of the proposed access arrangement (**proposed electricity transfer access contract**) and Appendix 4 of the revised proposed access arrangement (**revised electricity transfer access contract**).

9.4.2. Approach to Assessment

881. In this Final Decision the Authority has assessed the revised electricity transfer access contract against the requirements of section 5.3 of the Access Code. In accordance with the requirements of section 5.5 of the Access Code, the Authority has determined that the revised electricity transfer access contract is consistent with section 5.3 of the Access Code and the Code objective to the extent that it reproduces the model standard access contract without material omission or variation. Otherwise, the Authority has had regard to the model standard access contract in determining whether the revised applications and queuing policy is consistent with section 5.3 of the Access Code and the Code objective.

882. The Authority's assessment of the revised electricity transfer access contract is set out below. This assessment has been undertaken on a clause-by-clause basis, considering differences between the model standard access contract and the proposed and revised electricity transfer access contracts. In accordance with the role of the Authority in consideration and assessment of the revised proposed access arrangement, the Authority has given consideration to whether the revised electricity transfer access contract incorporates amendments required under the Authority's Draft Decision, as well as considering compliance with the requirements of the Access Code.

9.4.3. Assessment of Provisions

Definitions of "Connection Contract" and "Interconnection Works Agreement"

Proposed Access Arrangement

883. Clause 1.1 of the proposed electricity transfer access contract provided definitions of terms.

884. Clause 1.1 included definitions of "connection contract" and "interconnection works agreement". These were contracts proposed by Western Power to be included in the access arrangement as standard access contracts.

Draft Decision

885. Neither the Access Code nor the model standard access contract contemplate standard access contracts in the nature of the connection contract and interconnection works agreement included in the proposed access arrangement. As such, there are no equivalent definitions of these terms in the model standard access contract.
886. In its Draft Decision, the Authority determined that the proposed connection access contract and interconnection works agreement do not meet the requirements for a standard access contract under the Access Code and, accordingly, the Authority required the proposed access arrangement to be amended to remove these two standard access contracts (sections 9.2 and 9.3 of this Final Decision). As a consequential amendment to the proposed access arrangement, the Authority required that the definitions of connection access contract and interconnection works agreement be deleted from the electricity transfer access contract.
887. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 64

Western Power to amend Electricity Transfer Access Contract clause 1.1 to delete the definitions of “Connection Contract” and “Interconnection Works Agreement”.

Submissions from Interested Parties

888. The Authority received a submission from Alinta Sales Pty Ltd and Newmont Australia Limited addressing the matter of whether the access arrangement should include an interconnection works agreement as a standard access contract. This submission is addressed in section 4.1 of this Final Decision in relation to the substantive matter of whether a connection service should be provided as a reference service.

Revised Proposed Access Arrangement

889. Western Power has not deleted the definition of connection contract in the revised electricity transfer access contract, despite there being no connection contract included in the revised proposed access arrangement as a standard access contract. Rather, Western Power has amended the definition as follows:

“Connection Contract” means ~~a type of Access Contract that provides a user with a Connection Service only.~~ at the opinion of Western Power:

(a) a contract containing provisions materially equivalent to those in this Contract; or

(b) some other agreement in writing to be bound by provisions materially equivalent to such terms and conditions of this Contract satisfactory to Western Power,

but omitting clauses 3 to 9 of this Contract.

890. Western Power has deleted the definition of interconnection works agreement, consistent with its removal of the interconnection works agreement from the revised proposed access arrangement.

Final Decision

891. Western Power has maintained a definition of connection contract in the revised electricity transfer access contract. In its submission accompanying the revised proposed access arrangement, Western Power indicates that the term “connection contract” has been redefined to facilitate the “controller provisions” in the electricity transfer access contract. That is, retaining the ability of Western Power to contract directly with a controller even where that controller is not a user of the network.¹⁷⁷
892. The Authority notes that the revised electricity transfer access contract includes provision (at clause 6.2(c)) for Western Power to enter directly into a connection contract with a controller of a connection point in circumstances where the controller is not the user. The Authority is satisfied that this requirement is reasonable (refer paragraph 1060 and following of this Final Decision). Accordingly, the Authority considers that maintaining the definition of connection contract in the electricity transfer access contract is reasonable.
893. Western Power has deleted the definition of interconnection works agreement, consistent with its removal of the interconnection works agreement in the revised proposed access arrangement. The Authority is satisfied that this revision of the electricity transfer access contract meets the relevant requirement of Draft Decision Amendment 64.

Definitions of “Contracted Point” and “Connection Point”

Proposed Access Arrangement

894. Throughout the proposed electricity transfer access contract, Western Power used the term “contracted point” instead of “connection point”, but maintained the same definition for contracted point as exists for connection point under clause 3.2 of the model standard access contract, being an entry point or exit point on the network. Western Power asserted that there is no material difference between the concept of a “contracted point” under the electricity transfer access contract and a “connection point” under the model standard access contract, but the term “contracted point” was used to avoid confusion between the points at which the title to electricity changes (that is, the meter point) and where the title to network assets changes (to be known under the *Obligation to Connect Regulations* as the “attachment point”).¹⁷⁸

Draft Decision

895. In its Draft Decision, the Authority determined that Western Power’s proposed use of the term “contracted point” rather than “connection point” was not

¹⁷⁷ Western Power, Response to the Required Amendments in Part B of the Draft Decision (Detailed Response), section 10.

¹⁷⁸ Original access arrangement information, Appendix 10, page 4.

justified by the objective of clarity in the use of terms, as submitted by Western Power, and that the use of the term “contracted point” could lead to confusion, particularly in respect of provisions of the model standard access contract and electricity transfer access contract that deal with the relocation of a user’s capacity.

896. The Authority required Western Power to adopt the term “connection point” throughout its proposed access arrangement. The Authority noted that the term “contracted point” was used in a substantial number of places in the proposed electricity transfer access contract in substitution for the term “connection point” as used in the model standard access contract. Accordingly, there was a need for consequential amendments to the electricity transfer access contract in each place where “contracted point” was used.
897. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 65

Western Power to amend Electricity Transfer Access Contract clause 1.1 by substituting the term “connection point” for “contracted point” in the definition of “contracted point” and consequential amendments should be made to the Electricity Transfer Access Contract in each place where the term “contracted point” is used.

Submissions from Interested Parties

898. No submissions were received from interested parties.

Revised Proposed Access Arrangement

899. Western Power has incorporated revisions in the revised electricity transfer access contract to use the term “connection point” rather than “contracted point”, consistent with the use of these terms in the model standard access contract.

Final Decision

900. The Authority is satisfied that Western Power has incorporated Draft Decision Amendment 65 in the revised electricity transfer access contract.

Definition of “Force Majeure”

Proposed Access Arrangement

901. The definition of “force majeure” in clause 1.1 of the proposed electricity transfer access contract of the proposed access arrangement included “terrorism” as a relevant event. “Terrorism” is not included in the corresponding definition of force majeure in the model standard access contract.

Draft Decision

902. The model standard access contract does not contemplate terrorism as a relevant event under the definition of force majeure.
903. In its Draft Decision the Authority took the view that the list of events under the definition of force majeure in the model standard access contract is not exhaustive and, for any event to be determined as a force majeure, there must be satisfaction of the general conditions that the event is beyond the party's control and the party, acting as a reasonable and prudent person, is not able to prevent or overcome the event. Accordingly, the Authority determined that the definition of force majeure proposed by Western Power, including listing of "terrorism" as a force majeure event, does not have a materially different effect from the definition under the model standard access contract. The Authority did not require any amendment to the electricity transfer access contract in respect of the definition of force majeure.

Submissions from Interested Parties

904. No submissions were received from interested parties.

Revised Proposed Access Arrangement

905. Western Power has not incorporated revisions in the revised electricity transfer access contract in respect of the definition of force majeure.

Final Decision

906. The Authority maintains the view expressed in the Draft Decision that the definition of force majeure proposed by Western Power does not have a materially different effect from the definition under the model standard access contract.

Option to Extend Term

Proposed Access Arrangement

907. Clause 2 of the proposed electricity transfer access contract dealt with the duration of the contract and any conditions precedent to the contract. Clause 2.2(a) of the electricity transfer access contract provided for the user to be granted an option to extend the access contract for a period to be agreed and specified in Schedule 1, exercised by notice by the user given no later than six months prior to the expiration of the term of the contract. Clause 2.2(b) of the electricity transfer access contract provided that, except by mutual agreement, the access contract is not to be extended to a date later than the latest termination date, which is a date to be agreed and specified in Item 7 of Schedule 1 of the contract.

Draft Decision

908. The model standard access contract addresses options to extend the term of an access contract at clause A3.6, but leaves all provisions relating to options

to extend the term of the contract to be completed by agreement between the parties to an access contract.

909. In its Draft Decision, the Authority indicated that it was satisfied that clause 2.2 of the proposed electricity transfer access contract provides for the parties to an access contract to negotiate the terms and conditions of any option to extend the term of the contract, consistent with the corresponding provision of the model standard access contract. Accordingly, the Authority determined that the provisions of the proposed electricity transfer access contract relating to extensions of term were, generally, in accordance with the requirements of the Access Code. The Authority noted, however, that there was an incorrect cross-reference in this clause.
910. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 66

Western Power to amend the reference in Electricity Transfer Access Contract clause 2.2 (Option to Extend Term), to Item 7 of Schedule 1 to refer to Item (v) of Part 2 of Schedule 1.

Submissions from Interested Parties

911. No submissions were received from interested parties.

Revised Proposed Access Arrangement

912. Western Power has incorporated the following revisions into clause 2.2 of the revised electricity transfer access contract.
- 2.2 Option to extend Term
- (a) Subject to clause 2.2(b), the User may, by notice to Western Power given no later than 6 months prior to the expiration of the Term as at the time the notice is given, elect to extend the Term by such period as is specified in ~~Schedule 1~~ [Part 2 of Schedule 1](#) as the "Extension Period", in which event the Termination Date shall be the last day of the Extension Period.
- (b) The Term shall not in any event be extended such that the Termination Date is later than the date specified in ~~Item 7 of Schedule 1~~ [Part 2 of Schedule 1](#) as the "Latest Termination Date", except by mutual agreement between the Parties.

Final Decision

913. The Authority is satisfied that Western Power has incorporated Draft Decision Amendment 66 in the revised electricity transfer access contract.

Conditions Precedent

Proposed Access Arrangement

914. Clause 2 of the proposed electricity transfer access contract dealt with the duration of the contract and any conditions precedent to the contract. Clause 2.3 of the electricity transfer access contract contains terms and

conditions providing for conditions precedent to be specified by agreement between Western Power and the user.

Draft Decision

915. The model standard access contract addresses conditions precedent to an access contract at clause A3.7 and provides for conditions precedent to the access contract to be determined by agreement between the parties or arbitrated award.
916. The Authority noted in its Draft Decision that clause 2.3 of the electricity transfer access contract leaves the content of any conditions precedent to be agreed between the parties, consistent with clause A3.7 of the model standard access contract. Accordingly, the Authority determined that the provisions of the proposed electricity transfer access contract relating to conditions precedent are in accordance with the requirements of the Access Code.

Submissions from Interested Parties

917. No submissions were received from interested parties.

Revised Proposed Access Arrangement

918. Western Power has not incorporated any revisions in the revised electricity transfer access contract in respect of provisions relating to conditions precedent.

Final Decision

919. The Authority maintains the view expressed in the Draft Decision that the provisions of the revised electricity transfer access contract relating to conditions precedent are in accordance with the requirements of the Access Code.

User May Select Services

Proposed Access Arrangement

920. Clause 3 of the proposed electricity transfer access contract dealt with the specification of services under an access contract. Clause 3.2 made provision for a user to apply to Western Power to change the service provided at a connection point, with any application processed in accordance with a policy referred to as a “price application policy”.

Draft Decision

921. The model standard access contract does not contain any provision for a user to change the service provided at a connection point.
922. In its Draft Decision, the Authority noted that a change of services in accordance with clause 3.2 of the electricity transfer access contract would be subject to the applications and queuing policy and, as such, clause 3.2 would reinforce the existing requirements of the applications and queuing policy. Accordingly, the Authority indicated in the Draft Decision that clause 3.2 of the

electricity transfer access contract is consistent with the requirements of the Access Code.

923. The Authority indicated in its Draft Decision, however, that clause 3.2 of the electricity transfer access contract refers incorrectly to the “price application policy” whereas the reference should be to the “applications and queuing policy”.
924. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 67

Western Power to amend Electricity Transfer Access Contract clause 3.2 (User may select Services) by replacing the term “Price Application Policy” with “Applications and Queuing Policy” where the earlier term appears.

Submissions from Interested Parties

925. No submissions were received from interested parties.

Revised Proposed Access Arrangement

926. Western Power has incorporated revisions into the revised electricity transfer access contract as follows:

3.3-2 User may select Services

- (a) The User may from time to time give notice to Western Power seeking to change the Service in respect of a ~~Contracted Point~~ [Connection Point](#) in accordance with the ~~Price Application Policy~~ [Applications and Queuing Policy](#).
- (b) If Western Power receives a notice from the User under clause ~~3.2(a)~~, [3.3\(a\)](#), then Western Power must process that request in accordance with the ~~Price Application Policy~~. [Applications and Queuing Policy](#).

Final Decision

927. The Authority is satisfied that Western Power has incorporated Draft Decision Amendment 67 in the revised electricity transfer access contract.

User Must Reasonably Require Contracted Capacity

Proposed Access Arrangement

928. Clause 3 of the proposed electricity transfer access contract dealt with the specification of services under an access contract. Clause 3.4 provided a procedure to reduce a user’s capacity at a connection point upon the initiative of Western Power:

3.4 Use of Contracted Capacity

- (a) If, in the reasonable opinion of Western Power, the Contracted Capacity in respect of a Contracted Point is not reasonably necessary to satisfy

the User's actual requirements, Western Power may, by written notice to the User, decrease that Contracted Capacity accordingly.

- (b) When making a determination under clause 3.4(a), Western Power must have regard to:
 - (i) the nature, condition and use of the Facilities and Equipment installed, or to be installed within a reasonable time, at the Contracted Point; and
 - (ii) whether the User cannot use the Services because of a Force Majeure Event.

929. Western Power submitted that the provisions of clause 3.4 confer on Western Power the right to decrease the contracted capacity at a Contracted Point (now Connection Point) subject to suitable safeguards for the user, including a reasonableness test, notice period and exception arising from force majeure events, enabling Western Power to optimise its investment in and operation of the network for the benefit of all current and prospective users, which in turn promotes competition and meets the Code objective.¹⁷⁹

Draft Decision

930. The model standard access contract does not contain any provision for a service provider to reduce the contracted capacity of a user.

931. In its Draft Decision, the Authority recognised that there may be circumstances in which a user's contractual entitlements may be used in a way which either impairs competition downstream or upstream, or results in inefficient network utilisation. However, the Authority noted that if a user is not utilising or expecting to utilise contracted capacity, the user will have a commercial incentive to seek to trade any spare capacity, which will contribute to the efficient utilisation of the network. The Authority considered that there is no evidence of a risk of inefficient use of the network such as to justify the proposed provision.

932. The Authority also noted that the model standard access contract provides a general framework for variations (including decreases) to a user's capacity (clauses A3.15 and A3.16). In contrast to the proposed clause 3.4 of the electricity transfer access contract, the model standard access contract provides only for the process of varying a user's capacity to be initiated by the user and not Western Power. The Authority took the view that the framework provided by the model standard access contract strikes a balance between the need for service providers to be able to efficiently make use of underutilised network capacity and the rights of users to contract for guaranteed access to network capacity.

933. The Authority determined that the ability of Western Power to unilaterally determine to vary a user's contracted capacity would be unreasonable, inconsistent with the requirements of section 5.3(a) of the Access Code and inconsistent with the Code objective.

¹⁷⁹ Original access arrangement information, Appendix 10, page 4.

934. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 68

Western Power to delete Electricity Transfer Access Contract clause 3.4 (Use of Contracted Capacity) and replace it with Model standard access contract clauses A3.15 and A3.16 without material omission or variation.

Submissions from Interested Parties

935. Newmont Australia Limited made a submission in support of Draft Decision Amendment 68:

ERA requires Western Power delete ETAC clause 3.4 (Use of Contracted Capacity) and replace it with MAC clauses A3.15 and A3.16. In line with our previous submission, we agree with this amendment.

Revised Proposed Access Arrangement

936. Western Power has incorporated revisions into the revised electricity transfer access contract as follows:

3.23.4 User must reasonably require of Contracted Capacity

(a) If, with regards to Contracted Capacity at a Connection Point:

(i) ~~(a)~~ If, in the reasonable opinion of Western Power, the ~~that~~ Contracted Capacity in respect of a Contracted Point is not reasonably necessary to satisfy the User's actual requirements ~~(or forecast actual requirements following a temporary disruption to the User's full use of the Contracted Capacity)~~, Western Power may, by written notice to the User, decrease that Contracted Capacity accordingly; and

(ii) that Contracted Capacity is the subject of an Application from an Applicant who is not the User,

then Western Power may determine that the User must reduce that Contracted Capacity, and if it so determines, must give notice to the User of its intention to reduce that Contracted Capacity (including the amount and timing of the reduction).

(b) When making a determination under clause ~~3.4(a)~~, 3.2(a), Western Power must have regard to:

(i) the nature, condition and use of the Facilities and Equipment installed, or to be installed within a reasonable time, at the Contracted Connection Point; and

(ii) whether the User cannot use the Services because of a Force Majeure Event.

(c) At least 30 Business Days after giving the User a notice under clause 3.2(a), Western Power must make a fresh determination, having regard to any submissions made by the User in response to the notice given under clause 3.2(a) and all relevant material including anything which has occurred, whether the test under clause 3.2(a) is satisfied, and if so, may, by notice to the User, decrease the Contracted Capacity accordingly.

Final Decision

937. While Western Power has incorporated revisions to clause 3.2 in the revised proposed access arrangement, this clause still provides for Western Power to unilaterally determine to reduce a user's contracted capacity. Accordingly, the Authority considers that Western Power has not incorporated Draft Decision Amendment 68 into the revised proposed access arrangement.
938. The Authority notes again that the model standard access contract does not contain any provision for a service provider to unilaterally determine to reduce the contracted capacity of a user. As such, the Authority has given further consideration to whether a right of Western Power to make a unilateral determination to reduce a user's contracted capacity, according to the provisions of clause 3.2 of the revised electricity transfer access contract, is consistent with the requirements of section 5.3 of the Access Code.
939. As part of the consideration the proposed clause 3.2 of the revised electricity transfer access contract, the Authority obtained advice from Parsons Brinkerhoff Associates (**PB Associates**).¹⁸⁰ PB Associates advised that the electricity transfer access contract under the access arrangement for the SWIN should not contain provision for Western Power to unilaterally decrease a user's contracted capacity. PB Associates based this advice on considerations that:
- the holding by generators of firm contractual rights to contracted capacity at connection points is an imperative under the "bilateral contracts" structure of the wholesale electricity market in Western Australia;
 - firm contractual rights to contracted capacity at connection points would be consistent with practice in other electricity markets and consistent with sound commercial practice;
 - in the event that there is considered to be a problem of anti-competitive withholding of capacity by users, this should be addressed by mechanisms administered by an independent third party rather than Western Power.
940. During the course of preparing this Final Decision, the Authority released the PB Associates report and invited submissions from interested parties.¹⁸¹
941. Western Power made a further submission pursuant to the Authority's notice of 17 January 2007. In this submission, Western Power:
- contends that clause 3.2 of the revised electricity transfer access contract would not provide Western Power with a *unilateral* right to reduce a user's contracted capacity as clause 3.2 would require Western Power to act reasonable and to have regard to a number of factors reflecting the interests of the user;

¹⁸⁰ Parsons Brinkerhoff Associates, 10 January 2007, *Contracted Capacity Rights*, prepared for Economic Regulation Authority of Western Australia.

¹⁸¹ Notice of 17 January 2007. A list of parties that made submissions is provided in Appendix A of this Final Decision and all submissions other than those for which confidentiality has been claimed are available on the Authority's web-site.

- reiterates its previous submissions that clause 3.2 of the revised electricity transfer access contract is intended to mitigate anticompetitive behaviour amongst users of the network without the need to resort to mechanisms under competition law, and to prevent inefficient investment in the network; and
 - contends that clause 3.2 is necessary to avoid the need for “bilateral” (user to user) trading of capacity in the SWIN.
942. Parties other than Western Power that made submissions to the Authority have overwhelmingly shared the concerns of the Authority in respect of the provision for Western Power to unilaterally reduce a user’s contracted capacity. These include parties with interests in electricity generation (Verve Energy, Alinta Sales Pty Ltd, Newmont Australia Limited, ERM Power, Aviva Corporation Ltd), interests in land development and regional development (including some local governments and regional development commissions) and interests in commercial and business development (including the Western Australian Chamber of Commerce and Industry). These parties have, generally, expressed concern that the provision for Western Power to unilaterally reduce a user’s contracted capacity would result in risk and uncertainty for parties seeking access to the SWIN and adversely affect private investment in both network assets (particularly investment in the form of capital contributions) and in generation. Several parties indicated a particular concern over the prospect of Western Power reducing a user’s contracted capacity where that user had made a capital contribution in respect of that capacity. While most parties generally recognised that mechanisms should exist to prevent users from engaging in anti-competitive “hoarding” of capacity, it was generally considered that these mechanisms already exist under Part IV of the *Trade Practices Act* and the *Electricity Industry Act 2004 (WA)*, or that any such mechanisms would be better administered by an independent third party.
943. The Office of Energy made a submission to the Authority in support of the provision for Western Power to be able to unilaterally determine to reduce a user’s capacity in accordance with the provision of clause 3.2 of the revised electricity transfer access contract. The Office of Energy submitted that the provisions of clause 3.2 of the revised electricity transfer access contract would constitute an appropriate mechanism, and administratively simple process, for allocating unused capacity on the network and achieving objectives of preventing inefficient investment in the network and mitigating the potential for anti-competitive behaviour. The Office of Energy also submitted that users could be adequately protected from Western Power acting unreasonably in making a determination under clause 3.2 by conditions, processes and timeframes under clause 3.2 and by establishing a mechanism for appeal of any decision under clause 3.2 to an independent third party. Griffin Energy also made a submission in support of a user’s capacity being able to be unilaterally reduced where that capacity is unused, however submitted that any determination should be made by an independent third party.
944. The Authority considers that the potential inability of a user to enter into a contract for an amount of capacity and to hold that contracted capacity for the term of the contract is unreasonable and inconsistent with the Access Code and the Code objective. In particular, the Authority considers that:
- contrary to the submission from Western Power, the provisions of clause 3.2 of the revised electricity transfer access contract would constitute a

unilateral right of Western Power to reduce a user's contracted capacity and this right would only be less than unilateral if, for example, the reduction in capacity could occur only with the agreement of the user;

- under the regulatory scheme established by the Access Code, where access contracts are based on rights to capacity at entry points and exit points, it would be unreasonable for a user to not be able to enter into a contract for capacity and, subject to continuing to pay the relevant tariffs for that capacity, to continue to hold the contracted capacity regardless of whether that capacity is used or not;
 - the ability of a user to hold contracted capacity at entry points or exit points that is unused is consistent with efficient investment in the network as the user will generally make any such decision to hold unused capacity taking into account the cost of that capacity and the value of the option to utilise the capacity at some time in the future; and
 - under the regulatory scheme applying under the Access Code and where a user may be required to pay capital contributions for an augmentation of the network in order to contract for a certain amount of capacity at an entry or exit point, the ability of a user to hold contracted capacity that is unused is necessary for that user to make efficient decisions for the payment of capital contributions.
945. The Authority also notes that the holding by a user of unused capacity for this purpose may constitute hindering or preventing access and be unlawful under section 115 of the *Electricity Industry Act 2004* or otherwise in contravention of Part IV of the Trade Practices Act.
946. Taking the above matters into account, the Authority maintains that the benefits of security of contractual entitlements for users outweigh the benefits identified by Western Power and the Office of Energy in having a right to unilaterally reduce a user's contracted capacity.
947. Accordingly, the Authority maintains the position taken in the Draft Decision that the provisions under the electricity transfer access contract for Western Power to be able to unilaterally reduce a user's contracted capacity are inconsistent with the requirements of section 5.3 of the Access Code and with the Code objective.
948. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 13

The revised proposed access arrangement should be amended to either delete clause 3.2 of the electricity transfer access contract, relating to the ability of Western Power to unilaterally determine to reduce a user's contracted capacity, or to amend clause 3.2 to make any such determination subject to agreement with the affected user.

949. As a matter related to contracted capacity rights at connection points to the SWIN, PB Associates commented on the prospect and desirability of parties trading in capacity and, in effect, engaging in a secondary market for capacity in the SWIN. PB Associates recommended that:
- the transfer and relocation policies of the Access Code should be exploited in the interests of economic efficiency;
 - Western Power should clearly specify in the proposed ETAC how it proposes to facilitate the transfer of contracted connection capacity between generators and users in order to maximise the economic benefits of all grid investment consistent with the role of a facilitator of access; and
 - the Authority should have a role of monitoring of the effectiveness of the transfer and relocation policy to ensure that Western Power is meeting its obligations.
950. Western Power has submitted that the Access Code does not contemplate or explicitly provide for trading between users of contractual entitlements to network capacity and that such trading is neither contemplated nor provided for under the “transfer and relocation” provisions of the Access Code or Western Power’s proposed access arrangement.
951. The Office of Energy has submitted that, if the Authority decides that users should be able to bilaterally trade capacity, a regime needs to be established to clearly identify how capacity is to be allocated to users and what or how capacity can be traded.
952. The Authority concurs with the view of Western Power that the Access Code does not explicitly contemplate the trading of contracted entitlements to network capacity between users, although neither does the Access Code prevented trading of contracted entitlements. Any ability to trade entitlements would arise from the required provisions in an access arrangement for a user to relocate capacity across connection points that the user owns or controls and the ability of a user to assign rights at a connection point to another user.
953. The Authority has considered the transfer and relocation policy of the revised proposed access arrangement elsewhere in this Final Decision (Chapter 12) and determined that this policy complies with the requirements of the Access Code even though the policy does not explicitly address or contemplate the trading between users of contracted entitlements for network capacity. The Authority considers that any particular requirements for Western Power to facilitate trading of contracted entitlements to capacity are beyond the requirements of the Access Code. The introduction into the Access Code of any requirement for Western Power to facilitate the trading of contracted capacity would be a matter of policy determination by the Government.

Increase of Contracted Capacity

Proposed Access Arrangement

954. Clause 3 of the proposed electricity transfer access contract dealt with the specification of services under an access contract. Clause 3.6 of the electricity transfer access contract included a provision whereby a user may not increase

contracted capacity unless the user makes application under the applications and queuing policy, the Customer Transfer Code, or the electricity transfer access contract as applicable.

955. Western Power submitted:

The SAC requires that any capacity increase be dealt with under the contract, the Applications and Queuing Policy and the Customer Transfer Code, as applicable. This enables Western Power to properly consider the potential impacts of an application on other users and thereby enables Western Power to optimise its investment in and operation of the Network in accordance with the Code objective.

The notion of a capacity increase notice has been removed from the SAC to avoid duplication and thereby mitigate compliance risk with the application process.¹⁸²

956. Western Power further submitted:

Applications for increase in capacity are dealt with in class 1 applications and therefore the concept of a capacity increase notice has been removed from the applications and queuing policy, in line with Western Power's SAC to avoid the risk of an applicant's position in the queue being otherwise prejudiced by having to comply with an additional procedure.

Given that a customer transfer request is not an application, the class 1 application definitions is most relevant to a capacity increase. However, the model policy described a capacity increase notice, which was intended to provide a simpler mechanism of gaining a capacity increase than submitting a normal access application. The timeframes for processing a capacity increase notice in the model clashed with the timeframes for processing a class 1 application. Either the class 1 application or the capacity increase notice would appear to be redundant.

For practical reasons, Western Power will provide a suite of forms to suit different types of application, and a simpler form for a capacity increase will be made available. But to ensure that a clear process is outlined for capacity increases, existing users will be required to apply under the applications and queuing policy like any other applicant.¹⁸³

Draft Decision

957. Clauses A3.15 to A3.17 of the model standard access contract provide a procedure for variation to user capacity by the user issuing a capacity increase notice. The model standard access contract allows this to be achieved without the need for any of the applications contemplated by Western Power's proposed electricity transfer access contract.

958. In its Draft Decision, the Authority noted that clauses A3.15 to A3.17 of the model standard access contract provide a process, through a capacity increase notice, whereby an existing user has a right to an increase in contracted capacity in circumstances where no network augmentation is required and where no other user or potential applicant would be adversely affected by the increase. In all other circumstances, an existing user would be

¹⁸² Original access arrangement information, Appendix 10, page 4.

¹⁸³ Original access arrangement information, Appendix 8, pages 4-5.

required to seek capacity increases through the processes established under the applications and queuing policy.

959. The Authority took the view that a capacity increase notice under the model standard access contract complements, rather than duplicates, an application for an increase in contracted capacity under the applications and queuing policy. The latter would apply in circumstances where network augmentation is required and/or where another user or potential applicant would be adversely affected by the increase. The Authority also took the view that the intention of the capacity increase notice is to provide for a streamlined process for obtaining an increase in capacity. The Authority determined that it is unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code that the electricity transfer access contract would not include this additional process.
960. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 69

Western Power to delete Electricity Transfer Access Contract clause 3.6 (Increase of Contracted Capacity) and reproduce the procedure for a variation in user capacity in Model standard access contract clauses A3.15 to A3.17 without material omission or variation.

Submissions from Interested Parties

961. No submissions were received from interested parties.

Revised Proposed Access Arrangement

962. Western Power has incorporated revisions to the now clause 3.4 into the revised electricity transfer access contract as follows.

3.4.3-6 Increase of Contracted Capacity

- (a) The User may not increase the Contracted Capacity at an existing ~~Contracted~~ Connection Point or add an additional ~~Contracted~~ Connection Point to this Contract unless the User makes an Application to Western Power under:
- (i) the Applications and Queuing Policy; or
 - (ii) the Customer Transfer Code; or
 - (iii) this Contract,
- as applicable.
- (b) If the User makes an Application to Western Power under clause ~~0-3.4,~~ 3.4, then Western Power must process the Application under:
- (i) the Applications and Queuing Policy; and
 - ~~(ii) the Capital Contributions Policy; and~~
 - ~~(iii)~~ (ii) the Customer Transfer Code; and
 - ~~(iv)~~ (iii) this Contract,
- as applicable.

Final Decision

963. Western Power has not incorporated Draft Decision Amendment 69 into the revised electricity transfer access contract. While revisions have been made to clause 3.4 of the revised electricity transfer access contract (that corresponds to clause 3.6 of the proposed electricity transfer access contract), these revisions are unrelated to the required amendment. In its submission accompanying the revised proposed access arrangement, Western Power has indicated that it “has set out the required procedure for a variation in user capacity within the applications and queuing policy and has otherwise retained clause 3.6 of the proposed electricity transfer contract in the revised electricity transfer access contract”.
964. The revised electricity transfer access contract remains materially different to the model standard access contract by not including provisions for capacity increase notices.
965. The Authority has given further consideration to whether the electricity transfer access contract should include provision for a user to obtain increases in contracted capacity through a capacity increase notice, as contemplated by the model standard access contract. In this regard, the Authority has considered also the provisions of a new clause 10.2 of the revised applications and queuing policy:

10.2 Increase in contracted capacity

- (a) An electricity transfer application to increase contracted capacity with respect to an existing covered service under the applicant’s access contract may be made by notice to Western Power.
 - (b) The lodgement fee for an access contract modification applies to the applicant’s application, plus any costs for any associated connection application.
 - (c) Western Power must determine, as a reasonable and prudent person, within 5 business days whether it accepts the increase in contracted capacity.
 - (d) If Western Power determines that it cannot automatically accept the request for an increase in contracted capacity under clause 10.2(c), then:
 - (i) Western Power must notify the applicant that it must submit, or procure that its controller submits, a connection application; and
 - (ii) the priority of such connection application shall be determined from the date Western Power received the notice given clause 10.2(a).
966. Clause 10.2 of the revised applications and queuing policy contemplates that Western Power may, in some circumstances, “automatically” accept a request for an increase in contracted capacity, although these circumstances are not specified and there is no explicit obligation established for Western Power to grant an increase in contracted capacity. The Authority considers that a material variation from provisions of clauses A3.15 to A3.17 of the model standard access contract occurs in the absence of an obligation on Western Power to grant an application for an increase in contracted capacity in circumstances where no network augmentation is required and where no other user or potential applicant would be adversely affected by the increase, rather than whether such provision exists in the electricity transfer access contract or

applications and queuing policy. Western Power has not provided any reason why it should not be under such an obligation. Having regard to the model standard access contract, the Authority considers that the absence of such an obligation is unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code.

967. Taking into account the evident preference for Western Power to address applications for increases in contracted capacity under the applications and queuing policy rather than the electricity transfer access contract, the Authority considers that clause 10.2 of the revised applications and queuing policy should set out the circumstances in which an application for an increase in capacity will be automatically approved. If this occurs to the Authority's satisfaction, the Authority is prepared to accept that it otherwise addresses the requirements of Draft Decision Amendment 69. This is further addressed in the section of this Final Decision dealing with the applications and queuing policy (section 10.3).

Start Date of New Services

Proposed Access Arrangement

968. Clause 3 of the proposed electricity transfer access contract dealt with the specification of services under an access contract. Clause 3.7 made provision for the "start date" of a new service:

3.7 Start Date of new Services

The Start Date of a new Service (including an increase in Contracted Capacity of an existing Service) in respect of a Contracted Point is:

- (a) if the new Service requires Western Power Works, then the Date of Practical Completion of Western Power's Works; or
- (b) if the new Service does not require Western Power Works, then the later of:
 - (i) the date the User signs the relevant Access Offer; or
 - (ii) the Commencement Date.

969. "Start date" is also defined in the proposed electricity transfer access contract as:

for a connection point, means the date specified as such in Schedule 3 for the connection point.

970. Western Power submitted:

The SAC specifies the start date of new services as either the date of practical completion of any works required to provide the services or, if there are no works, the date of signing the relevant access offer. This is to ensure that payment by the user for services commences at the same time as the provision of services commences.¹⁸⁴

¹⁸⁴ Original access arrangement information, Appendix 9, page 5.

Draft Decision

971. The model standard access contract does not contain any clause equivalent to clause 3.7 of the proposed electricity transfer access contract, although the definitions of “start date” are the same in both.
972. In its Draft Decision, the Authority determined that clause 3.7 of the electricity transfer access contract was unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code in that it removes the (implied) provision of the model standard access contract for the start date for each connection point to be agreed between a service provider and user and as specified in Schedule 3.
973. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 70

Western Power to delete Electricity Transfer Access Contract clause 3.7 (Start Date of new Services).

Submissions from Interested Parties

974. Newmont Australia Limited submitted

ERA requires that Clause 3.7 of ETAC be deleted, and that the start date for each connection point be specified in Schedule 3. We are concerned that this will remove the required flexibility of the contract Start Date and its linkage to the Conditions Precedent, as well as the associated and defined Commencement Date. The User does not wish to commence payments for the connection points until all conditions associated with the Commencement Date have been satisfied.

Revised Proposed Access Arrangement

975. Western Power has deleted clause 3.7 from the revised electricity transfer access contract (Start Date of New Services).
976. Western Power has also made a related change to the applications and queuing policy by inclusion of a new clause 9.2(d) “to ensure reconciliation between retailers’ and customers’ applications for capacity”.¹⁸⁵

Applications and Queuing Policy

[9.2 Creating a new connection point or connecting new generating plant.](#)

...

[\(d\) The services start date for the covered services sought under the electricity transfer application will be the later of:](#)

[\(i\) the services start date \(as relates to the transfer of electricity\) sought in the connection application; or](#)

¹⁸⁵ Western Power, Response to the Required Amendments in Part B of the Draft Decision (Summary Response).

- (ii) the services start date sought in the electricity transfer application; or
- (iii) the completion date of any works resulting from the connection application.

Final Decision

977. The Authority is satisfied that Western Power has incorporated Draft Decision Amendment 70 in the revised electricity transfer access contract.
978. The provisions of the new clause 9.2(d) of the application and queuing policy are addressed later in this Final Decision (section 10.3).

Security Against Capital Contributions for Capacity Increases or New Contracted Points

Proposed Access Arrangement

979. Clause 3 of the proposed electricity transfer access contract dealt with the specification of services under an access contract. Clause 3.8 of the proposed electricity transfer access contract provided for Western Power to obtain security before it commences capital works for which a contribution is required.
980. Western Power submitted:

Another new clause requires that a contribution be secured before Western Power commences work. Whilst this is somewhat redundant, as it is a requirement of the Code (section 2.9) and the capital contributions policy, it has been added here to reinforce the fact that Western Power might be waiting for a controller who is not the user to pay the contribution.¹⁸⁶

Draft Decision

981. The model standard access contract does not contain any clause equivalent to clause 3.8 of the proposed electricity transfer access contract.
982. In its Draft Decision, the Authority determined that any requirement for security to be paid in respect of an augmentation that is to be financed by a capital contribution is a matter that should be dealt with under the capital contributions policy rather than the electricity transfer access contract.
983. The Authority required the following amendment to the proposed electricity transfer access contract before the access arrangement would be approved.

Draft Decision Amendment 71

Western Power to delete Electricity Transfer Access Contract clause 3.8 (Contribution of Capacity increase or new Contracted Point).

Submissions from Interested Parties

984. No submissions were received from interested parties.

¹⁸⁶ Original access arrangement information, appendix 10, page 5.

Revised Proposed Access Arrangement

985. Western Power has deleted clause 3.8 from the revised electricity transfer access contract.
986. Western Power has made a related change to the applications and queuing policy by inclusion of a new clause 9.2(c) “to ensure reconciliation between the retailer’s and customers applications for capacity”.¹⁸⁷

9.2 Creating a new connection point or connecting new generating plant

...

- (c) If an applicant submits an electricity transfer application subsequent to Western Power making an access offer for an associated connection application (to the applicant, its customer, or another person), and:
- (i) the capacity; or
 - (ii) the services start date (as relates to the transfer of electricity); or
 - (iii) the services end date (as relates to the transfer of electricity),
sought in the connection application and the electricity transfer application are not the same, such that the application of the capital contributions policy based on the information in the electricity transfer application would produce a contribution different to that specified in the access offer for the associated connection application, then Western Power may either:
 - (iv) require the applicant to pay the difference; or
 - (v) rebate the difference to the person who paid a contribution in respect of the connection application,
as applicable.

Final Decision

987. The Authority is satisfied that Western Power has incorporated Draft Decision Amendment 71 in the revised electricity transfer access contract.
988. The provisions of the new clause 9.2(d) of the application and queuing policy are addressed later in this Final Decision (section 10.3).

Decrease of Contracted Capacity

Proposed Access Arrangement

989. Clause 3 of the proposed electricity transfer access contract dealt with the specification of services under an access contract. Clause 3.9(a) of the proposed electricity transfer access contract set out a procedure by which a user may give notice to Western Power to reduce contracted capacity. This clause would restrict the number of reductions to once in a 12 month period except in extraordinary circumstances.

¹⁸⁷ Western Power, Response to the Required Amendments in Part B of the Draft Decision (Summary Response).

990. Western Power submitted:

The SAC allows for a user to decrease contracted capacity (whether due to relocation or otherwise) and obliges Western Power to accept such application, subject to appropriate notification and in any event only once in any twelve month period. The purpose of the 12 month period restriction is to facilitate an orderly market for access, to minimise the administrative costs to Western Power and to prevent users seeking to pass their seasonal revenue variations onto Western Power, when those variations are not reflective of the costs of maintaining the fixed network assets.

Overall, this clause enables users to access underused capacity whilst mitigating the risk of stranded assets. It was foreshadowed in a note in the MAC under the definitions of CMD and DSOC, suggesting that a service with a varying demand would be a non-reference service. (This note has been deleted, as Western Power has defined several reference services that have, by their nature, varying demands, such as a Time of Use services.)¹⁸⁸

Draft Decision

991. The model standard access contract has a general procedure for varying capacity under clauses A3.15 and A3.16, but does not restrict the number of variations to capacity that a user may seek, as was provided for under clause 3.9(a) of the proposed electricity transfer access contract.

992. In its Draft Decision, the Authority determined that restricting a user's ability to vary capacity more than once in each 12 month period is unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code. In making this determination, the Authority took into account:

- an absence of evidence that users were abusing the ability to vary capacity to take advantage of seasonal variation in demand;
- an absence of evidence that Western Power would incur significant administrative costs if users could vary capacity more than once in a 12 month period; and
- the reason for Western Power seeking to restrict the number of times that a user may vary contracted capacity may not be valid in the case where the variations in capacity arise from a relocation of capacity between connection points.

993. The Authority required the following amendment to the proposed electricity transfer access contract before the access arrangement would be approved.

Draft Decision Amendment 72

Western Power to delete Electricity Transfer Access Contract clause 3.9 (Decrease of Contracted Capacity) and substitute provisions which reproduce Model standard access contract clauses A3.15 & A3.16 without material omission or variation.

Submissions from Interested Parties

994. No submissions were received from interested parties.

¹⁸⁸ Original access arrangement information, Appendix 10, page 5.

Revised Proposed Access Arrangement

995. Western Power has not deleted the now clause 3.5 of the revised electricity transfer access contract, but rather has amended the clause as follows:

3.5-9 Decrease of Contracted Capacity

- (a) The User may give notice to Western Power seeking to reduce the Contracted Capacity ~~at an existing Contracted Point under this Contract, save that the User may not give a notice under this clause 3.6 more than once in each period of 12 months except in extraordinary circumstances of a Service at a Connection Point under this Contract.~~
- (b) If Western Power receives a notice from the User under clause ~~3.9(a)~~ 3.5(a), then, subject to clause ~~3.44~~, 3.7 and 3.5(c) it must notify the User within 10 Business Days that it accepts the reduction in Contracted Capacity, and the date that the reduction takes affect
- (c) If Western Power receives more than 1 notice seeking to reduce Contracted Capacity with respect to a single Connection Point in any rolling period of 12 months, then in relation to each additional notice Western Power:
 - (i) may notify the User that it accepts the reduction in Contracted Capacity and the date that the reduction takes effect, where Western Power is satisfied, as a Reasonable and Prudent Person, that the reduced Contracted Capacity will be sufficient to meet the actual requirements of the User, and that the reduction in Contracted Capacity is required by reason of one or more of the following circumstances:
 - (A) a reduction in the actual Consumption or Generation by the User in the respect of that Connection Point over the 12 month period prior to the User giving notice under clause 3.5(a), as recorded by the Metering Equipment; or
 - (B) a change in the nature of the business or operation conducted at the Connection Point; or
 - (C) a shutdown of the business or operation conducted at the Connection Point (including a shutdown for maintenance purposes) for longer than 1 continuous month; or
 - (D) a rapid increase or decline in the business at the Connection Point; or
 - (E) a decrease in the number of capacity credits (as defined in the Market Rules) allocated to any Generating Plant at the Connection Point under the Market Rules; or
 - (F) some other special circumstance.
 - and
 - (ii) is entitled to refuse the reduction in Contracted Capacity where Western Power is satisfied, as a Reasonable and Prudent Person, that the reduction is sought by reason of the seasonal nature of the business or operation at the Connection Point.

Final Decision

996. Western Power has not incorporated Draft Decision Amendment 72 into the revised electricity transfer access contract, but rather has revised the relevant clause 3.5.

997. In clause 3.5 of the revised electricity transfer access contract, Western Power has set out a range of circumstances in which decreases of contracted capacity will be accepted or rejected should a user submit a second or further notice to Western Power in a 12 month period. These circumstances provide for a user to reduce its contracted capacity in response to a reduction in demand for services, but prevent a user from exploiting the ability to vary contracted capacity according to seasonality in demand for services.
998. The model standard access contract does not contemplate any such restrictions on the ability of a user to decrease its contracted capacity.
999. The Authority has given further consideration to whether the provisions of clause 3.5 of the revised electricity transfer access contract for a user to decrease its contracted capacity are consistent with the requirements of section 5.3 of the Access Code.
1000. The Authority considers that it is reasonable and consistent with the requirements of section 5.3 of the Access Code for there to be a constraint on a user varying its contracted capacity for the purpose of taking advantage of seasonal variation in demand and seeking to reduce its liability to capacity-related charges at times of seasonally low demand. However, the Authority considers that constraints on the ability to decrease contracted capacity should not prevent legitimate reductions in contracted capacity for purposes of a “permanent” reduction in capacity requirements or a relocation of capacity to another connection point.
1001. The revisions incorporated in clause 3.5 of the revised electricity transfer access contract go some way to addressing this matter. However, the circumstances in which a user may obtain more than one decrease in contracted capacity at a connection point within a 12 month period do not include a re-location of contracted capacity to another connection point. The revised transfer and re-location policy included in the revised proposed access arrangement (and addressed at section 12 of this Final Decision) further indicates that:
- 6.3 Access contract provisions in respect to a retiring point
- Western Power and the user must comply with any provisions in the access contract with respect to a decrease of contracted capacity at, or a deletion of, a connection point, relating to a retiring point.
1002. The Authority considers that consistency between the electricity transfer access contract and transfer and relocation policy requires that the circumstances in which a user may obtain a decrease in contracted capacity include a user’s relocation of the contracted capacity to another connection point. In the absence of such provision, the Authority considers that clause 3.5 of the revised electricity transfer access contract would be unreasonable and contrary to requirements of section 5.3 of the Access Code.

1003. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 14

The revised proposed access arrangement should be amended so that clause 3.5(c)(i) of the electricity transfer access contract includes the circumstance of a user relocating contracted capacity between connection points in accordance with clause 6 of the transfer and relocation policy.

Relocation of Connection Points

Proposed Access Arrangement

1004. Clauses A3.19 to A3.24 in the model standard access contract provide for the “rotation” of capacity between a user’s connection points. There was no equivalent provision in the proposed electricity transfer access contract.

1005. Western Power submitted:

It is to be noted that the proposed SAC does not deal with relocation per se, but the consequence of such activity on capacity requirements. The processes involved in relocation are dealt with separately in the application and queuing policy and the transfer and relocation policy to avoid any duplication or inconsistency arising between the SAC and those policies.¹⁸⁹

...

Relocation has been removed from the SAC and placed in Western Power’s transfer and relocation policy, as envisaged by section 5.21 of the Code, to avoid conflict between the contract and the policy.

Relocation is related to the fundamental question of capacity rights. In considering this matter, Western Power considered whether a user that has contracted capacity at one point should have the right to decrease capacity at that point and take up similar capacity at another point, even when there are applicants in the queue seeking that capacity. Western Power believes that such arrangements, if implemented would significantly bias the access regime in favour of existing users and thus not meet the Code objective. Therefore, the transfer and relocation policy states that a user who wants to “relocate” capacity must decrease capacity at the first contracted point in accordance with the contract and increase it at another point in accordance with the contract (effectively, the application and queuing policy).

This means that if an applicant is currently in the queue, and capacity becomes available because of the decrease by the relocating user at a contracted point, then that applicant has first access to that capacity under the first-come, first-served principle. In general, the mechanisms in the capital contributions policy will ensure that costs are shared fairly. However, if there is insufficient network

¹⁸⁹ Original access arrangement information, Appendix 10, page 6.

capacity to provide the requested services to both parties, the first-come, first-served principle will apply.¹⁹⁰

Draft Decision

1006. In its Draft Decision, the Authority determined that the proposal to depart from relocation provisions of the model standard access contract would unreasonably restrict the ability of users to relocate contracted capacity and could reduce competition in electricity markets. In making this determination, the Authority had regard to the need for the electricity transfer access contract to align with the requirements of section 5.21(a) of the Access Code, which states that the transfer and relocation policy must permit a user to relocate capacity at a connection point in its access contract to another connection point.

1007. The Authority required the following inclusion to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 73

Western Power to amend the Electricity Transfer Access Contract by reproducing Model standard access contract clauses A3.19 to A3.24 (Relocation) without material omission or variation.

Draft Decision Amendment 74

Western Power to amend Electricity Transfer Access Contract clause 1.1 to include a definition of "relocation" which reproduces the definition of that term in the Model standard access contract without material omission or variation.

Submissions from Interested Parties

1008. Newmont Australia Limited submitted:

ERA requires Western Power to amend ETAC by reproducing MAC clauses A3.19 and A3.24. We support this inclusion of a more flexible capacity relocation process.

1009. Synergy submitted:

Western Power Networks has proposed an omission from the MAC by excluding the provisions related to the user's ability to relocate contracted capacity. The ERA sees this as a removal of flexibility for the user. In our view, relocation to another connection point needs to remain as flexible as possible. Relocation (in the event that there is augmentation) should be on a first come first-serve basis. As long as the application and queuing process as per the MAC requirements facilitates this approach then Synergy is in support of the ERA's recommendation.

Revised Proposed Access Arrangement

1010. Western Power has not incorporated revisions in the revised electricity transfer access contract to address Draft Decision Amendments 73 and 74.

¹⁹⁰ Original access arrangement information, Appendix 10, page 11.

1011. In the submission accompanying the revised proposed access arrangement, Western Power states that:

This process of 'relocation' is identical to the two separate transactions of the user decreasing its capacity at one connection point and increasing its capacity at another connection point. Western Power considers that it is critical that the increase is processed through the AQP so that the appropriate studies can be done to determine if network augmentation is required.

1012. Western Power refers to section 6 of its revised transfer and relocation policy, as providing a mechanism for dealing with relocation requests:

6. Relocation

6.1 Occurrence of relocation

A "relocation" occurs when a user:

- (a) decreases its contracted capacity at a connection point (a "retiring point"); and
- (b) makes a corresponding increase in its contracted capacity at another connection point (a "destination point").

6.2 Access contract provisions in respect of a destination point

Western Power and the user must comply with any provisions in the access contract with respect to an increase of contracted capacity at a connection point, or an additional connection point, relating to a destination point.

6.3 Access contract provisions in respect to a retiring point

Western Power and the user must comply with any provisions in the access contract with respect to a decrease of contracted capacity at, or a deletion of, a connection point, relating to a retiring point.

6.4 Western Power's costs

A user who requests any assignment or relocation under this transfer and relocation policy shall reimburse Western Power for any cost incurred by Western Power, acting as a reasonable and prudent person, in processing such request.

Final Decision

1013. Western Power has not incorporated Draft Decision Amendments 73 and 74 into the revised electricity transfer access contract.

1014. Accordingly, the revised electricity transfer access contract remains materially different from the model standard access contract by not providing for the relocation of capacity across connection points.

1015. The Authority has given further consideration to whether the electricity transfer access contract should include the more detailed provisions for relocation of contracted capacity that are set out in clauses A3.19 to A3.24 of the model standard access contract.

1016. In its submission accompanying the revised proposed access arrangement, Western Power has indicated that it has set out the required procedure for relocation of contracted capacity in the transfer and relocation policy and this is enabled by provisions of the electricity transfer access contract for the increase and decrease of contracted capacity at connection points.

1017. The Authority notes that clauses A3.19 to A3.24 of the model standard access contract contemplate a relocation of contracted capacity being undertaken through the processes and procedures established more generally under the model standard access contract for decreasing and increasing contracted capacity at connection points, including any increase in contracted capacity being subject to the applications and queuing policy where a network augmentation is required or where another user or potential applicant would be adversely affected by the increase.
1018. The Authority accepts that, subject to amendments required under this Final Decision, the provisions of the electricity transfer access contract and the transfer and relocation policy provide materially the same rights for a user to relocate capacity across connection points as contemplated by clauses A3.19 to A3.24 of the model standard access contract.
1019. Accordingly, the Authority considers that the demand for the ability to relocate capacity across connection points, as expressed in submissions from Newmont Australia Limited and Synergy, is met under the revised proposed access arrangement and the Authority does not maintain the requirements under Draft Decision Amendments 73 and 74.

Deletion of a Connection Point

Proposed Access Arrangement

1020. Clause 3 of the proposed electricity transfer access contract dealt with the specification of services under an access contract. Clause 3.10 made provision for a user to make a request to Western Power (by submission of a notice) to delete a connection point from an electricity transfer access contract with a user where the connection point has been transferred under the Customer Transfer Code, added to another electricity transfer access contract or facilities and equipment at the connection point are permanently disconnected. Clause 3.10 further provided that, other than in these circumstances, Western Power must reject the request.
1021. Clause 3.10 further included a requirement that the notice requesting deletion of a connection point from an access contract must be made in advance of disconnection: six months in advance for a connection point that is an entry point for generating plant and one month in advance for a connection point that is an exit point.
1022. Western Power submitted:
- The [Electricity Transfer Access Contract] obliges Western Power to accept a request to delete a contracted point subject to the following conditions.
- For permanent disconnection, the user must provide appropriate notice to allow Western Power time to prepare modifications to its network equipment, and then to effect and test those changes.
 - For deletion of a contracted point that is not to be permanently disconnected, that point must have been transferred to another electricity transfer contract (such as via a customer transfer request), so that at no

point can electricity be transferred without being captured under an electricity contract.¹⁹¹

Draft Decision

1023. The model standard access contract does not include provisions relating to the deletion of a connection point from an access contract.
1024. In its Draft Decision, the Authority took the view that the provisions of clause 3.10 of the proposed electricity transfer access contract would unreasonably restrict the deletion of connection points from access contracts, which is a necessary outcome of competition in retail electricity markets. The Authority therefore determined that clause 3.10 is unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code.
1025. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 75

Western Power to amend Electricity Transfer Access Contract clause 3.10 (Deletion of a Contracted Point) to confine its operation to the deletion of a connection point by reason of the permanent disconnection of Facilities and Equipment.

Submissions from Interested Parties

1026. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1027. Western Power has incorporated the following revisions into the now clause 3.6 of the revised electricity transfer access contract:

3.6 Deletion of a ~~Contracted~~ Connection Point

- (a) The User may give notice to Western Power seeking to delete a ~~Contracted~~ Connection Point from this Contract.
- (b) If the User seeks to permanently Disconnect Facilities and Equipment at a ~~Contracted~~ Connection Point, then the notice under clause ~~3.10~~ 3.6(a) must be given to Western Power:
 - (i) for Generating Plant at a ~~Contracted~~ Connection Point, at least 6 months before the planned Disconnection; and
 - (ii) for Consuming Plant at a ~~Contracted~~ Connection Point, at least 1 month before the planned Disconnection.
- (c) If Western Power receives a notice from the User under clause ~~3.10~~ 3.6(a), then, subject to clause ~~3.11~~ 3.7, it must notify the User that it accepts the deletion, and the date that the deletion takes effect, if:
 - (i) Western Power has successfully processed a Customer Transfer Request in relation to the ~~Contracted~~ Connection Point in accordance with under the Customer Transfer Code; or

¹⁹¹ Original access arrangement information, Appendix 10, page 5.

(ii) the ~~Contracted~~ Connection Point has been added to another ~~Electricity Transfer~~ Access Contract by some other means; or

(iii) Western Power has De-energised the Connection Point under this contract or a Law; or

(iv)(iii) the Facilities and Equipment in respect of the ~~Contracted~~ Connection Point have been permanently Disconnected from the ~~Contracted~~ Connection Point,

otherwise Western Power must notify the User that it rejects the deletion.

Final Decision

1028. Western Power has not incorporated Draft Decision Amendment 75 in the revised electricity transfer access contract. The revisions made to clause 3.6 of the revised electricity transfer access contract are unrelated to the required amendment and maintain the limited set of circumstances in which a connection point may be deleted from an access contract.

1029. As the model standard access contract does not include provisions relating to the deletion of a connection point from an access contract, the inclusion of clause 3.6 in the revised electricity transfer access contract is a material variation from the model standard access contract.

1030. The Authority has given further consideration to whether the provisions of clause 3.6 of the revised electricity transfer access contract are reasonable and consistent with the requirements of section 5.3 of the Access Code.

1031. Western Power has indicated in a submission to the Authority that the intent of clause 3.6 of the revised electricity transfer access contract is to ensure that all connection points on the network remain on some user's access contract. The purposes of this requirement are to:

- ensure that Western Power is able to recover its appropriate tariff revenue in respect of the connection point;
- prevent a retailer terminating a service to a customer without that customer having found an alternative retailer or the customer's connection point being "de-energised" in accordance with proper contractual or legal procedures; and
- provide for Western Power to curtail services under relevant provisions of the electricity transfer access contract.¹⁹²

1032. The Authority accepts Western Power's submission that it is reasonable that all connection points be associated with a user through an access contract and, accordingly, for the limitations to exist on the circumstances in which a connection point may be deleted from an access contract.

1033. Accordingly, the Authority considers that clause 3.6 of the revised electricity transfer access contract is reasonable and consistent with the requirements of section 5.3 of the Access Code.

¹⁹² Western Power, Response to the Required Amendments in Part B of the Draft Decision (Detailed Response), section 8.

Reduced Demand Payment

Proposed Access Arrangement

1034. Clause 3 of the proposed electricity transfer access contract dealt with the specification of services under an access contract. Clause 3.11 of the proposed electricity transfer access contract made provision for payment of outstanding charges or an additional capital contribution by a user before any reduction of capacity at, or deletion of, a connection point takes effect.

1035. Western Power submitted:

The SAC obliges Western Power to accept a request to delete a contracted point subject to the following conditions.

...

- The user must pay any outstanding amounts

The outstanding amounts might be in the form of outstanding charges or an additional contribution, regardless of whether the user or the controller paid the original contribution. This “user pays” principle avoids costs being unfairly passed on to users in general and promotes competition in accordance with the Code objective. It is recognised that users, particularly retailers, will consider the implications of this and therefore may seek in turn to allocate this risk to their end customers.¹⁹³

Draft Decision

1036. The model standard access contract does not include provisions equivalent to or corresponding to clause 3.11 of the proposed electricity transfer access contract, relating to the requirement that a user pay outstanding charges or an additional capital contribution by a user before any reduction of capacity at, or deletion of, a connection point takes effect.

1037. In its Draft Decision, the Authority determined that clause 3.11 of the proposed electricity transfer access contract would unreasonably provide for Western Power to recover revenues from users in respect of the costs of works undertaken to establish connection points, where those revenues would be in excess of any capital contributions that the user was required to pay in respect of those works. The Authority determined that clause 3.11 is unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code.

1038. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Required Draft Amendment 76

Western Power to delete Electricity Transfer Access Contract clause 3.11 (Payment on decrease of Contracted Capacity).

Submissions from Interested Parties

1039. No submissions were received from interested parties.

¹⁹³ Original access arrangement information, Appendix 10, page 5.

Revised Proposed Access Arrangement

1040. Western Power has incorporated amendments into the revised electricity transfer access contract as follows.

~~3.11 Payment on decrease of Contracted Capacity~~

- ~~(a) On any reduction of the Contracted Capacity at a Contracted Point or deletion of a Contracted Point, Western Power may, by notice to the User, require the User to pay a Contribution calculated under the Capital Contributions Policy, regardless of whether a Contribution has been previously paid by any person (including the Controller of the Contracted Point), before the reduction in Contracted Capacity or the deletion takes effect.~~
- ~~(b) On any reduction of the Contracted Capacity at a Contracted Point (including by deletion of a Contracted Point or Termination of this Contract), Western Power may, by notice to the User, require the User to pay any unpaid Charges owed to Western Power in respect of the relevant Contracted Point, before the reduction in Contracted Capacity or the deletion of the Contracted Point takes effect.~~

3.7 Reduced Demand Payment

- (a) If:
- (i) the User gives notice to Western Power seeking to:
- (A) delete a Connection Point; or
- (B) reduce the Contracted Capacity at a Connection Point; or
- (C) terminate this Contract,
- within the Cost Recovery Period, as a result of which the Charges for a Connection Point are reduced; and
- (ii) Western Power undertook Works with respect to that Connection Point for which a Contribution based on the amount of the Charges applicable prior to the User giving notice under clause 3.7(a)(i) was payable; and
- (iii) no other user or applicant is likely to pay equivalent Charges in respect of that Connection Point within the Cost Recovery Period; and
- (iv) Western Power has not otherwise recovered or is able to recover the cost of the Works,
- then Western Power may require the User to pay a “Reduced Demand Payment” with respect to the Connection Point.
- (b) A Reduced Demand Payment is the foregone New Revenue for that Service, calculated up to the Cost Recovery Period from the time that the deletion, reduction or termination, as the case may be, that is the subject of the notice given under clause 3.7(a)(i), takes effect.
- (c) For the purposes of clauses 3.7(a) and 3.7(b), the “Cost Recovery Period” is the lesser of:
- (i) the Reasonable Time, as calculated when determining the original Contribution; or
- (ii) the period when the forecast New Revenue, as calculated when determining the original Contribution, equals the amount of Forecast Costs used to determine the original Contribution.

Final Decision

1041. Western Power has not incorporated Draft Decision Amendment 76 in the revised electricity transfer access contract. Rather, Western Power has replaced clause 3.11 of the proposed electricity transfer access contract with a revised clause 3.7 that maintains terms that have the same practical effect as the original clause.
1042. Clause 3.7 of the revised electricity transfer access contract still incorporates provisions that are not contemplated by the model standard access contract.
1043. The Authority has considered whether the new clause 3.7 addresses the reasons of the Authority for requiring Draft Decision Amendment 76 and is otherwise reasonable and in accordance with the requirements of the Access Code.
1044. The Authority notes that the context for clause 3.7 of the revised electricity transfer access contract is that works associated with the establishment of a connection point may be financed by:
- the addition of the cost of the works to the capital base of the network and recovered through the component charges of reference tariffs established under the access arrangement; and/or
 - payment by the user of a capital contribution.
1045. Clause 3.7 of the revised electricity transfer access contract would provide for Western Power to recover from a user the amount of the cost of works that Western Power would otherwise expect to recover from the component charges of reference tariffs in the absence of that connection point being deleted from the relevant access contract, the contracted capacity for the connection point being reduced or the contract being terminated. The amount that Western Power would seek to recover relates to the amount of the cost of the works that was added to the capital base of the network rather than financed by a capital contribution from the user.
1046. The Authority notes that in circumstances where part of the cost of works for a connection point is added to the capital base of the network and is not financed by a capital contribution, it is very unlikely that this amount would not be recovered as a result of the circumstances contemplated by clause 3.7 of the revised electricity transfer access contract because:
- this amount is able to be recovered from users of the network generally, regardless of whether the access contract with the particular user remains as initially established – the only exception to this being if the value of the connection assets were, after becoming un-used, removed from the capital base under the redundant capital provisions of sections 6.61 and 6.62 of the Access Code; and
 - under the revenue-cap form of price control that is to be applied under the access arrangement, if there is a reduction in demand for a service (and revenue from the service) during a year of an access arrangement period, there is a carryover of the revenue shortfall to the next year that allows the revenue shortfall to be recovered in higher reference tariffs (for the network generally) in the next year.

1047. Taking these matters into account, the Authority considers that clause 3.7 of the revised electricity transfer access contract is not reasonably necessary for the protection of Western Power's interests in respect of investment in any works undertaken to establish a connection point. In the absence of the reduced demand payment, Western Power would recover its costs through reference tariffs generally. Western Power is not financially affected by either recovery of revenue by the reduced demand payment or by reference tariffs generally.
1048. The Authority also notes that clause 3.7(a)(iv) of the revised electricity transfer access contract indicates that the reduced demand payment would only be able to be levied on a user if Western Power has not otherwise recovered or is not able to recover the cost of the works. As the cost of the works will normally be rolled into the capital base and be recoverable from users of the SWIN generally, the scope for Western Power to levy a reduced demand payment may, in any case, be very limited.
1049. The effect of the reduced demand payment on efficiency of investment in the SWIN may at best be an indirect one. With an augmentation having been made to provide a service to a user, the presence or absence of provision for the user to be liable for a reduced demand payment in the event of the user reducing its demand below a level originally forecast, and hence for the user or all other users to bear the cost of the augmentation, cannot have any ex post effect on the original investment decision. There is a prospect that the potential liability for a user to make a reduced demand payment provides an incentive for the user to make a reasonable forecast of demand at the time that the value of any capital contribution is determined, thus providing for an efficient financing of the investment through the combination of a capital contribution and increased charges to other users of the network. However, the prospect of a reduced demand payment could also simply cause the user to be indifferent between presenting a high forecast of demand with an associated low value of a capital contribution, and making a lower forecast of demand with a higher value of a capital contribution. Accordingly, there is no strong case to be made that provision for the reduced demand payment would promote efficiency of investment in the SWIN and the Code objective.
1050. Taking the above matters into account, the Authority considers that clause 3.7 of the revised electricity transfer access contract is unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code.
1051. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 15

The revised proposed access arrangement should be amended to delete clause 3.7 of the electricity transfer access contract, relating to reduced demand payments.

Western Power may Request Information

Proposed Access Arrangement

1052. Clause 4 of the proposed electricity transfer access contract dealt with requirements for the user to provide Western Power with forecasts of electricity generation or loads. Clause 4.2 indicated that a request for information must not be made more than once in any 12 month period, except in an emergency, or where forecasts provided by the user materially differ from the user's actual performance and, in the opinion of Western Power (as a reasonable and prudent person), require revision in order to facilitate the operation of the network in accordance with good electricity industry practice.

Draft Decision

1053. Clause 4 of the proposed electricity transfer access contract is materially the same as clauses A3.58 to A3.60 of the model standard access contract except for clause 4.2. The model standard access contract does not contemplate a service provider being able to request information more than once in any 12 month period in circumstances where forecasts provided by the user materially differ from the user's actual performance.

1054. In its Draft Decision, the Authority considered whether it is reasonable for Western Power to be able to request information more than once in a 12 month period in circumstances where any forecasts provided by the user materially differ from the user's actual performance.

1055. The Authority took the view that it may be reasonably necessary for Western Power to obtain information from users where a forecast materially differs from actual performance as this would provide Western Power with information that would enable efficient investment in, and utilisation of, the network, in accordance with the Code objective. The Authority also considered that users would not be unnecessarily burdened by such information requests.

1056. The Authority accordingly determined that the proposed clause 4.2 of the proposed electricity transfer access contract is reasonable and consistent with section 5.3(a) of the Access Code and the Code objective.

Submissions from Interested Parties

1057. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1058. Western Power has incorporated the following revisions to clause 4 of the revised electricity transfer access contract.

4. The User must provide forecast information

4.1 Western Power may request information

Western Power may as a Reasonable and Prudent Person, in respect of a Contracted [Connection Point](#), ~~request the User for Generation forecast information or Load~~ [request power and energy](#) forecast information, as applicable [from the User](#).

4.2 When Western Power may request information

A request under clause 4.1 must not be made more than once in any 12 month period, except in an Emergency, or where any forecasts provided by the User materially differ from the User's actual performance and, in the opinion of Western Power (as a Reasonable and Prudent Person), require revision in order to facilitate the operation of the Network in accordance with Good Electricity Industry Practice.

4.3 User must comply with request

The User must comply with Western Power's reasonable request under clause 4.1.

Final Decision

1059. The Authority considers that the revisions incorporated in clause 4 of the revised electricity transfer access contract do not materially alter the intent and effect of the clause. Accordingly, the Authority maintains the view expressed in the Draft Decision that the clause is reasonable and consistent with the requirements of section 5.3 of the Access Code and the Code objective.

User must Nominate Controller

Proposed Access Arrangement

1060. Clause 6 of the proposed electricity transfer access contract provided for Western Power to obtain details (including the identity) of the controller at each contracted point (or connection point as the term is used in the revised electricity transfer access contract) and dealt with circumstances where the user is not the controller. A "controller" was defined in the proposed electricity transfer access contract, in respect of a contracted point, as a person who owns, operates, controls or otherwise is responsible for the operation of the facilities and equipment at the contracted point, and includes the controller's workers and visitors.

1061. Clause 6 included:

- an obligation on the user to nominate to Western Power the controller at each contracted point, and for Western Power to object, on reasonable commercial or technical grounds, to the controller nominated by the user (clause 6.1);
- an obligation on the user, where the user is not the controller, to ensure that the controller complies with conditions of the electricity transfer access contract to the extent that such compliance is reasonably necessary for the user and Western Power to satisfy their obligations under the contract (clause 6.2); and
- provision for Western Power to enter into contracts directly with a controller (clause 6.3).

1062. Clause 6 addressed a range of matters that are also addressed at clauses A3.36 to A3.39 of the model standard access contract. There were, however, material differences, described as follows.

- Clause 6.1(a) of the proposed electricity transfer access contract required that a user nominate a person as the controller for each contracted point (connection point). This requirement does not exist

under the model standard access contract, which (at clause A3.36) would only require a user to nominate a controller at entry points where the installed capacity exceeds 30 KVA and, for exit points, according to a test that may be specified either in the access arrangement or in the access contract.

- Clause 6.2(a) required that the user ensure that the controller complies with a range of provisions of the electricity transfer access contract. The clause differs from the related clause in the model standard access contract (clause A3.38) by:
 - not requiring the user to ensure compliance of the controller with the notice provisions in clause 34.1 of the electricity transfer access contract;
 - requiring the user to ensure compliance of the controller with certain provisions of the electricity transfer access contract not contemplated by the model standard access contract, including clause 12 (technical characteristics of facilities and equipment), clause 15 (directions from the system operator), clause 16 (removal of equipment) and clause 24 (curtailment) with which the model standard access contract does not require the user to procure compliance; and
 - requiring the user to ensure compliance of the controller “unconditionally”.
- Clause 6.2(b) required the user to satisfy Western Power of its arrangements with the controller. This requirement arises under the related clause A.39(a) of the model standard access contract, but the model standard access contract removes this requirement where the service provider has a direct contractual arrangement with the controller in relation to technical compliance. This exclusion from the requirement is not provided for in the electricity transfer access contract.
- Clause 6.2(c) provided for Western Power to curtail a user’s services if it is not satisfied of compliance by a designated controller with relevant technical requirements. The clause is different to the related clause A3.39(b) of the model standard access contract in that clause 6.2(c) of the electricity transfer access contract omits a provision for the user to avoid curtailment, or further curtailment, upon the controller agreeing in writing with the service provider to be bound by the relevant provisions of the electricity transfer access contract.

Draft Decision

1063. Clause 6 of the proposed electricity transfer access contract addressed a range of matters that are also addressed at clauses A3.36 to A3.39 of the model standard access contract. There were, however, material differences, described as indicated at paragraph 1062, above.

1064. In its Draft Decision, the Authority indicated that the intent of the model access standard access contract was for a user to have an obligation to nominate the controller at a connection point where the installed capacity at entry points exceeds 30 KVA and where the use of electricity by a customer at an exit point may be sufficiently large to constitute a disturbing load.

1065. The Authority considered that Western Power had not provided justification for the requirement under the proposed electricity transfer access contract for users to nominate controllers for all connection points, regardless of whether the use of that connection point has the potential to disturb operation of the network. Accordingly, the Authority determined that this requirement is unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code.
1066. The Authority indicated that the following amendment would need to be made to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 77

Western Power to amend Electricity Transfer Access Contract clause 6.1 (User must nominate Controller) to reproduce Model standard access contract clause A3.36(a) without material omission or variation and Electricity Transfer Access Contract clause 6.1 to be amended to specify a reasonable test for when an exit point needs a designated controller.

1067. The Authority considered that the range of provisions of the electricity transfer access contract that would require a user to ensure compliance of a controller (under clause 6.2(a)) are reasonable despite being more extensive than contemplated under the model standard access contract. The Authority considered, however, that it was unreasonable that the user be required to ensure compliance with these provisions “unconditionally” as the meaning of this requirement was unclear.
1068. The Authority indicated that the following amendment would need to be made to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 78

Western Power to amend Electricity Transfer Access Contract clause 6.2(a) (Where the User is not the Controller) to delete the word “unconditionally”.

1069. The Authority considered that it was unreasonable that the electricity transfer access contract did not provide an exclusion from the requirement for a user to provide evidence of compliance of a controller in circumstances where the controller has a direct contract with Western Power. The Authority considered that the absence of the exclusion would impose obligations on users that would properly be addressed under the contract between Western Power and the controller.
1070. The Authority indicated that the following amendment would need to be made to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 79

Western Power to amend Electricity Transfer Access Contract clause 6.2(b) (User must satisfy service provider of its arrangements with designated controller) to reproduce Model standard access contract clause A3.39(a) without material omission or variation.

1071. The Authority considered that it was unreasonable that a user would not be able to avoid a refusal to commence services or a curtailment of services by the controller entering into a contract directly with Western Power.

1072. The Authority indicated that the following amendment would need to be made to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 80

Western Power to amend Electricity Transfer Access Contract clause 6.2(c) (Curtailment where Western Power is not satisfied of compliance by controller) to reproduce Model standard access contract clause A3.39(b) without material omission or variation.

Submissions from Interested Parties

1073. Synergy submitted:

Given Synergy's 800,000+ customers, the requirement, set out in ETAC clause 6.1(a), to nominate controllers for each contracted point would cause great difficulty and be of little of (or) no practical value. However, Synergy recognises the merit of nominating a controller in certain circumstances.

In regard to exit points, Synergy submits the requirement to nominate a controller be restricted to where:

- The customer consumes at least 2,100MWh per annum; and
- Western Power Networks requests that a controller be nominated.

This represents a practical and reasonable requirement for exit points as the threshold is set at a level where potential for network disturbance exists but this is qualified by a requirement for Western Power Networks to request that a controller be nominated. This combination of requirements ensures that controllers are only nominated where it has been determined that there is a material risk of network disturbance occurring.

Synergy understands the suggested prerequisite minimum level of 2,100MWh per annum forms part of existing access arrangements and therefore its adoption as the threshold level would not be inconsistent with current market practice.

In regard to entry points, Synergy accepts the 30kVA DSOC threshold above which a controller is required to be nominated as being reasonable. This recognises that generators below this level are unlikely to materially contribute to any network disturbances that would impact other customers.¹⁹⁴

Revised Proposed Access Arrangement

1074. Western Power has incorporated revisions into clause 6 of the revised electricity transfer access contract as follows:

6.1 User must nominate Controller

- (a) If the User is not the Controller of a Connection Point then the User must: ~~The User must, by notice to Western Power before the Start Date of the relevant Services, nominate a person as the Controller for each Contracted Point.~~
 - (i) by notice to Western Power before the Start Date of the relevant Services, nominate a person as the Controller for each Connection Point; and

¹⁹⁴ Synergy Submission on the Draft Decision, pages 1 and 2.

- (ii) comply with the relevant provisions of the Metering Code in regard to the provision of controller information (where all references to a 'customer' under the relevant provisions of the Metering Code are to be read as references to the Controller for the purposes of this clause 6.1).
- (b) The User may, from time to time, by notice to Western Power, change the person the User nominates as the Controller of a Contracted Connection Point.
- ~~(c)~~ ~~Western Power, acting as a Reasonable and Prudent Person, may at any time on reasonable technical or commercial grounds object to a Controller nominated by the User under this clause 6.1, in which case the User must) either:~~
- ~~(i)~~ ~~Dispute Western Power's objection; or~~
- ~~(ii)~~ ~~nominate a different person as Controller.~~
- ~~(d)~~(c) The Parties must amend Schedule 3 following any variation made under this clause 6.1.

6.2 Where Connection Point exceeds threshold

- (a) This clause 6.2 applies in respect of a Connection Point where:
- (i) the Generating Plant with installed capacity exceeding 30 kVA is Connected at the Connection Point; or
- (ii) the Connection Assets for the Connection Point is operated at 66 kV or greater; or
- (iii) the rating of the largest motor Connected at the Connection Point is greater than 0.4% of the three phase short circuit fault level at the Attachment Point.
- (b) Western Power, acting as a Reasonable and Prudent Person, may at any time on reasonable technical or commercial grounds object to a Controller nominated by the User under clause 6.1, in which case the User must either:
- (i) Dispute Western Power's objection; or
- (ii) nominate a different person as Controller.
- (c) If Western Power requires, the User must procure that the Controller enters into a Connection Contract with Western Power in respect of the Connection Point.

6.3~~2~~ Where the User is not the Controller

- (a) If the User is not the Controller of a ~~Contracted Connection Point~~, and the Controller of that Connection Point has not entered into a Connection Contract with Western Power in respect of the Connection Point, then the User must ensure that the Controller of that ~~Contracted Connection Point~~ complies, and will continue to comply, ~~unconditionally~~ with the obligations set out in this Contract, to the extent that such compliance is reasonably necessary for the Parties to satisfy their obligations under this Contract, including, but not limited to:
- (i) clause 10 (Good Electricity Industry Practice); and
- (ii) clause 11 (Technical Rules); and
- (iii) clause 12 (Technical characteristics of Facilities and Equipment); and
- (iv) clause 13 (Cooperation); and
- (v) clause 24 (Curtailment),

- (vi) clause 14 (Access to premises); and
- (vii) clause 15 (Directions from System Operator); and
- (viii) clause 16 (Removal of equipment).

(b) If the User is not the Controller of a Connection Point, and the Controller of that Connection Point has not entered into a Connection Contract with Western Power in respect of the Connection Point, then the User must ensure that any contract entered into between the User and a Controller relating to Services under this Contract contains a provision that neither the User nor Western Power is in any circumstances liable for Indirect Damage suffered by the Controller, however arising, excluding any damage caused by, consequent upon or arising out of fraud.

(c)~~(b)~~ On reasonable request from Western Power, the User must (unless the Controller has already entered into a Connection Contract with Western Power) provide evidence to Western Power's satisfaction as a Reasonable and Prudent Person that the User is complying, and will continue to comply, with clause 6.32(a).

(d)~~(c)~~ If the User does not satisfy Western Power under clause 6.3(c)2(b), Western Power may refuse to commence the Services or may Curtail the provision of Services in respect of the relevant ~~Contracted~~ Connection Point unless and until:

- (i) the Controller has entered into a Connection Contract with Western Power in respect of the ~~Contracted~~ Connection Point; or
- (ii) the User satisfies Western Power under clause 6.3(c)2(b).

(e)~~(d)~~ For the avoidance of doubt, if the User is in breach of clause 6.2(a), then the User is liable for, and must indemnify Western Power pursuant to clause 18.2 against any Direct Damage caused by, consequent upon or arising out of the acts and omissions, negligent or otherwise, of the Controller to the extent that the acts or omissions, negligent or otherwise, of the Controller are attributable to that breach.

6.3 Western Power may enter into Access Contracts

Nothing in clause 6.32 is to be taken to prevent Western Power from entering into an Access Contract (including an Electricity Transfer Contract or a Connection Contract) with any person, including a person who is a Controller.

6.4 Liability and Force Majeure not limited

Nothing in clause 6.32 limits the operation of clauses 18.2 or 21.1 in respect of either the User or Western Power.

Final Decision

1075. Western Power has incorporated revisions into clause 6.3(a) of the revised electricity transfer access contract (clause 6.2(a) of the proposed electricity transfer access contract) to remove the requirement that users “unconditionally” ensure compliance of controllers with relevant provisions of the electricity transfer access contract. The Authority is therefore satisfied that the revised electricity transfer access contract incorporates Draft Decision Amendment 78.

1076. Western Power has not incorporated relevant clauses of the model standard access contract into the revised electricity transfer access contract, as required by Draft Decision Amendments 77, 79 and 80. Rather, Western Power has made other revisions to address the reasons of the Authority in requiring these amendments.

1077. Draft Decision Amendment 77 addressed a lack of justification for the requirement (under clause 6.1 of the proposed electricity transfer access contract) for users to nominate controllers for all connection points, regardless of whether the use of that connection point has the potential to disturb operation of the network. Western Power has maintained this requirement in the revised electricity transfer access contract and indicated in its submission to the Authority that this is necessary to obtain adequate information to comply with its obligations under various instruments under the *Electricity Industry Act 2004*, including the Metering Code, Code of Conduct for the Supply of Electricity to Small Use Customers, and other legislation.¹⁹⁵ Western Power has not, however, indicated the nature of the obligations in respect of which Western Power would need to have information on the identities of all controllers.
1078. The model standard access contract does not include a requirement for users to nominate controllers in all circumstances and clause 6 of the revised electricity transfer access contract remains a material variation from the model standard access contract in this respect.
1079. Clause 5.19 of the Metering Code requires a user to maintain records of information on customers and establishes a requirement for a user to provide customer information to Western Power where requested by Western Power acting in accordance with good industry practice and where the information would assist Western Power in meeting its obligations described in the Metering Code and elsewhere. This provision of the Metering Code would provide for Western Power to obtain information on controllers from users, regardless of whether or not there are powers under the electricity transfer access contract to obtain this information.
1080. Taking these matters into account, the Authority considers that there is no demonstrated reason for the electricity transfer access contract to include a requirement for users to provide Western Power with information on controllers for all connection points. Accordingly, the Authority maintains the view expressed in the Draft Decision that the electricity transfer access contract should only require users to provide information on controllers to Western Power where the use of that connection point has the potential to disturb operation of the network. The Authority has determined that the thresholds proposed by Western Power under clause 6.2 of the revised electricity transfer access contract for Western Power to object to a nominated controller also constitute appropriate thresholds for Western Power to be able to require a user to provide information on controllers.

¹⁹⁵ Western Power Response to the Required Amendments in Part B of the Draft Decision (Detailed Response), section 5.

1081. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 16

Section 6.1(a) of the revised electricity transfer access contract should be amended so that the obligation on a user to nominate a person as the controller of a connection point applies only where:

- (i) generating plant with installed capacity exceeding 30 kVA is connected at the connection point;
- (ii) connection assets for the connection point are operated at 66 kV or greater; or
- (iii) the rating of the largest motor connected at the connection point is greater than 0.4 per cent of the three phase short circuit fault level at the attachment point.

1082. Draft Decision Amendment 79 addressed the absence of an exclusion from the requirement for a user to provide evidence of compliance of a controller to Western Power in circumstances where the controller has a direct contract with Western Power. Such exclusion is provided for under clause A3.39 of the model standard access contract.

1083. Western Power has incorporated amendments in clause 6.3(c) in the revised electricity transfer access contract to provide for this exclusion. The Authority is satisfied that this revision addresses the reasons for Draft Decision Amendment 79.

1084. Draft Decision Amendment 80 addressed the absence of provision in the proposed electricity transfer access contract for a user to have a controller enter into a contract directly with Western Power as a means of avoiding Western Power refusing to commence a service or curtailing a service. Such exclusion is provided for under clause A3.39 of the model standard access contract.

1085. The Authority considers that such provision exists in the revised electricity transfer access contract as a result of the amendments incorporated into the revised clause 6.3(c) as indicated above in relation to Draft Decision Amendment 79. The Authority is satisfied that this revision addresses the reasons for Draft Decision Amendment 80.

Tariffs

Proposed Access Arrangement

1086. Clause 7.1 of the proposed electricity transfer access contract indicated the tariff that is payable for a service. This clause includes provision for:

- the tariff payable under the access contract to be the relevant tariff for the service as set out in the price list under the access arrangement;

- in circumstances where the price list states that the tariff is to be determined under the contract, for the tariff in any quarter to be determined as the tariff at the start date for the contract with subsequent escalation for inflation; and
- the determination of tariffs after the end of the current access arrangement period.

Draft Decision

1087. Clause A3.40 of the model standard access contract provides two options by which the tariffs applicable to an access contract are determined. In general terms, these options are:

- Option A – the tariff payable for a service is the tariff specified in the price list from time to time for the service; and
- Option B – the tariff payable for a service is the tariff specified in the price list most recently published before the commencement date for the service (with any subsequent price lists disregarded) and adjusted annually by an amount equal to a percentage (specified in the access arrangement) of the change in the CPI.

1088. Footnote 83 to the Access Code relates to clause A3.40 of the model standard access contract:

Unless the Authority considers that a different approach will better achieve the Code objective, the standard access contract must offer UserCo the option, at the time it enters into the contract, to make a once-off election for the term of the contract as to whether it will pay the reference tariff as in effect from time to time (Option A), or whether it will lock in the reference tariff in effect at the time of contracting, to be escalated at a percentage of CPI (Option B). If Option A is chosen, definitions need to be added to clause A3.2.

1089. Clause 7.1 of the proposed electricity transfer access contract differed in a number of respects from the corresponding clause A3.40 of the model standard access contract:

- Clause 7.1 of the proposed electricity transfer access contract set out a specification of the tariff applicable to a service that is similar to Option A of clause A3.40 of the model standard access contract (indicating the tariff payable is the applicable tariff specified from time to time in the price list for the service). The proposed electricity transfer access contract did not incorporate any provision resembling Option B.
- Clause 7.1 did not include any entitlement for a user to recover a price reduction in a published price list as an overpayment, despite such an entitlement being included under Option A in clause A3.40(b) of the model access contract. In this regard, Western Power submitted:

Similarly, no Price List can be published under the Code unless that publication is pursuant to an approved access arrangement, so the provision relating to these events, allowing the user to claim an overpayment, has not been adopted in the SAC.¹⁹⁶

¹⁹⁶ Original access arrangement information, Appendix 10, page 7.

- Clause 7.1(b) of the electricity transfer access contract provided for indexation of a user's applicable tariffs. There is no equivalent provision under Option A in clause A3.40(b) of the model standard access contract, which relates exclusively to prices in a published price list. In response to a request for clarification, Western Power advised the Authority that:

[Clause 7.1(b)] is a particular reference to the Connection Price component of the TRT1 and TRT2 tariffs designated with a * in sections 3.1.2 and 3.2.2 of the Price List, where a special note explains that "... the charge is not published but is determined subject to the specific connection arrangements."¹⁹⁷

1090. In its Draft Decision, the Authority took the view that footnote 83 to the Access Code requires that the electricity transfer access contract must include both of Options A and B of clause A3.40 of the model standard access contract, unless the Authority considers that the different approach will better achieve the Code objective. The Authority was not satisfied that the absence from the proposed electricity transfer access contract of the provisions of Option B would better achieve the Code objective.
1091. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 81

Western Power to amend Electricity Transfer Access Contract clause 7.1 (Tariffs) to include provisions which reproduce Option B in Model standard access contract clause A3.40 without material omission or variation.

1092. Clause 7.1 of the proposed electricity transfer access contract excluded the provision of clause A3.40(b) of the model standard access contract that would establish a requirement to correct for overpayment of tariffs. The Authority considered that the variation was material as it may unreasonably deprive a user of a right to financial reimbursement for overpayments. The Authority noted that Option A in clause A3.40(b)(i) of the model standard access contract anticipates circumstances in which a price list could not be approved by the start of a pricing year and provides for users not to be penalised because a price reduction may not be finalised. Option A further anticipates that, if prices are reduced, the user will receive reimbursement of an overpayment and the user may recover the tariff reduction as an overpayment.
1093. The Authority did not accept Western Power's contention that the situation where a service provider publishes a price list that is not in accordance with an approved access arrangement cannot arise, in turn causing the reimbursement provisions to be redundant.
1094. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 82

¹⁹⁷ Email from Western Power to Authority, 22 November 2005.

Western Power to amend Electricity Transfer Access Contract clause 7.1 (Recovery of tariff reduction as an overpayment) to include provisions which reproduce Option A in Model standard access contract clause A3.40(b)(ii) without material omission or variation.

1095. In relation to clause 7.1(b) of the proposed electricity transfer access contract, the Authority considered that the provision for certain tariffs to be indexed with changes in the CPI is inconsistent with the operation of price lists, which are approved on an annual basis in accordance with the price control and not subject to additional escalation. The Authority determined that there was no scope for the indexation provisions proposed by Western Power to form part of the electricity transfer access contract.

1096. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 83

Western Power to delete Electricity Transfer Access Contract clause 7.1(b) (Indexation of tariffs determined under ETAC) and consequential amendments to be made to Electricity Transfer Access Contract clause 7.1(e).

Revised Proposed Access Arrangement

1097. Western Power has incorporated the following revisions into clause 7 of the revised electricity transfer access contract.

7.1 Tariff

(a) The Tariff payable under this Contract for a Service is the Tariff, or Tariffs, as applicable, specified in the Price List from time to time for the Service.

(b) If:

(i) No Price list is published by the Authority on the date required under the Code; or

(ii) A purported Price List which does not comply with the Access Arrangement is published,

then to the extent that the effect of a Price List (if it had been published on the date required under the Code and had been compliant with the Access Arrangement) would have been to reduce the Tariff payable by the User, then the User may recover the Tariff reduction as an overpayment under clause 8.5.

~~If the Price List states that a Tariff applicable to a Service under this Contract is to be determined under this Contract, then the Tariff for each quarter will be the Tariff calculated at the Start Date, CPI-Adjusted annually each 1 July.~~

(c) If applicable, the Tariff payable under clause 7.1(a) for a Service after the end of the current Access Arrangement period is to be determined as follows:

(i) if the new Access Arrangement contains a Reference Service ("Equivalent Reference Service") which is materially the same as the Service then the Tariff for the Service is to be the Reference Tariff for the Equivalent Reference Service; and

(ii) if the new Access Arrangement does not contain an Equivalent Reference Service, or if for any reason there is no new Access

Arrangement or new Price List under the new Access Arrangement, then the Tariff for each quarter will be the Tariff in the final Price List which Western Power was required to publish under the previous Access Arrangement, CPI-Adjusted annually each 1 July.

- (d) Clause 7.1(c) applies, with appropriate modifications, in respect of the end of each successive Access Arrangement Period.
- (e) Western Power must notify the User of the Tariffs calculated from time to time under clause ~~7.1(b)~~ or 7.1(c).

Final Decision

1098. Western Power has not incorporated into the revised electricity transfer access contract the provision for users to select between tariff options corresponding to Options A and B under clause A3.40 of the model standard access contract and, accordingly, has not incorporated Draft Decision Amendment 81 into the revised contract.
1099. In its submission accompanying the revised proposed access arrangement, Western Power indicated that “allowing users to select a non-reference tariff for a reference service would provide inequitable treatment amongst users and would result in unbalanced allocation of target revenue”.¹⁹⁸ Western Power also indicated that the component charges of reference tariffs could be increased from year to year by more or less than CPI, and to allow users to select non-reference tariffs for reference services would be inconsistent with Western Power’s pricing methods and its ability to recover the required reference tariff revenue.
1100. Clause 7.1 of the revised electricity transfer access contract remains materially different to the corresponding clause A3.40 of the model standard access contract.
1101. The Authority has given further consideration to the requirements under the Access Code for Western Power to include the tariff options in the electricity transfer access contract.
1102. The Authority notes that although footnote 83 of the Access Code would appear to require a standard access contract to include the tariff options set out in clause A3.40 of the model standard access contract, any such requirement would be contrary to section 5.4 of the Access Code that allows a standard access contract to be formulated without reference to the model standard access contract, or based in part on the model standard access contract.
1103. The Authority accepts Western Power’s submission that to make explicit provision for a user to choose an option to have tariffs altered from year to year by inflation indexation, rather than in accordance with the price control established under the access arrangement, would be contrary to a number of elements of the pricing methods that are to be established under the access arrangement. The relevant elements of the pricing methods include the provision for Western Power to re-balance tariff charges on a year to year

¹⁹⁸ Western Power Response to the Required Amendments in Part B of the Draft Decision (Detailed Response), section 5, page 28.

basis subject to side constraints and requirements to comply with the particular objectives of sections 7.3 and 7.4 of the Access Code.

1104. Taking these matters into account, the Authority considers that it is not necessary for the electricity transfer access contract to include both of the tariff options contemplated by clause A3.40 of the model standard access contract and that the single option for determination of tariffs in the revised electricity transfer access contract is reasonable and consistent with the requirements of section 5.3 of the Access Code.
1105. Draft Decision Amendment 82 required Western Power to include in the electricity transfer access contract provisions for reimbursement of users in the event of late publication of a price list that results in a reduction in reference tariffs.
1106. Western Power has made this amendment at clause 7.1(b) of the revised proposed access arrangement, which incorporates the relevant clause A3.40(b) of the model standard access contract. Accordingly, the Authority is satisfied that the revised electricity transfer access contract incorporates Draft Decision Amendment 82.
1107. Draft Decision Amendment 83 required Western Power to exclude from the electricity transfer access contract provisions for indexation of tariff charges outside of the process of re-determination and publication of price lists. Western Power has deleted this provision from clause 7.1(b) of the revised proposed access arrangement. Accordingly, the Authority is satisfied that the revised electricity transfer access contract incorporates Draft Decision Amendment 83.

Charges

Proposed Access Arrangement

1108. Clause 7.2 of the proposed electricity transfer access contract provided a wide scope to levy charges and included an obligation on the user to pay to Western Power any other charge (i.e. in addition to the reference tariff) applicable to the provision of each service, as published by Western Power, or agreed to between the user and Western Power, or otherwise required by law.

Draft Decision

1109. Clause 7.2 of the proposed electricity transfer access contract was materially different to the corresponding clause A3.41 of the model standard access contract. Clause A3.41 of the model standard access contract would require only that a user pay charges for each service in accordance with the applicable tariff determined from the price list (as provided for under clause A3.40 of the model standard access contract), and there is no provision for payment of other charges.
1110. In the Draft Decision, the Authority determined that there was no basis under the Access Code for a standard access contract to require payment of charges for reference services that are in addition to the relevant reference tariffs.

1111. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 84

Western Power to delete Electricity Transfer Access Contract clause 7.2(b) (Charges).

Submissions from Interested Parties

1112. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1113. Western Power has incorporated the following revision into the revised electricity transfer access contract.

7.2 Charges

The User must pay to Western Power:

- (a) the Charge for each Service calculated at the Tariff determined under clause 7.1; and
- (b) Nothing in this clause 7.2 prevents Western Power from recovering any other monies otherwise payable by the User to Western Power under the Contract or at Law. ~~any other charge applicable to the provision of each Service, as published by Western Power, or agreed between the Parties, or otherwise required by Law.~~

Final Decision

1114. Western Power has not incorporated Draft Decision Amendment 84 into the revised electricity transfer access contract (which would have involved deletion of clause 7.2(b)). Western Power has, however, revised this clause to indicate that nothing in clause 7.2 prevents Western Power from recovering any other monies otherwise payable by the user to Western Power under the contract or otherwise required by law.

1115. The Authority is satisfied that the revised clause 7.2(b) does not provide Western Power with the discretion to charge users for reference services in addition to the reference tariff. Accordingly, the Authority is satisfied that the revisions to clause 7.2(b) of the electricity transfer access contract incorporate Draft Decision Amendment 84.

Charges during Western Power's Force Majeure Event

Proposed Access Arrangement

1116. Clause 7.3 of the proposed electricity transfer access contract dealt with the obligation of a user to pay charges in the event that a service to the user is unavailable due to a force majeure event that reduces the ability of Western power to provide services. Clause 7.3(a) required that, where the service is unavailable for a consecutive period of two days or longer, the user is relieved of its obligation to pay the normal charges for the service and must instead pay

10 per cent of the charges for the affected service for the period during which the service is unavailable.

Draft Decision

1117. The provisions of clause 7.3 of the proposed electricity transfer access contract differed from corresponding clauses of the model standard access contract in three material respects:

- clause A3.42(a) of the model standard access contract confines the user's obligation to pay charges during a force majeure event to 10 per cent of "standing charges" (where standing charges are those charges that are payable whether or not the user makes use of the service) rather than all charges, as provided for under clause 7.3 of the proposed electricity transfer access contract;
- clause 7.3(a)(ii) of the proposed electricity transfer access contract provided that a user will only be relieved of payment obligations if the user's inability to use the service is "solely" due to the force majeure event – there is no such restriction in the equivalent clause A3.42(b) of the model standard access contract; and
- clause 7.3(b) of the electricity transfer access contract provided that the force majeure provisions will have no operation where the user has contributed to the force majeure event, or would not have been ready, willing or able to make use of the service but for the force majeure event – there is no equivalent clause in the model standard access contract.

1118. In its Draft Decision, the Authority determined that it would be unreasonable for Western Power to have the ability to charge users during a force majeure event based upon usage or volume (as opposed to just the standing charges) because the effect of force majeure is to prevent the provision of services.

1119. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 85

Western Power to amend Electricity Transfer Access Contract clause 7.3 (Charges during Western Power's Force Majeure Event) to reproduce Model standard access contract clause A3.42(a) without material omission or variation.

1120. The Authority also determined in its Draft Decision that it was unreasonable that the decrease in the obligation of users to pay charges was limited to circumstances where the unavailability of the services was due "solely" to the force majeure event affecting Western Power, the user contributed to the force majeure event or the user was not in any case able to make use of the service. The Authority took into account that a force majeure is defined as an event beyond the control of the user and hence the user should be relieved of obligations to pay charges in any event of force majeure.

1121. The Authority required the following amendments to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 86

Western Power to amend Electricity Transfer Access Contract clause 7.3(a)(ii) (Charges during Western Power's Force Majeure Event) to delete the word "solely".

Draft Decision Amendment 87

Western Power to delete Electricity Transfer Access Contract clause 7.3(b) (User contribution to force majeure event).

Submissions from Interested Parties

1122. Newmont Australia Limited submitted:

ERA requires Western Power to amend ETAC clause 7.3 (Charges during Western Power's Force Majeure Event) to reproduce MAC clause A3.4(a). We continue to hold the view that it is an unusual commercial outcome to oblige the User to continue to pay 10% of the Standing Charges (which we take to mean fixed charges) for the Affected Service, indefinitely, when Western Power has declared a Force Majeure Event. This is particularly onerous given our previous comments regarding the drafting of the Force Majeure clause in the ETAC.

1123. Synergy submitted:

While Synergy acknowledges the ERA's view that during a Force Majeure event, charges paid by a user are restricted to "standing charges", Synergy raises the question as to why any charges should be payable to a service provider during an Force Majeure event.

In a Force Majeure event affecting end-users (customers), where no service is delivered, customers are denied a critical input into their operations, reducing their productive output. In this case it is difficult to reconcile a requirement to pay for a service, which was not delivered, especially where the non-delivery of that service in turn reduces the customer's capacity to invest in stand-by facilities to deliver uninterrupted power supplies to avoid the loss of production if a Force Majeure event affecting the network occurs.

Synergy submits the requirement to pay charges, albeit at a reduced level, during a Force Majeure event is unreasonable and inconsistent with clause 5.3(a) of the Code.

Synergy also notes that ETAC clause 7.3(a) only provides payment relief if due to a Force Majeure event a service is unavailable for any consecutive period of 2 days or longer ("Affected Service"). This implies, in circumstances where a service is affected by a Force Majeure event but the duration is less than 2 consecutive days that full charges apply. Synergy submits that, in the absence of any compelling practical rationale, there should be no duration threshold for a service to be deemed and Affected Service, the trigger for payment relief. If a Force Majeure event results in the service provider not being able to provide a service, then similarly, the user should be excused from payment obligations related to that service, irrespective of the duration of the Force Majeure event.

Revised Proposed Access Arrangement

1124. Western Power has incorporated the following revisions into the revised electricity transfer access contract.

7.3 Charges during Western Power's Force Majeure Event

- (a) If a Service ("Affected Service") is unavailable for any consecutive period of 2 days or longer ("Affected Service Period") due to a Force Majeure Event where:

- (i) Western Power is the Affected Person; and
- (ii) the User is unable to use the Affected Service solely because of the Force Majeure Event, and
- (iii) Western Power's inability to provide the Affected Service has not been caused by the User's default or negligence.

then, for that part of the Affected Service Period in which the User's Facilities and Equipment in respect of the Affected Service were not or would not have been subject to a scheduled or unscheduled outage by which the User's Facilities and Equipment were De-energised, the User is relieved of its obligation under clause 7.2 and instead must pay 10% of the "Standing Charges" (as defined in clause 7.3(b)) for the Affected Service during that part of the Affected Service Period.

~~then, for the whole of the Affected Service Period, the User is relieved of its obligation under clause 7.2 and instead must pay 10% of the Charges for the Affected Service during the Affected Service Period.~~

- ~~(b) If the User causes or contributes to a Force Majeure Event in which Western Power is the Affected Person, or the User would not, but for that Force Majeure Event, have been ready, willing and able to make use of that Affected Service for the whole of the Affected Service Period, the User is not relieved of its obligation under clause 7.2.~~

(b) Under this clause 7.3, Standing Charges means:

- (i) those Charges or components of a Charge which apply to a Service regardless of the actual Generation or Consumption by the User in respect of that Service, as recorded by the Metering Equipment; and
- (ii) is not those components of a Charge which are determined by reference to the actual Generation or Consumption by the User in the respect of that Service, as recorded by the Metering Equipment.

Final Decision

1125. Draft Decision Amendment 85 required that Western Power amend clause 7.3 of the electricity transfer access contract to reproduce clause A3.42(a) of the model standard access contract. The Authority required this amendment so that the charges payable in circumstances of a force majeure event would be limited to 10 per cent of standing charges rather than 10 per cent of all charges.
1126. Western Power has incorporated changes into the revised electricity transfer access contract to limit payments under clause 7.3 to 10 per cent of standing charges. While these changes to clause 7.3 do not reproduce clause A3.42 of the model standard access contract, the Authority is satisfied that the changes address the reasons for Draft Decision Amendment 85.
1127. The Authority has considered the submissions from Newmont Australia Limited and Synergy that contend that it is unreasonable for there to be any obligation to pay charges where the service is unavailable. The Authority notes, however, that the obligation to pay 10 per cent of standing charges in these circumstances is consistent with the model standard access contract, and the Authority is required to have regard to the model standard access contract when determining whether the electricity transfer access contract is consistent with clause 5.3 of the Access Code and the Code objective. Accordingly, and despite the submissions from Newmont Australia Limited and Synergy, the

Authority accepts that clause 7.3 of the revised electricity transfer access contract is consistent with the requirements of the Access Code.

1128. Draft Decision Amendment 86 required that Western Power amend clause 7.3(a)(ii) of the electricity transfer access contract to delete the word “solely”. Western Power has made this amendment and, accordingly, the Authority is satisfied that the revised electricity transfer access contract incorporates Draft Decision Amendment 86.
1129. Draft Decision Amendment 87 required Western Power to delete clause 7.3(b) of the electricity transfer access contract (user contribution to force majeure event). Western Power has made this amendment and, accordingly, the Authority is satisfied that the revised electricity transfer access contract incorporates Draft Decision Amendment 87.

Disputed Invoices

Proposed Access Arrangement

1130. Clause 8.4 of the proposed electricity transfer access contract dealt with the resolution of disputed invoices. Clause 8.4(b) provided that any amount of payment withheld in the event of a disputed invoice, but subsequently found to have been payable, attracts interest calculated on the basis of the “prescribed rate”. The prescribed rate was defined as the interest rate (expressed as a rate per cent per annum) equal to the aggregate of three annual percentage points and the “business indicator rate”, with the business indicator rate defined as the interest rate (expressed as a rate per cent per annum) then applicable to variable business loans less than \$100,000 as published in the Reserve Bank of Australia Bulletin.

Draft Decision

1131. Clause 8.4 of the proposed electricity transfer access contract is similar to clause A3.47 of the model standard access contract except for a difference in the specification of the rate of interest applied to disputed amounts. Under clause A3.47 of the model standard access contract, the “prescribed rate” is defined differently as a “discounted rate” plus three per cent per annum. The discounted rate is a matter to be defined either in the standard access contract or to be inserted in the access contract by agreement between the parties or arbitrated award. Western Power has elected to specify the prescribed rate as a base rate equal to the interest rate (expressed as a rate per cent per annum) then applicable to variable business loans less than \$100,000 as published in the Reserve Bank of Australia Bulletin, plus three per cent.
1132. In its Draft Decision, the Authority determined that this specification of the prescribed rate is reasonable and consistent with the requirements of section 5.3(a) of the Access Code.

Submissions from Interested Parties on the Draft Decision

1133. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1134. No changes to clause 8.4 have been incorporated into the revised electricity transfer access contract.

Final Decision

1135. The Authority maintains the determination made in its Draft Decision that the specification of the prescribed rate of interest for withheld payments under disputed invoices is reasonable and consistent with the requirements of section 5.3(a) of the Access Code.

*Under and Over Payments***Proposed Access Arrangement**

1136. Clause 8.5 of the proposed electricity transfer access contract dealt with under and over payments. Clause 8.5(b) provided that any adjusting payment made to correct an under or over payment must (with an exception under clause 8.5(c)) include interest calculated at the “prescribed rate”. The prescribed rate was defined as the interest rate (expressed as a rate per cent per annum) equal to the aggregate of three annual percentage points and the “business indicator rate”, with the business indicator rate defined as the interest rate (expressed as a rate per cent per annum) then applicable to variable business loans less than \$100,000 as published in the Reserve Bank of Australia Bulletin.

1137. Clause A3.48 of the model standard access contract is similar to clause 8.5 of the proposed electricity transfer access contract, but specifies the interest rate payable on adjusting payments to be the “discounted rate”, which is a base interest rate that excludes the three per cent margin that is included in the prescribed rate.

Draft Decision

1138. Clause 8.5 of the proposed electricity transfer access contract is similar to clause A3.48 of the model standard access contract except for a difference in the specification of the rate of interest applied to under and over payments.

1139. In its Draft Decision, the Authority noted that clause 8.5(b) of the proposed electricity transfer access contract includes a higher rate of interest on adjusting payments than contemplated under the model standard access contract. The Authority determined, however, that the higher rate is reasonable, as it provides incentives for the correct payment of invoices, and is consistent with the requirements of section 5.3(a) of the Access Code.

Submissions from Interested Parties on the Draft Decision

1140. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1141. No changes to clause 8.5 have been incorporated into the revised electricity transfer access contract.

Final Decision

1142. The Authority maintains the determination made in its Draft Decision that the specification of the prescribed rate of interest for adjusting payments – made in respect of under or over payments – is reasonable and consistent with the requirements of section 5.3(a) of the Access Code.

Security for Charges and Contributions

Proposed Access Arrangement

1143. Clause 9 of the proposed electricity transfer access contract dealt with requirements for the user to provide security against its obligations under an access contract.

1144. Clause 9(a) required the user to provide security of certain specified types in the event that the user does not provide evidence that the user has an unqualified credit rating of at least BBB from Standard and Poor's Australia Pty Ltd or Baa from Moody's Investor Service Pty Ltd.

1145. Clause 9(b) required the user to provide security in respect of any unpaid or unprovided amount of capital contribution determined under the capital contributions policy.

Draft Decision

1146. Clause 9 of the proposed electricity transfer access contract differed from the corresponding clause A3.51 of the model standard access contract in that:

- clause 9(a) sets out the criteria (as minimum credit ratings) that will be applied by Western Power to determine whether security is required, whereas clause 3.51(a) of the model standard access contract contemplates the requirement for security being determined by the service provider determining whether there is a material risk of the user being unable to meet its obligations under the access contract;
- clause 9(a)(i) of the proposed electricity transfer access contract states that no interest is payable by Western Power in the event that security is provided by means of prepayment, whereas clause A3.51(a) of the model standard access contract is silent on the payment of interest;
- clause 9(b) of the proposed electricity transfer access contract provides for security against unpaid or unprovided amounts of capital contributions to be in the form of a bank guarantee, whereas clause A3.51(b) of the model standard access contract provides for this security to be in the form of payment of the net present value of the unpaid amount, provision of a bank guarantee or provision of a guarantee from the user's parent company.

1147. Clauses A3.52 and A3.53 of the model standard access contract provide for a user company to propose alternative forms of security than those set out in clause A3.51 of the model standard access contract and a failure to agree on the form of security to be the subject of a dispute under the access contract. Clause 9 of the proposed electricity transfer access contract differed materially

from the model standard access contract in that clause 9 did not provide for alternative forms of security to be agreed upon.

1148. In its Draft Decision, the Authority determined that it is unreasonable and inconsistent with the requirements of section 5.3 of the Access Code for the electricity transfer access contract:

- to provide for the determination of whether a user is required to provide security to be determined on the basis of the user providing evidence of credit rating rather than on a case-by-case assessment by Western Power of whether there is a material risk of the user being unable to meet its obligations under the access contract;
- to state that no interest is payable by Western Power in the event that security is provided by means of prepayment;
- to require that security against unpaid or unprovided amounts of capital contributions to be in the form of a bank guarantee and to not contemplate other forms of security; and
- to not make provision for a user to propose alternative forms of security and for the form of security to be a matter of a dispute under an access contract.

1149. The Authority required the following amendments to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 88

Western Power to amend Electricity Transfer Access Contract clause 9(a) (Security for Charges and Contributions) to reproduce Model standard access contract clause A3.51(a) without material omission or variation.

Draft Decision Amendment 89

Western Power to amend Electricity Transfer Access Contract clause 9(a)(iii) (Interest on security by way of pre-payment) to reproduce Model standard access contract clause A3.51(a)(i) without material omission or variation.

Draft Decision Amendment 90

Western Power to amend Electricity Transfer Access Contract clause 9(b) (Security for capital contributions) to reproduce Model standard access contract clause A3.51(b) without material omission or variation.

Draft Decision Amendment 91

Western Power to amend the Electricity Transfer Access Contract to reproduce Model standard access contract clause A3.52 and A3.53 (Alternative security arrangements) without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1150. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1151. Western Power has incorporated the following revisions into the revised electricity transfer access contract.

9. ~~Security for Charges and Contributions~~

- (a) Subject to clause 9(b), if Western Power determines at any time during the Term that either or both of the User's or the Indemnifier's technical or financial resources are such that a Reasonable and Prudent Person would consider there to be a material risk that the User will be unable to meet its obligations under this Contract, then Western Power may require the User to nominate which of the User or the Indemnifier ("Nominated Person") is to provide the following security, and then require the Nominated Person, at the User's election to:

~~If the User does not provide evidence to Western Power that it has an unqualified credit rating of at least:~~

~~(i) — BBB from Standard and Poor's Australia Pty Ltd; or~~

~~(ii) — Baa from Moody's Investor Service Pty Ltd,~~

~~the User must, prior to the Commencement Date, at the User's election:~~

~~(i) (iii) pay the charges for up to 2 months' services in advance as a cash deposit, on which no interest is payable by Western Power; or equal to the Charges for 2 months' services; or~~

~~(ii) (iv) provide an irrevocable and unconditional bank guarantee or equivalent financial instrument in terms acceptable to Western Power (acting as a Reasonable and Prudent person), guaranteeing or otherwise securing the charges for 2 months' services; or~~

~~(iii) (v) If Western Power is satisfied, as a Reasonable and Prudent Person, that the User's parent company's financial and technical resources are such that the User's parent company would be able to meet the User's obligations under this Contract (including because the User's parent company meets at least one of the credit ratings given in clauses 9(b)(i) and 9(b)(ii), procure from the User's parent company a guarantee substantially in the form set out in Schedule 8.~~

~~(b) If the User or the Indemnifier has an unqualified credit rating of at least:~~

~~(i) — BBB from Standard and Poor's Australia Pty Ltd; or~~

~~(ii) — Baa from Moody's Investor Service Pty Ltd,~~

~~and provides evidence to this effect to Western Power, then Western Power is not entitled to determine under clause 9(a) that the User's financial resources are such that there would be a material risk that the User will be unable to meet its obligations under this Contract.~~

~~(c) Without limiting the User's security obligations related to clause 25, the Nominated Person must provide an irrevocable and unconditional bank guarantee or equivalent financial instrument in terms acceptable to Western Power (acting as a Reasonable and Prudent Person), guaranteeing the present value of any amount of any Contribution that remains unpaid or unprovided as calculated by Western Power under the Capital Contributions Policy.~~

~~if the User's parent company meets at least one of the credit ratings given in clauses 9(a)(i) and 9(a)(ii), procure from the User's parent company a guarantee substantially in the form set out in Schedule 8 guaranteeing the charges under the electricity transfer contract.~~

~~guaranteeing the Charges for 2 months' Services, as modified under this Contract from time to time.~~

- ~~(b) The User must provide an irrevocable and unconditional bank guarantee in terms acceptable to Western Power (acting as a reasonable and prudent person), guaranteeing the present value of any amount of any Contribution that remains unpaid or unprovided as calculated by Western Power under the Capital Contributions Policy.~~

Submissions from Interested Parties

1152. No submissions were received from interested parties.

Final Decision

1153. Draft Decision Amendments 88 and 89 required that clause 9(a) of the proposed electricity transfer access contract be revised to reproduce clause A3.51(a) of the model standard access contract without material omission or variation.
1154. Western Power has not incorporated clause A3.51(a) of the model standard access contract into the revised electricity transfer access contract. Western Power has, however, revised clause 9(a) of the electricity transfer access contract to provide for the requirement for a user to provide security to be determined by Western Power determining whether there is a material risk of the user being unable to meet its obligations under the access contract, and to remove the statement that no interest is payable by Western Power in the event that security is provided by means of prepayment. The Authority is satisfied that these revisions address the reasons for Draft Decision Amendments 88 and 89.
1155. Draft Decision Amendment 90 required that Western Power amend the proposed clause 9(b) of the proposed electricity transfer access contract to reproduce clause A3.51(b) of the model standard access contract without material omission or variation.
1156. Western Power has not incorporated clause A3.51(b) of the model standard access contract into the revised electricity transfer access contract. Western Power has, however, revised clause 9(a) of the electricity transfer access contract to provide for security offered against unpaid or unprovided capital contributions to be in the form of either a bank guarantee or an equivalent financial instrument that guarantees the present value of the unpaid or unprovided capital contributions. The Authority is satisfied that this revision addresses the reasons for Draft Decision Amendment 90.
1157. Draft Decision Amendment 91 required that Western Power amend the proposed clause 9(b) of the proposed electricity transfer access contract to reproduce clauses A3.52 and A3.53 of the model standard access contract without material omission or variation.
1158. Western Power has not incorporated revisions into the revised electricity transfer access contract that explicitly address the requirements of Draft Decision Amendment 91. Western Power has submitted to the Authority that the revised electricity transfer access contract provides for alternative forms of security to be determined through the provisions of clauses 9(a)(ii) and 9(c)

that provide for security to be provided either in the form of a bank guarantee or an equivalent financial instrument.

1159. The Authority has considered Western Power's submission and takes the view that the provision for security to be provided as an equivalent financial instrument to a bank guarantee effectively provides for a user to negotiate alternative forms of security, as contemplated by clauses A3.52 and A3.53 of the model standard access contract. Furthermore, the Authority considers that an absence of agreement of Western Power and a user on an equivalent financial instrument may constitute a dispute under an access contract. Accordingly, the Authority has determined not to persist with the requirement of Draft Decision Amendment 91.

Compliance with the Technical Rules

Proposed Access Arrangement

1160. Clause 11 of the proposed electricity transfer access contract dealt with requirements for Western Power and the user to comply with the Technical Rules applying from time to time to the SWIN under chapter 12 of the Access Code.

Draft Decision

1161. Clause 11 of the proposed electricity transfer access contract contained a number of provisions that are in addition to the provisions of clauses A3.61 to A3.63 of the model standard access contract that also deal with compliance with the Technical Rules. In particular, clause 11.2 required the user to bear its own costs and all reasonable Western Power costs related to the user's compliance with the Technical Rules.
1162. Clauses A3.62 and A3.63 of the model standard access contract establish that a user is not liable to a service provider for a breach of Technical Rules caused by the actions of another person, unless the user has been negligent or has not acted as a reasonable and prudent person (except if the breach is otherwise covered by provisions relating to direct damage and force majeure). The proposed electricity transfer access contract did not contain equivalent provisions.
1163. In its Draft Decision, the Authority determined that it was unreasonable that the electricity transfer access contract include a broad provision for the user to bear all reasonable Western Power costs related to the user's compliance with the Technical Rules. The Authority considered that this broad requirement does not take into account that the user may already have met the relevant costs of Western Power through payment of capital contributions.
1164. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 92

Western Power to delete Electricity Transfer Access Contract clause 11.2 (User to bear costs of technical rule compliance).

1165. The Authority gave consideration in the Draft Decision to Western Power's omission from the proposed electricity transfer access contract of clauses A3.62 and A3.63 of the model standard access contract. The Authority considered that the absence of these provisions would increase the risk of the user bearing liabilities for a breach of the Technical Rules that arise from the actions of a third party. Western Power had not provided any justification for this re-allocation of risk to the user and the Authority determined that the reallocation of risk to the user is unreasonable.
1166. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 95

Western Power to amend the Electricity Transfer Access Contract to include provisions which reproduce Model standard access contract clauses A3.62 and A3.63 (Actions of third parties causing user to breach Technical Rules) without material omission or variation.

Submissions from Interested Parties

1167. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1168. Western Power has incorporated amendments to clause 11 into the revised electricity transfer access contract as follows.

- 11.1 Western Power and the User must comply

Western Power and the User must each comply with the Technical Rules.

- 11.2 User to bear costs

~~The User shall bear its own and all reasonable Western Power costs related to the User's compliance with the Technical Rules.~~

(a) The User must bear its own costs in relation to compliance with the Technical Rules.

(b) Western Power must bear its own costs in relation to compliance with the Technical Rules.

(c) Notwithstanding clause 11.2(b), where an act or omission of the User causes Western Power to incur extra costs in order to ensure Western Power complies with the Technical Rules, the User shall bear Western Power's reasonable extra costs so incurred to the extent that such costs are not already payable by the User under the Capital Contributions Policy.

(d) Without limiting clause 11.2(c), where a User's equipment increases the fault levels in the Network, the User must bear Western Power's reasonable costs of any upgrades to the Network required under the Technical Rules to the extent that such costs are not already payable by the User under the Capital Contributions Policy.

(e) For the avoidance of doubt, the User is not liable for any costs incurred by another user of the Network arising from compliance by the other user with the Technical Rules.

- 11.3 Actions of third parties

(a) Subject to clause 6.3(e), if the actions of a third party cause a Party to breach the Technical Rules, then the Party is not in breach of clause 11.1 unless the Party has:

(i) been negligent; or

(ii) has not acted as a Reasonable and Prudent Person.

(b) Nothing in this clause 11.3 limits the operation of clauses 18.2 or 21 in respect of either Party.

Final Decision

1169. Western Power has not incorporated Draft Decision Amendment 92 into the revised electricity transfer access contract but has instead added new provisions in clauses 11.2 and 11.3. These new clauses have the effect of maintaining requirements for the user to meet costs of Western Power related to the user's compliance with the Technical Rules, but limiting these requirements to circumstances:

- where an act or omission of the user causes Western Power to incur extra costs in order to ensure Western Power complies with the Technical Rules, except where those costs are already met by the user under the capital contributions policy; and
- where a user's equipment increases the fault levels in the network and necessitates upgrades to the network and such costs are not already payable by the user under the capital contributions policy.

1170. The Authority accepts that these provisions limit the costs that may be payable by users to costs reasonably caused by the user and not otherwise payable by the user under the capital contributions policy. The Authority is therefore satisfied that the revised electricity transfer access contract addresses the reasons for Draft Decision Amendment 92.

1171. The new clause 11.3 in the revised electricity transfer access contract is materially the same as clauses A3.62 and A3.63 of the model standard access contract. The Authority is therefore satisfied that the revised electricity transfer access contract incorporates Draft Decision Amendment 95.

Technical Characteristics of Facilities and Equipment

Proposed Access Arrangement

1172. Clause 12 of the proposed electricity transfer access contract dealt with the technical characteristics of a user's facilities and equipment at a contracted point, obligations of the user to provide information to Western Power on these technical characteristics and an obligation of the user to apply to Western Power under the applications and queuing policy (and obtain approval) before making material modifications to the facilities and equipment.

1173. Western Power submitted:

A clause has been added to the SAC to ensure that the technical information provided in the original access application, and that the original access offer was based on, is captured in the contract. This clause also requires the user not to materially change their facilities and equipment without making an

application under the applications and queuing policy. This provision ensures that Western Power has available to it accurate information on the characteristics of the equipment connected to the network. This information improves the accuracy of planning studies undertaken to assess the integrity of the system. Also, a change in the characteristics of, in particular, generating plant can impact on the network in the same way as a capacity increase, and so might trigger augmentation or other measures, as may be associated with any other application.¹⁹⁹

Draft Decision

1174. There are no provisions in the model standard access contract equivalent to clause 12 of the proposed electricity transfer access contract.

1175. In its Draft Decision, the Authority determined that it is not reasonable for there to be a broad requirement for the user to make application under the applications and queuing policy for a modification of facilities and equipment. In particular, the Authority considered that this requirement is not reasonable where there are other means by which Western Power could obtain up-to-date information about the technical characteristics of facilities and equipment and where the modification does not give rise to a need for network augmentation.

1176. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 93

Western Power to amend Electricity Transfer Access Contract clause 12 (Technical characteristics of Facilities and Equipment) to delete the requirement in clause 12(b) for a user to make application under the applications and queuing policy before modifying facilities and equipment.

Submissions from Interested Parties

1177. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1178. Western Power has incorporated amendments to clause 12 into the revised electricity transfer access contract as follows.

12. Technical characteristics of Facilities and Equipment
 - (a) ~~The Parties must record in Schedule 3 any information that was required to be provided under the Applications and Queuing Policy, and that was provided by the User to Western Power, in its Application for a new Contracted Point, or an increase in Capacity at a Contracted Point, or a material change to the technical characteristics of Facilities and Equipment at a Contracted Point. [The Parties must record in Part 2 of Schedule 3:](#)~~
 - (i) [any technical information that the User was required to provide to Western Power under the Applications and Queuing Policy; and](#)

¹⁹⁹ Original access arrangement information, Appendix 10, page 8.

- (ii) any other information required to be recorded in the Contract by the Technical Rules.
- (b) The Parties must record in Part 3 of Schedule 3 any exemptions to the Technical Rules given to the User under Chapter 1 of the Technical Rules.
- (c) The User must not modify the Facilities and Equipment Connected at a Contracted Point to cause the characteristics of the Facilities and Equipment to be materially different from those recorded in Schedule 3 unless: The User must not materially modify any Generating Plant Connected at a Connection Point unless:
 - (i) the User makes an Application to do so under the Applications and Queuing Policy; and
 - (ii) the Application is processed by Western Power under the Applications and Queuing Policy, resulting in an Access Offer for the change, which the User accepted.

1179. Western Power submitted that the revisions to clause 12 limit the applicability of this clause to generators. Western Power further submitted that a new clause 10.3 of the applications and queuing policy provides for a clearer and more streamlined process for applications relating to modifications of facilities and equipment.²⁰⁰

1180. The new clause 10.3 of the revised applications and queuing policy is as follows.

10.3 Modification of generating plant

- (a) An applicant must make a connection application before materially changing any of those characteristics of generating plant connected at a connection point required to be provided in the applicable application form.
- (b) If the applicant signs an access offer in respect of the connection application, then the parties must amend the applicant's access contract accordingly.

Final Decision

1181. Western Power has not incorporated Draft Decision Amendment 93 into the revised electricity transfer access contract but has instead revised clause 12. Revisions to clause 12(c) (clause 12(b) of the proposed electricity transfer access contract) have the effect of limiting the requirement to make application for modification of facilities and equipment to circumstances where:

- the modification is to generating equipment; and
- the modification is material.

1182. The Authority accepts that clause 12(c) of the revised electricity transfer access contract has the effect of limiting the requirement to make applications for modifications of facilities and equipment to circumstances where there is a potential need for Western Power to augment the network or where Western Power's management of the network may otherwise be affected. The Authority is, therefore, satisfied that the revisions incorporated in the revised

²⁰⁰ Western Power Response to the Required Amendments in Part B of the Draft Decision (Detailed Response), Section 4, page 7.

electricity transfer access contract address the reasons for Draft Decision Amendment 93.

1183. Clauses 12(a) and 12(b) of the revised electricity transfer access contract were not made in response to any required amendment under the Draft Decision. The Authority is satisfied, however, that these revised clauses do not materially vary from provisions under the proposed electricity transfer contract.

Directions from System Operator

Proposed Access Arrangement

1184. Clause 15 of the proposed electricity transfer access contract dealt with obligations of both Western Power and the user to comply with directions from the system operator. This included provision under clause 15.2 for Western Power to carry out, at the user's cost, a direction made by the system operator to a user where the user does not comply with the direction and where Western Power is authorised to do so by the system operator.

Draft Decision

1185. There are no equivalent provisions in the model standard access contract to clause 15 of the proposed electricity transfer access contract.
1186. In its Draft Decision, the Authority determined that it is not reasonable for the electricity transfer access contract to make provision for Western Power to carry out, at the user's cost, a direction made by the system operator to a user where the user does not comply with the direction and where Western Power is authorised to do so by the system operator. The Authority noted that directions by the system operator are dealt with generally under the *Energy Operators (Powers) Act 1979* and particularly under section 63 of the *Electricity Corporations Act 2005* and considered that it is neither reasonable nor consistent with the requirements in section 5.3(b) of the Access Code for a standard access contract to contain a provision where the subject matter is adequately regulated through other instruments.
1187. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 94

Western Power to delete Electricity Transfer Access Contract clause 15.2 (If User does not comply with directions from System Operator).

Submissions from Interested Parties

1188. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1189. Western Power has deleted clause 15.2 from the revised electricity transfer access contract.

Final Decision

1190. By deletion of clause 15.2, the Authority is satisfied that Western Power has incorporated Draft Decision Amendment 94 in the revised electricity transfer access contract.

Service Provider Must Comply with Service Standards

Western Power's Proposal

1191. Clause A3.67 of the model standard access contract would require that a service provider must provide services to a user in accordance with the service standards. "Service standards" is defined in the model standard access contract as either agreed service standards set out in Schedule 2 of the access contract or, in the absence of any specified standard in the access contract, the service standards applying under the access arrangement.

1192. The proposed electricity transfer access contract contained no equivalent provision.

1193. Western Power submitted:

The MAC requires that the service provider be contractually bound to meet the relevant service standard for each service requested by a particular user. The service standard benchmarks specified in the access arrangement reflect targets for particular groups according to network configuration and location, and are not applicable on an individual user basis. Therefore any reference to the services standards has been removed from the SAC.²⁰¹

1194. Western Power provided the following further comments to the Authority:

... the reason for not including service standards in the SAC is that the standards specified are based on system averages (i.e. system-wide, overall performance benchmarks) and hence are not applicable to the performance of an individual service in a particular location for a particular user. Accordingly, the sanctions against Western Power for not meeting a particular service standard are framed by the proposed Service Standards Adjustment Mechanism (as approved by the ERA in the AA) and/or legislation, and not a separate condition duplicated in the individual access contract.

It is not appropriate to say that a particular user under its access contract would receive, for example, a time-of-use reference service at a SAIDI of 242 minutes (06/07 benchmark), because that implies that Western Power would be in default of that access contract if that user experienced a longer interruption time in respect of that reference service. Similarly, if Western Power does not satisfy a service standard for a particular reference service, which is determined on a system-wide basis, it would not be appropriate for Western Power to incur the statutory sanctions and also be in breach of contract with all users being supplied with that reference service.

The service standards proposed in our access arrangement are averaged across the system because the practicalities of operating an electricity network require system diversity to be [taken] into account. Compliance is, therefore, achieved through statutory sanctions, not contractual remedies.

²⁰¹ Original access arrangement information, Appendix 10, page 6.

...

In any event, since Service Standard Benchmarks are separately defined for each Reference Service, restating them in a SAC is effectively only a duplication which could possibly lead to some ambiguity of intent.²⁰²

Draft Decision

1195. In its Draft Decision, the Authority determined that the omission from the proposed electricity transfer access contract of clause A3.67 of the model standard access contract was unreasonable as the absence of an express provision in the electricity transfer access contract for users to individually negotiate service standards would potentially result in users being unaware of the option to do so.

1196. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 96

Western Power to amend the Electricity Transfer Access Contract to include a provision which reproduces Model standard access contract clause A3.67 (Service provider must comply with service standards) and Schedule 2 without material omission or variation.

Submissions from Interested Parties

1197. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1198. Western Power has not incorporated any revisions in the revised electricity transfer access contract in response to Draft Decision Amendment 96.

1199. In its submission to the Authority, Western Power has reiterated its reasons for omitting clause A3.67 of the model standard access contract from the electricity transfer access contract, in particular that the service standards established under the access arrangement do not apply at the level of the individual user. Western Power also submitted that the obligations for Western Power to meet service standards specified under the access arrangement are appropriately dealt with under relevant provisions of the Access Code rather than contractual arrangements with individual users.

Final Decision

1200. Western Power has not incorporated Draft Decision Amendment 96 in the revised electricity transfer access contract nor otherwise addressed the reasons of the Authority for requiring this amendment.

1201. By not including provisions materially the same as clause A3.67 of the model standard access contract, the revised electricity transfer access contract remains materially different to the model standard access contract.

²⁰² Email from Western Power to the Authority, 22 November 2005.

1202. The Authority has given further consideration to whether the electricity transfer access contract should include provisions that establish the service standard benchmarks under the access arrangement as service standards for an individual user, or provisions that allow the user to individually negotiate, under the standard access contract, particular service standards applying to the user.
1203. The Authority accepts Western Power's submission that the service standards established in the access arrangement and under section 5.6 of the Access Code represent standards that are to be achieved *on average* for particular parts of the network and that these standards cannot be applied to services provided to individual users.
1204. In regard to whether it is unreasonable for the electricity transfer access contract to exclude provision for users to individually determine service standards, the Authority notes that the electricity transfer access contract is a standard access contract for the provision of reference services at the reference tariffs. The reference tariffs are determined on the basis of forecasts of costs for the provision of services that, on average, meet the services standard benchmarks established under the access arrangement. The Authority considers that it would be inconsistent with the scheme of establishing reference services and reference tariffs for a user to be able to individually establish service standards that are potentially inconsistent with the service standard benchmarks established for the network and services generally. In the event that a user wishes to obtain a service with particular service standards, the Authority considers that this should be achieved by negotiating with Western Power for a non-reference service.
1205. Accordingly, the Authority accepts that omission of the provisions of clause A3.67 of the model standard access contract from the revised electricity transfer access contract is consistent with the requirements of section 5.3 of the Access Code.
1206. Taking the above matters into account, the Authority does not maintain the requirement for amendment of the electricity transfer access contract as required under Draft Decision Amendment 96.

Representations and Warranties

Proposed Access Arrangement

1207. Clause 17 of the proposed electricity transfer access contract dealt with representations and warranties.

Draft Decision

1208. The provisions of clause 17 were materially the same as the related clauses A3.68 to A3.70 of the model standard access contract, with the exception that the proposed electricity transfer access contract excluded a provision of clause A3.69 of the model standard access contract that contemplates the possibility of there being an indemnifier for the user.
1209. Under the model standard access contract, an indemnifier is a party who agrees to indemnify the service provider in respect of the specified user's liabilities. Clause A3.69 of the model standard access contract is a clause to

be completed, with instructions for completion set out in footnote 43 to the Access Code:

If there is to be an indemnifier, add a new clause under this heading: 'The indemnifier represents and warrants to service provider that as at the commencement date, there has been no material change in the indemnifier's financial position since the date service provider received information from the indemnifier stating that position.'

1210. In its Draft Decision, the Authority determined that the absence of provisions in the proposed electricity transfer access contract for statement of the representations and warranties of an indemnifier is unreasonable. The Authority considered that the absence of such provisions could create uncertainty as to the terms attaching to an indemnifier, should one be agreed between the parties to an access contract. Further, the absence of provisions that contemplate a role for an indemnifier could result in a barrier to entry to the electricity market for a user who may not have sufficient financial backing to enter the market, but may be able to obtain access with the backing of a third party indemnifier.

1211. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 97

Western Power to amend the Electricity Transfer Access Contract to include provisions that reproduce Model standard access contract Recital (d) and clause A3.69 (Indemnifier's representation and warranty) without material omission or variation.

Submissions from Interested Parties

1212. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1213. Western Power has incorporated a new clause 17.3 into the revised electricity transfer access contract as follows.

[17.3 Indemnifier's representations and warranties](#)

[The Indemnifier represents and warrants to Western Power that as at the Commencement Date, there has been no material change in the Indemnifier's financial position since the date Western Power received information from the Indemnifier stating that position.](#)

1214. Western Power has also incorporated revisions in the revised electricity transfer access contract that provide for an indemnifier to be a party to the access contract, a recital equivalent to recital (d) of the model standard access contract, and, in a number of clauses, for the indemnifier to indemnify Western Power in respect of potential liabilities of the User.²⁰³

²⁰³ Clause, 9, relating to security; clause 18, relating to liability and indemnity; and clause 20, relating to insurances.

Final Decision

1215. The Authority is satisfied that Western Power has incorporated Draft Decision Amendment 97 in the revised electricity transfer access contract.

Liability and Indemnity

Proposed Access Arrangement

1216. Clause 18 of the proposed electricity transfer access contract dealt with matters of liability and indemnity.

Draft Decision

1217. The provisions of this clause differed in a number of material respects from the related clauses A3.71 to A3.77 of the model standard access contract:

- the maximum amount of Western Power's liability to the user is established at \$10 million subject to annual escalation for inflation and re-negotiation after three years (clauses 18.5(a), (c), (d)), whereas the model standard access contract leaves this value to be established either under the access arrangement or by agreement between the parties to the access contract;
- the maximum amounts of the user's liability to Western Power are established as different values depending upon the nature of generation plants or consuming plants at the user's connection points, subject to annual escalation for inflation and re-negotiation after three years (clauses 18.5(b), (c), (d)), whereas the model standard access contract contemplates a single value being determined either under the access arrangement or by agreement between the parties to the access contract;
- indemnities given under the access contract would be deemed to extend to personnel, employees and visitors of the indemnifying party (clause 18.7), whereas no such extension would exist under the model standard access contract;
- insurances effected under the contract by either party have primacy over any contractual indemnity where the indemnity and insurance both apply to and cover the relevant claim (clause 18.11); and
- recoveries under insurance are deemed to have been paid against a claim for which the other party is, or may be, liable (clause 18.12), which is a matter not contemplated by the model standard access contract.

1218. In its Draft Decision, the Authority noted the large number of submissions from interested parties that addressed the limits on liability set out in the proposed electricity transfer access contract. These submissions addressed commercial issues relevant to the determination of appropriate limits on liability.

1219. The Authority indicated that footnotes 99 and 101 of the Access Code provide for the Authority to have discretion not to approve limits on liability established as part of the access arrangement, but rather to leave the determination of such caps for agreement between the individual parties, subject to arbitration.

1220. The Authority determined that it should not determine limits on liability where such a determination hinges on commercial matters, as opposed to matters of access to the network, but rather the limits on liability are more appropriately determined by negotiation between the parties to the access contract, with resort to arbitration if necessary.
1221. The Authority also determined that it would not be reasonable to include a clause in the electricity transfer access contract that establishes equivalent liability provisions for all users. The Authority considered that each user should be entitled to negotiate the relevant liability provisions in accordance with their individual requirements.
1222. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 98

Western Power to amend Electricity Transfer Access Contract clause 18.5 (Limitation of liability) to reproduce Model standard access contract clause A3.74 without material omission or variation such that the value of “x” is left to be inserted in the access contract by agreement between the parties or arbitrated award.

1223. In regard to the extension of indemnities given under the access contract to personnel, employees and visitors of the indemnifying party, the Authority determined that it is unreasonable that the electricity transfer access contract should potentially displace rights of employees or visitors under contracts of employment (in the case of employees) or common law (in the case of visitors) to recover losses from the indemnified party. The Authority also determined that it would be unreasonable if such extension of indemnity provided an inappropriate level of protection to employees or visitors that contributed to an indemnified loss.

Draft Decision Amendment 99

Western Power to delete Electricity Transfer Access Contract clause 18.7 (Extension of indemnity to personnel of a Party).

1224. In regard to the provision of clause 18.11 for primacy of insurances required to be held under the access contract to any contractual indemnity, the Authority considered that this provision is inconsistent with any established concepts of insurance law and would potentially be uncertain in its operation. The Authority accordingly determined the provision to be unreasonable.
1225. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 100

Western Power to delete Electricity Transfer Access Contract clause 18.11 (Insurances are primary).

1226. In regard to the provision of clause 18.12 for recoveries under insurance to be deemed to have been paid against a claim for which the other party is, or may be, liable, the Authority considered that the issue to which the clause appears to relate is the point in time at which a contingent liability of either party to pay an insurer under a right of subrogation is to be taken into account for the

purpose of calculating the total liabilities of that party in any given year. The approach reflected in the clause is that as soon as a party becomes contingently liable to an insurer to pay an amount in respect of a claim met by the insurer, that amount is deemed to be a liability for the year in question.

1227. The Authority considered clause 18.12 to be reasonable, with the exception that the clause refers not only to situations where a party “is” liable but also situations where that party “may be” liable. The inclusion of the words “may be” was considered by the Authority to bring in uncertainty that could result in the clause operating unreasonably. The Authority considered that this uncertainty could be removed by Western Power confining this clause to situations where it is certain that the party in question is liable (albeit has not yet met a subrogated claim by the insurer).
1228. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 101

Western Power to amend Electricity Transfer Access Contract clause 18.12 (Recoveries under Insurance) by deleting the words “or may be liable”.

Submissions from Interested Parties

1229. Submissions from Newmont Australia Limited, Alinta Sales Pty Ltd and Synergy addressed the Authority’s Draft Decision determination in respect of limits on liability. Relevant parts of these submissions are reproduced as follows.

1230. Newmont Australia Limited submitted:

We note ERA’s preference to “exercise the discretion to leave the matter for determination by commercial negotiation and, if necessary, arbitration in accordance with the Access Code.”

However, we consider this issue could represent a significant barrier to entry, and at best increases the time required to finalise new access agreements with Western Power. The inequitable drafting of the current proposal by Western Power does not auger well for future individual negotiations with Western Power. As you would be aware, liabilities of this nature are of key concern to project financiers, causing potential project delays while unresolved.

1231. Alinta Sales Pty Ltd submitted:

In the Draft Decision, the ERA considers that Western Power should amend clause 18.5 of the Electricity Transfer Access Contract (Transfer Contract) to delete the specified limitations of liability amounts for Western Power and users. The ERA considers that each user should be entitled to negotiate the relevant liability provisions in accordance with their individual requirements.

Alinta is disappointed that the ERA did not utilise its discretion under the Access Code to prescribe specific caps on the liability of Western Power and users under the Transfer Contract. The limits on a user’s and Western Power’s liability are very important to users. It will provide certainty to users if the ERA specifies those limits or, if that is not possible, it will provide some guidance as to how the limits of liability will be determined.

Further, the ERA states in paragraph 1262 of the Draft Decision that if Western Power and a user cannot agree on each party’s limit of liability, the limits will be

determined by an arbitrated award under the dispute resolution provisions of the Access Code. Alinta considers that it would reduce the need for the parties to invoke the dispute resolutions provisions if the ERA specified the limits on liability or provides guidance on the limits.

Alinta notes that Western Power has historically had near (if not absolute) monopoly power in the Western Australian electricity transmission market, and today continues to exercise a significant degree of market power. This means that if the limitation of liability amounts are not specified in the Transfer Contract, users will be left in the difficult position of having to agree terms and conditions with an entity in a much stronger bargaining position than the users. In Alinta's view, this is contrary to the expectation of users that the access Arrangement (and particularly the Transfer Contract) will allow them to enter into a standard term contract with Western Power on reasonable terms that have been approved by the ERA.

1232. Synergy submitted:

Synergy notes the ERA's position that agreeing liability limits is a commercial matter to be negotiated between the user and Western Power Networks and as a result the ERA has elected to exercise its discretion not to determine liability caps.

While this position is consistent with the Access Code, Synergy is concerned about how this will work in practice. In particular, Synergy notes the disproportionality (*sic*) in the ETAC between Western Power Networks' liability, capped at \$10 million in every circumstance, and that for users, which is up to five times higher. Despite the ETAC being amended to reflect the ERA's position Synergy is concerned that Western Power will maintain its \$10 million cap in respect of its liability irrespective of any discussion about whether this reflects a fair and equitable outcome for the both parties. Synergy submits that in some circumstances the resultant access contract could be unreasonable to the user. Accordingly, Synergy suggests the ERA assess the merit of the following.

Synergy proposes clauses 18.2 and 18.3 of the Electricity Transfer Access Contract, which deal with limitations of liability, should be replaced with the following clauses (clause 18.4 to remain).

18.2 Liability

Subject to the terms of this Contract (including clause 18.3), a Party who:

- (a) is negligent; or
- (b) commits a default,

is liable to the other Party for, and must indemnify the other Party against, any damage caused by, consequent upon or arising out of the negligence or Default.

18.3 Exclusion of Liability

- (a) Subject to clauses 18.3(b), 18.3(c) and 18.4:
 - (i) the User is not in any circumstance liable to Western Power for any Indirect Damage suffered by Western Power, however arising; and
 - (ii) Western Power is not in any circumstances liable to the User for any Indirect Damage suffered by the User, however arising.
- (b) Each Party is liable to the other for the following types of loss and damage, however arising, including under the Metering Agreement:
 - (i) Direct Damage;
 - (ii) lost revenue (whether Indirect Damage or Direct Damage); and
 - (iii) Balancing Costs.

- (c) Where this Contract states that “the exclusion of Indirect Damage in clause 18.3(a) does not apply”, or words to a similar effect, in relation to a matter, then:
 - (i) the exclusion of Indirect Damage in clause 18.3(a) does not apply in relation to that matter; and
 - (ii) the Parties’ liability in relation to the matter is to be determined by Law, and to avoid doubt, the definition of Indirect Damage is to be disregarded for the purposes of that determination.

The following consequential change to the definitions needs to be included in clause 1.1:

“Default, in relation to a Party, has the meaning given to it in clause 26.1 and also includes a breach of the Metering Agreement by that Party.”

Synergy proposes the above amendments on the basis that they protect the interests of all Users and also to ensure the correct incentives exist for Western Power to take proper care in providing services. Without real liability attaching to the conduct of Western Power, there is no incentive to perform correctly.

In order to create the correct incentive, the proposed amendments make Western Power liable for the lost revenue of the User. Given the nature of the contracting parties, the main loss that retailers (such as Synergy) and other consumers of electricity suffer is the lost revenue from a failure of the network or a failure to properly read a meter.

On the basis of the ERA’s recommendation, Synergy has prepared the amendments on the basis that the exclusion of liability in a metering agreement will be dealt with under the access contract. Consequential amendments to the standard proposed Metering Agreement will also be required to ensure consistency (clause 8.1 of the Metering Agreement will need reflect this approach).

Liability Cap

Synergy proposes the following clause to replace clause 18.5 of the ETAC.

18.5 Liability Cap

- (a) The maximum liability of Western Power to the User in any Financial Year under this Contract and the Metering Agreement (including for a failure to provide the Metering Services in accordance with the Metering Agreement) is limited to the Annual Liability Cap in respect of Claims arising from an event or occurrence in that Financial Year.
- (b) The maximum liability of the User to Western Power in any Financial Year under this Contract and the Metering Agreement is limited to the Annual Liability Cap in respect of Claims made arising from an event or occurrence arising in that Financial Year.
- (c) The Parties acknowledge that an event or occurrence arises at the time that the relevant cause of action accrues.

The following consequential definitions also need to be included in clause 1.1:

“Annual Liability Cap means \$25 million CPI Adjusted at the start of the relevant Financial Year.”

“Financial Year means the 12 month period from 1 July in a Year to 30 June of the next Year.”

“Metering Agreement means any agreement for the provision of metering services by Western Power to the User.”

“Metering Services means the services provided by Western Power to the User under the Metering Agreement.”

Synergy has proposed the above amendments to the liability cap to ensure that users are treated equally with Western Power under the access contract.

As the largest retailer in the State, Synergy has determined the dollar figure on the basis of an appropriate pre-estimate of the losses that it could potentially suffer from a default by Western Power.

Revised Proposed Access Arrangement

1233. Western Power has incorporated changes to clause 18 in the revised electricity transfer access contract as follows.

18. Liability and indemnity

18.1 No several liability

All parties constituting the User shall be liable under this Contract jointly, or jointly and severally, but not severally.

18.2 Liability for Direct Damage

Subject to the terms of this Contract:

(a) a Party who

(i)~~(a)~~ is negligent; or

(ii)~~(b)~~ commits a Default under this Contract,

is liable to the other Party for, and must indemnify the other Party against, any Direct Damage caused by, consequent upon or arising out of the negligence or Default; and

(b) The Indemnifier must indemnify Western Power in respect of the liabilities of the User under this Contract.

18.3 Exclusion of Indirect Damage

(a) Subject to clause 18.3(b):

(i) either or both of the User or the Indemnifier is not in any circumstances liable to Western Power for any Indirect Damage suffered by Western Power, however arising; and

(ii) Western Power is not in any circumstances liable to either or both of the User or the Indemnifier for any Indirect Damage suffered by the User, however arising.

(b) Where this Contract states that “the exclusion of Indirect Damage in clause 18.3 does not apply“, or words to a similar effect, in relation to a matter, then:

(i) the exclusion of Indirect Damage in clause 18.3 does not apply in relation to that matter; and

(ii) the Parties’ liability in relation to the matter is to be determined by Law, and to avoid doubt the definition of Indirect Damage in this Contract is to be disregarded for the purposes of that determination.

18.4 Fraud

~~A Party who is fraudulent in respect of its obligations to the other Party under this Contract, is liable to the other Party for, and is to indemnify the other Party against, any damage caused by, consequent upon or arising out of the fraud. In this case, the exclusion of Indirect Damage in clause 18.3 does not apply.~~

(a) If Western Power is fraudulent in respect of its obligations to the User under this Contract, then Western Power is liable to either the User or the Indemnifier for, and is to indemnify both the User and the Indemnifier against, any damage caused by, consequent upon or arising out of the

fraud. In this case, the exclusion of Indirect Damage in clause 18.3 does not apply.

(b) If the User or the Indemnifier is fraudulent in respect of its obligations to Western Power under this Contract, then the User or the Indemnifier is liable to Western Power for, and is to indemnify Western Power against, any damage caused by, consequent upon or arising out of the fraud. In this case, the exclusion of Indirect Damage in clause 18.3 does not apply.

18.5 Limitation of liability

(a) Subject to clause 18.5(c), the maximum liability of Western Power to the User and the Indemnifier collectively under and in connection with this Contract is limited to an amount of \$5 million ~~-\$10 million~~ in the aggregate and refreshed annually each 1 July, except that the indemnities and liabilities ~~liability~~ described in clause 19 is not counted for the purposes of Western Power's maximum liability under this Contract.

(b) Subject to clause 18.5(c), the maximum liability of both the User and the Indemnifier collectively to Western Power under and in connection with this Contract is limited to the sum of:

(i) for each Connection ~~Contracted~~ Point at which Generation Plant (other than wind or solar powered generation) is Connected to ~~the Network~~ at a voltage of 66 kV ~~132kV~~ and above - \$20 million ~~\$50 million~~ in the aggregate, refreshed annually each 1 July; and

(ii) for each Connection ~~Contracted~~ Point at which wind or solar powered Generation Plant is Connected at a voltage of 66 kV ~~132kV~~ or above - \$10 million ~~\$20 million~~ in the aggregate, refreshed annually each 1 July; and

(iii) for each Connection ~~Contracted~~ Point at which Generation Plant is Connected at a voltage below 132 kV ~~66 kV~~ - \$1 million ~~\$10 million~~ in the aggregate, refreshed annually each 1 July; and

(iv) for each Connection ~~Contracted~~ Point at which Consuming Plant is Connected at a voltage of 132 kV ~~66 kV~~ and above - \$5 million ~~\$10 million~~ in the aggregate, refreshed annually each 1 July; and

(v) for every 100 Connection ~~Contracted~~ Points at which Consuming Plant is Connected at a voltage below 132 kV ~~66 kV~~ - \$1 million ~~\$5 million~~ in the aggregate, refreshed annually each 1 July,

except that the liabilities described in clause 19 are not counted for the purposes of both the User's and the Indemnifier's collective maximum liability under this Contract.

(c) The maximum liability amounts applicable under clauses 18.5(a) and 18.5(b) shall be CPI-Adjusted annually each 1 July.

(d) At the end of each period of 3 years from the Commencement Date, the Parties shall negotiate in good faith to re-set the maximum liability amounts applicable under clauses 18.5(a) and 18.5(b) having regard for any relevant changed circumstances in that period. If the Parties are unable to agree on re-setting of the maximum liability amounts, the matter shall be determined as a Dispute. The resolver of the Dispute is required to consider any changed circumstances during the period and adjust the maximum liability limit the subject of the Dispute to a reasonable limit, first having regard to the maintenance of the existing limit and then reducing or increasing the limit by reason of any relevant changed circumstances found to have occurred.

18.6 Procedure for party seeking to rely on indemnity

If any Claim is made or instituted against a Party in respect of which that Party (~~"Indemnified Party"~~) ~~may seek to claim indemnity under this Contract against the other Party ("Indemnifying Party"):~~

- ~~(a)~~ either or both of the User or the Indemnifier in respect of which either or both of the User or the Indemnifier ("Indemnified Party") may seek to claim indemnity under this Contract against Western Power ("Indemnifying Party"); or
- ~~(b)~~ Western Power in respect of which Western Power ("Indemnified Party") may seek to claim indemnity under this Contract against either or both of the User or the Indemnifier ("Indemnifying Party").

the following procedure applies:

- ~~(c)~~~~(a)~~ the Indemnified Party must give notice of the Claim to the Indemnifying Party as soon as reasonably practicable; and
- ~~(d)~~~~(b)~~ the Indemnified Party must not admit, compromise, settle or pay any Claim or take any other steps which may in any way prejudice the defence or challenge of the Claim without the prior written consent of the Indemnifying Party (which must not be unreasonably withheld) except as may be reasonably required in order to defend any judgment against the Indemnified Party (to avoid doubt, Part 1E of the Civil Liability Act 2002 applies in respect of any 'apology' (as defined in Section 5AF of that Act) given by the Indemnified Party); and
- ~~(e)~~~~(c)~~ the Indemnified Party must permit the Indemnifying Party to take, at the Indemnifying Party's expense, any reasonable action in the name of the Indemnified Party to defend or otherwise settle the claim as the Indemnifying Party may reasonably require; and
- ~~(f)~~~~(d)~~ the Indemnified Party must ensure that the Indemnifying Party and its representatives are given reasonable access to any of the documents, records, staff, premises and advisers of the Indemnified Party as may be reasonably required by the Indemnifying Party in relation to any action taken or proposed to be taken by the Indemnifying Party under clause 18.6(e).

~~18.7 Extension of indemnity to personnel of a Party~~

- ~~(a)~~ ~~Each indemnity given under this Contract by the Indemnifying Party will be deemed to extend to, and be for the benefit of, the Workers and Visitors of the Indemnified Party.~~
- ~~(b)~~ ~~Each Indemnified Party holds the benefit of the indemnities under this Contract given by the Indemnifying Party for themselves and on trust for the Workers and Visitors of the Indemnified Party.~~

18.78 Obligation to pay and right to indemnities survives termination

- (a) A Party's and the Indemnifier's obligation to pay an amount to another Party under this Contract is a continuing obligation, separate and independent from the other obligations of either or both of the Party and the Indemnifier and survives termination (for any reason) of this Contract.
- (b) Each indemnity in this Contract is a continuing obligation, separate and independent from the other obligations of both the Parties and the Indemnifier and survives termination (for any reason) of this Contract. It is not necessary for either or both of a Party or an Indemnifier to incur expense or make payment before enforcing a right of indemnity conferred by this Contract.

18.89 Apportionment of liability

~~For the avoidance of doubt, where a Party is liable to, or is to indemnify, the other Party under this Contract, the liability or indemnity owed by the Party is limited to the proportion of the damage suffered by the other Party as a consequence of the Default, negligence or fraud of the Party giving rise to the liability or indemnity.~~

(a) For the avoidance of doubt, where either or both of the User or the Indemnifier is liable to, or is to indemnify, the other Party under this Contract, the liability or indemnity owed by either or both of the User or the Indemnifier is limited to the proportion of the damage suffered by Western Power as a consequence of the Default, negligence or fraud of the either or both of the User or the Indemnifier giving rise to the liability or indemnity.

(b) For the avoidance of doubt, where Western Power is liable to, or is to indemnify, either or both of the User or the Indemnifier under this Contract, the liability or indemnity owed by Western Power is limited to the proportion of the damage suffered by either or both of the User or the Indemnifier as a consequence of the Default, negligence or fraud of Western Power giving rise to the liability or indemnity.

18.9~~10~~Mitigation of losses

A Party and the Indemnifier must take such action as is reasonably required to mitigate any loss or damage to it for which indemnity may be claimed under this Contract or otherwise.

18.11 ~~Insurances are primary~~

~~The insurances effected by either Party under clause 20 shall be primary to any contractual indemnity under this Contract where the indemnity and insurance both apply to and cover the relevant Claim.~~

18.10~~2~~Recoveries under Insurance

~~To the extent that a Party recovers against any insurer under an insurance policy effected by either Party for a Claim in connection with this Contract in respect of which the other Party is, or may be liable, for any reason (including negligence), the amount as recovered shall, for the purposes of clause 18.5, be deemed to have been paid.~~

(a) To the extent that Western Power recovers against any insurer under an insurance policy effected by either Party or the Indemnifier for a Claim in connection with this Contract in respect of which either or both of the User or the Indemnifier is liable, for any reason (including negligence), the amount as recovered shall, for the purposes of clause 18.5, be deemed to have been paid.

(b) To the extent that the User recovers against any insurer under an insurance policy effected by either Party or the Indemnifier for a Claim in connection with this Contract in respect of which Western Power is liable, for any reason (including negligence), the amount as recovered shall, for the purposes of clause 18.5, be deemed to have been paid.

Final Decision

1234. Draft Decision Amendment 98 required Western Power to amend clause 18.5 of the electricity transfer access contract to allow limits to liability to be determined by negotiation between the parties to the access contract.

1235. Western Power has not incorporated this amendment into the revised electricity transfer access contract, but has revised clause 18.5 to include different values for the limits on liability, including a reduction in Western Power's maximum liability to a user from \$10 million to \$5 million and,

reductions in the maximum liabilities of the user to Western Power. The various classes for the specification of limits on liability for users have also been amended from being separated by a 132 kV threshold to a 66 kV threshold. In its submission to the Authority, Western Power has indicated that it reduced the limits on liability subsequent to undertaking a risk analysis workshop and changed the various classes for the specification of limits on liability for users in accordance with the delineation between transmission and distribution under the Access Code.

1236. The Authority considers that there are two matters for determination in relation to the specification of limits on liability: whether the limits on liability should be specified in the electricity transfer access contract that forms part of the access arrangement and, if so, whether the limits on liability set out by Western Power in the revised electricity transfer access contract are reasonable and accord with section 5.3 of the Access Code.
1237. In consideration of the proposed and revised electricity transfer access contract, the Authority is required to have regard to the model standard access contract. Clause A3.74 of the model standard access contract and footnotes 99 and 101 of the Access Code provide for limits on liability to be established as part of the standard access contract or, to the extent that the Authority approves, for the limits on liability to be left to be determined by agreement between the parties to the access contract or by arbitrated award.
1238. Subsequent to the Draft Decision, Western Power has maintained its proposal to specify limits on liability as part of the electricity transfer access contract rather than leaving these limits as a matter for determination by the parties to an access contract. Submissions made by users both prior to and subsequent to the Draft Decision have supported this. Taking into account Western Power's proposal and the submissions from users, the Authority considers that it is reasonable and consistent with the requirements for section 5.3 of the Access Code for the electricity transfer access contract to specify the limits on liability.
1239. The Authority has therefore considered whether the values of limits on liability set out by Western Power in the revised electricity transfer access contract are reasonable.
1240. The Authority has only limited information in submissions from Western Power and users of the SWIN that may be applied to the question of whether the limits on liability proposed by Western Power are reasonable. The Authority notes that the access regime for electricity networks in Western Australia is the only access regime for electricity networks in Australia under which standard terms and conditions for access are subject to regulatory approval. As such, there are no precedents on limits of liability under regulated terms and conditions for access to other electricity networks.
1241. In submissions on the proposed access arrangement, some users indicated that the limits on a user's liability were excessively high and there was an unreasonable disparity between the limits on liability of Western Power and the (higher) limits on liability of users. Of those users that made submissions to the Authority on the values of limits on liability, only Synergy (in its submission made subsequent to the Draft Decision) proposed alternative limits on liability, being limits of \$25 million for both Western Power and a user for any event and in any financial year.

1242. In the revised electricity transfer access contract, Western Power has reduced the limits on liability for both itself and users relative to the limits set out in the proposed electricity transfer access contract, although the disparity remains between the limits on liability for Western Power and for users. The limits on liability proposed by Western Power are less than the limits suggested by Synergy for both Western Power and users.
1243. Taking into account the reduction in limits on liability in the revised electricity transfer access contract and the absence of substantive submissions from users that would provide the Authority with reason to question these limits, the Authority has no reason to consider the limits on liability proposed by Western Power to be unreasonable. Accordingly, the Authority has determined that the limits on liability set out in the revised electricity transfer access contract are reasonable and in accordance with section 5.3 of the Access Code.
1244. Draft Decision Amendment 99 required Western Power to delete clause 18.7 of the proposed electricity transfer access contract, relating to extension of indemnity to personnel of a party to the access contract. This clause has been removed from the revised electricity transfer access contract and, accordingly, the Authority is satisfied that the revised electricity transfer access contract incorporates Draft Decision Amendment 99.
1245. Draft Decision Amendment 100 required Western Power to delete clause 18.11 of the proposed electricity transfer access contract, relating to the primacy of insurances held under the access contract over any contractual indemnity. This clause has been removed from the revised electricity transfer access contract and, accordingly, the Authority is satisfied that the revised electricity transfer access contract incorporates Draft Decision Amendment 100.
1246. Draft Decision Amendment 101 required Western Power to amend clause 18.12 of the revised electricity transfer access contract by deleting the words “or may be liable”, in respect of recoveries under insurance. Western Power has amended this clause (clause 18.10 of the revised electricity transfer access contract) to remove this phrase. The Authority is therefore satisfied that the revised electricity transfer access contract incorporates Draft Decision Amendment 101.
1247. Western Power has made a number of changes to clause 18 of the electricity transfer access contract that are in addition to the changes necessary to address the requirements of Draft Decision Amendments 98 to 101. These changes relate generally to including provision for an indemnifier to be a party to the electricity transfer access contract. The Authority is satisfied that these changes are related to, and meet the requirements of, Draft Decision Amendment 97 (addressed at paragraph 1207 and following of this Final Decision).
1248. In its submission on the Draft Decision, Synergy has indicated that explicit liabilities should include liabilities for loss or damage occurring as a result of lost revenue (whether through indirect damage or direct damage) and balancing costs, including losses or damages under any agreement for metering (i.e. the provision of metering services by Western Power to a retailer).

1249. Clause A3.73 of model standard access contract would provide for neither the service provider or user to be liable for indirect damages, including consequential losses, except where explicitly provided for under the access contract or determined by law. The liability provisions of the revised electricity transfer access contract are consistent with the model standard access contract in this respect and, accordingly, the Authority considers that the relevant liability provisions are consistent with the requirements of section 5.3 of the Access Code.

Personal injury to Western Power's Personnel or User's Personnel

Proposed Access Arrangement

1250. Clause 19 of the proposed electricity transfer access contract dealt with matters of liability and indemnity relating to personal injury including provisions for:

- each party to indemnify the other in respect of any personal injury claims made by the first party's workers or visitors arising out of, or in connection with, the access contract (clause 19.1); and
- for any other personal injury, for the liability for any claims to be determined by law.

1251. Western Power submitted:

The SAC provides that each Party indemnifies the other party for personal injury of its workers, however caused. This reflects standard industry practice and is particularly relevant because contracted points often have joint electrical isolation procedures with each Party relying on the other in some measure to effect safe isolation. This indemnity is not included in the limit of liability.²⁰⁴

Draft Decision

1252. The model standard access contract does not include provisions equivalent to clause 19 of the proposed electricity transfer access contract.

1253. In its Draft Decision, the Authority determined that the provisions of clause 19.1 of the proposed electricity transfer access contract are unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code. The Authority determined that these provisions are inconsistent with usual practice in the electricity industry and would potentially have the effect of extinguishing a party's rights under section 93 of the *Workers' Compensation and Rehabilitation Act 1981* to recover any workers' compensation payments from any third party whose fault caused or contributed to an injury.

²⁰⁴ Access arrangement information, Appendix 10, page 9.

1254. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 102

Western Power to delete Electricity Transfer Access Contract clause 19.1 (Personal injury to Western Power's Personnel or User's Personnel) and the reference to Electricity Transfer Access Contract clause 19.1 in Electricity Transfer Access Contract clause 19.2.

Submissions from Interested Parties

1255. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1256. Western Power has incorporated revisions in clause 19 of the revised electricity transfer access contract as follows.

19. Personal injury

~~19.1 Personal injury to Western Power's Personnel or User's Personnel~~

~~(a) Western Power will be solely responsible for and must indemnify the User in respect of any personal injury Claim made by any of Western Power's Workers or Visitors, arising out of or in connection with this Contract.~~

~~(b) The User will be solely responsible for and must indemnify Western Power in respect of any personal injury Claim made by any of the User's Workers or Visitors, or a Controller's Workers or Visitors, where that Controller has not entered into a Connection Contract with Western Power, arising out of or in connection with performance of this Contract.~~

~~19.2 Personal Injury to others~~

~~The liability for any personal injury For any personal injury Claim which is not covered by clause 19.1, the liability for any such Claim will be determined by Law.~~

Final Decision

1257. The Authority is satisfied that Western Power has incorporated revisions into the revised electricity transfer access contract in accordance with the requirements of Draft Decision Amendment 102.

Precedence of Codes and Policies

Proposed Access Arrangement

1258. Clause 22 of the proposed electricity transfer access contract dealt with the precedence of the electricity transfer access contract, policies under the access arrangement, codes established under the *Electricity Networks Access Code*, the applications and queuing policy, and the Technical Rules.

1259. Western Power submitted:

The access arrangement is being submitted at a time of considerable regulatory change, with the introduction of various new codes and regulations under the Act. Several of these new pieces of legislation will specifically relate to the services being provided under the SAC. Therefore, Western Power has expanded the MAC provision relating to meeting relevant obligations under the Customer Transfer Code to ensure that this legislation and other parts of the access arrangement take precedence over the SAC when there is a conflict.²⁰⁵

Draft Decision

1260. The model standard access contract does not include provisions equivalent to clause 22 of the proposed electricity transfer access contract, although clause A3.26 of the model standard access contract indicates that provisions of the access arrangement in respect of supplementary matters (balancing, line losses, metering, ancillary services, stand-by, trading and settlement) would apply as terms of the access contract to the extent that they are expressed to do so.
1261. In its Draft Decision, the Authority took the view that the hierarchy of, and relationship between, instruments under the Access Code and relevant parts of the access arrangement are dealt with by the Access Code and the access arrangement generally. Potential inconsistencies between clause 22 and other instruments would potentially cause ambiguity in an access contract. The Authority determined that, with the exception of clause 22.3 that relates to supplementary matters, the provisions of clause 22 could cause ambiguity in the precedence of instruments and prevent the electricity transfer access contract being a workable contract, contrary to the requirements of section 5.3(b) of the Access Code.
1262. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 103

Western Power to delete Electricity Transfer Access Contract clauses 22.1, 22.2, 22.4 and 22.5 (Precedence of codes and policies).

Submissions from Interested Parties

1263. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1264. Western Power has incorporated revisions in clause 22 of the revised electricity transfer access contract that deleted clauses 22.1, 22.2, 22.4 and 22.5.

Final Decision

1265. The Authority is satisfied that Western Power has incorporated revisions into the revised electricity transfer access contract in accordance with the requirements of Draft Decision Amendment 103.

²⁰⁵ Access arrangement information, Appendix 10, page 10.

Curtailment

Proposed Access Arrangement

1266. Clause 24 of the proposed electricity transfer access contract dealt with curtailment of services.

Draft Decision

1267. The provisions of clause 24 of the proposed electricity transfer access contract were materially different from the corresponding clauses A3.27 to A3.30 of the model standard access contract in several respects:

- Clause A3.27(b) of the model standard access contract would provide for curtailment “to carry out unplanned maintenance to the network where the service provider considers it necessary to do so to avoid injury to any person or material damage to any property or the environment”, while clause 24.1(b) of the proposed electricity transfer access contract provided for curtailment “where Western Power considers it necessary to do so or to avoid injury ... etc.”.
- Clause A3.27(c) of the model standard access contract would provide for curtailment “in the event of breakdown of or damage to the network that affects the service provider’s ability to provide services at that connection point”, while clause 24.1(c) of the proposed electricity transfer access contract provided for curtailment in the event of “any breakdown of or damage to the Network that affects Western Power’s ability to provide Services at that or any other Contracted Point”.
- Clause A3.29 of the model standard access contract would require that the service provider must use reasonable endeavours to notify a user of any curtailment as soon as practicable, while clause 24.3 of the proposed electricity transfer access contract provided for a different notification regime: first, where the curtailment arises from planned network augmentation or maintenance, or in order to comply with a law, Western Power must use reasonable endeavours to notify the user a reasonable time before the curtailment; and second, in all other cases, Western Power is obliged to use reasonable endeavours to notify the user as soon as possible after the curtailment is initiated.

1268. The Authority considered that the addition of the word “or” in clause 24.1(b) of the proposed electricity transfer access contract would materially widen Western Power’s ability to curtail for unplanned system maintenance, relative to clause A3.27(b) of the model standard access contract. The Authority considered that this wider provision for curtailment is unreasonable and inconsistent with the requirement of section 5.3(a) of the Access Code.

1269. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 104

Western Power to amend Electricity Transfer Access Contract clause 24.1(b) (Curtailment for unplanned system maintenance) to delete the word “or” after the words “necessary to do so” in the second line.

1270. The Authority considered that the provision under clause 24.1(c) of the proposed electricity transfer access contract for Western Power to curtail services where a breakdown or damage to the network affects Western Power's ability to provide services at "any other contracted point", rather than just the "connection point" at which a breakdown occurs, is unnecessary. In the interests of safety, Western Power is already entitled to curtail as per emergency provisions in section 57 of the *Energy Operators (Powers) Act 1979*, and section 62 of the *Electricity Corporations Act 2005*. The Authority considered that this wider provision for curtailment is unreasonable and inconsistent with the requirement of section 5.3(a) of the Access Code.
1271. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 105

Western Power to amend Electricity Transfer Access Contract clause 24.1(c) (Curtailment in the event of a breakdown) to delete the words "or any other" appearing before the words "Contracted Point" in the second line.

1272. The Authority considered that the notification regime under clause 24.3 of the proposed access arrangement is unreasonable and inconsistent with the requirement of section 5.3(a) of the Access Code as it would not require Western Power to give notification of a curtailment "as soon as practical" for all causes of the curtailment.
1273. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 106

Western Power to amend Electricity Transfer Access Contract clause 24.3 (Notification of curtailment) to reproduce Model standard access contract clause A3.29 without material omission or variation.

Submissions from Interested Parties

1274. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1275. Western Power has incorporated revisions in clause 24 of the revised electricity transfer access contract as follows.

24. Curtailment

24.1 Western Power may Curtail Services

Western Power may, in accordance with Good Electricity Industry Practice, Curtail the provision of Services in respect of a [Connection Contracted Point](#):

- (a) to carry out planned Augmentation or Maintenance to the Network; or
- (b) to carry out unplanned Maintenance to the Network where Western Power considers it necessary to do so or to avoid injury to any person or material damage to any property or the environment; or

- (c) if there is any breakdown of or damage to the Network that affects Western Power's ability to provide Services at that [Connection Point](#) ~~or any other Contracted Point~~; or
 - (d) if a Force Majeure Event occurs affecting Western Power's ability to provide Services at the Connection Point, for so long as Western Power's ability to provide Services is affected by the Force Majeure Event; or
 - (e) to the extent necessary for Western Power to comply with a Law.
- 24.2 Extent of Curtailment
- Western Power must keep the extent and duration of any Curtailment under clause 24.1 to the minimum reasonably required in accordance with Good Electricity Industry Practice.
- 24.3 Notification of Curtailment
- [Western Power must use reasonable endeavours to notify the User of any Curtailment under clause 24.1 as soon as practicable.](#) ~~Except where the Curtailment is planned to occur for the purposes described in clause 24.1(a) or 24.1(e), in which case Western Power must use reasonable endeavours to notify the User of the proposed Curtailment a reasonable time before it occurs, Western Power must use reasonable endeavours to notify the User of any Curtailment under clause 24.1 as soon as practicable after it is initiated.~~
- 24.4 User must comply with Curtailment
- If Western Power notifies the User of a Curtailment of services under clause 24.3 in respect of a Connection Point, the User (acting as a Reasonable and Prudent Person) must comply, or procure compliance, with any reasonable requirements set out in the notice concerning the Curtailment.
- 24.5 Contract does not limit other powers and rights
- This Contract does not limit any power or right conferred on Western Power by any other agreement between the Parties or any Law, including Section 57 of the Energy Operators (Powers) Act 1979.

Final Decision

1276. The Authority is satisfied that Western Power has incorporated revisions into the revised electricity transfer access contract in accordance with the requirements of Draft Decision Amendments 104, 105 and 106.

Augmentations & Capital Contributions

Proposed Access Arrangement

1277. Clause 25 of the proposed electricity transfer access contract dealt with obligations of Western Power and the user in relation to augmentation works necessary to provide the user with the service and payment for these works by way of capital contributions.

1278. Clause 25.1 of the proposed electricity transfer access contract provided that, where an interconnection works agreement has been entered into, this agreement will govern the terms and conditions relating to any network augmentation. Clause 25.2 of the proposed electricity transfer access contract provided that, where no interconnection works agreement has been entered into in respect of a network augmentation, schedule 4 to the electricity transfer

access contract must be completed. Schedule 4 to the electricity transfer access contract makes provision for the parties to set out the agreed terms and conditions on a number of specified matters relating to the network augmentation including but not limited to payment of any capital contribution.

Draft Decision

1279. Obligations in respect of augmentation works and payment of capital contributions are also dealt with under clause A3.43 of the model standard access contract. There were, however, significant differences between the relevant provisions of the proposed electricity transfer access contract and model standard access contract.
1280. Clause A3.43 of the model standard access contract provides that if a user has agreed to pay capital contributions, then both Western Power and the user must comply with terms for the payments as determined by the parties and set out in a schedule to the access contract.
1281. In its proposed access arrangement, Western Power established an alternative approach to contracting for augmentation works and paying capital contributions. This alternative approach involved establishing an “interconnection works agreement” as a standard access contract. The proposed interconnection works agreement contained standard terms and conditions for performance of the augmentation works and payment of the capital contributions.
1282. In the Draft Decision, the Authority indicated a view that establishing terms and conditions under the access arrangement for augmentation works and capital contributions (through the proposed interconnection works agreement) would cause terms and conditions to be established under the access arrangement that are contemplated under the model standard access contract to be determined by agreement between Western Power and the user.
1283. The Authority determined that the extension in the scope of terms and conditions established under the access arrangement rather than by agreement is, in the absence of any justification, inconsistent with the Code objective.
1284. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 107

Western Power to delete Electricity Transfer Access Contract clause 25 and Schedule 4 (Augmentations & capital contributions) and to substitute provisions which reproduce Model standard access contract clause A3.43 and Schedule 5 without material omission or variation.

Submissions from Interested Parties

1285. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1286. Western Power has incorporated revisions in clause 25 of the revised electricity transfer access contract that replace the previous clause 25 with a new clause that is materially the same as clause A3.43 of the model standard access contract:

25. [Payments and recoveries under the Capital Contributions Policy](#)

The Parties must comply with the provisions set out in Schedule 4 regarding any Contributions.

Final Decision

1287. The Authority is satisfied that Western Power has incorporated revisions into the revised electricity transfer access contract in accordance with the requirement of Draft Decision Amendment 107.

Assignment by the user

Proposed Access Arrangement

1288. Clause 30 of the proposed electricity transfer access contract dealt with a user's assignment of rights under an access contract.

Draft Decision

1289. The provisions of clause 30 were materially the same as clauses A3.103 to A3.106 of the model standard access contract with one exception. Clause 30.1 of the proposed electricity transfer access contract provides for a user to make a bare transfer of its access rights, subject to the user acting as a reasonable and prudent person. The corresponding clause A3.103 of the model standard access contract does not include this qualification of the user's right to make a bare transfer.

1290. In its Draft Decision, the Authority took the view that the qualification of a user's right to make a bare transfer of its rights under an access contract (the requirement to act as a reasonable and prudent person) represents a constraint on the ability to make a bare transfer that is inconsistent with the concept of a bare transfer. Accordingly, the Authority determined that the qualification was unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code.

1291. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 108

Western Power to amend Electricity Transfer Access Contract clause 30.1 (User may make Bare Transfer) by deleting the words "acting as a Reasonable and Prudent Person" in the first line.

Submissions from Interested Parties

1292. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1293. Western Power has incorporated revisions in clause 30.1 of the revised electricity transfer access contract that delete the qualification on the user's right to make a bare transfer:

30.1. User may make Bare Transfer

Subject to clause 30.2, the User may, ~~acting as a Reasonable and Prudent Person,~~ make a Bare Transfer of its Access Rights under the Transfer and Relocation Policy without Western Power's prior consent.

Final Decision

1294. The Authority is satisfied that Western Power has incorporated revisions into the revised electricity transfer access contract in accordance with the requirement of Draft Decision Amendment 108.

Ringfencing

Proposed Access Arrangement

1295. Clause 33 of the proposed electricity transfer access contract dealt with circumstances where Western Power is an integrated network business and other business (as defined under the model standard access contract where the "other business" is a purchaser of network services). Clause 33 provided that it is an obligation of the user, an indemnifying party, a court or a tribunal to have regard to the separation of these businesses when considering the attribution of representations made by Western Power, issues of notices by Western Power and contract entered into by the other business.

Draft Decision

1296. The provisions of clause 33 were materially the same as clause A3.119 of the model standard access contract with the exception that clause 33 extended the obligation to differentiate between the network and other business of Western Power to users and indemnifying parties, whereas the model standard access contract only provides for this obligation to exist for a court or tribunal.

1297. In its Draft Decision, the Authority took the view that the obligation on users and indemnifying parties to differentiate between the network and other business of Western Power is without justification. The Authority determined that the obligation is unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code.

1298. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 109

Western Power to amend Electricity Transfer Access Contract clause 33 (Ringfencing) by deleting the words “the User or an Indemnifying Party” in the first line.

Submissions from Interested Parties

1299. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1300. Western Power has incorporated revisions in clause 33 of the revised electricity transfer access contract that delete the obligation on users and indemnifying parties to differentiate between the network and other business of Western Power:

33. Ring Fencing

If Western Power is an Integrated Provider, then ~~the User or an Indemnifying Party (or a court or tribunal)~~, in considering whether:

- (a) representations made by Workers of the Other Business can or ought be attributed to the Network Business, or vice versa; or
- (b) a notice or other information given to a Worker of the Other Business has been communicated, or should be deemed to have been communicated, to the Network Business, or vice versa; or
- (c) a Contract entered into by the Other Business does or ought express or imply an intention to vary this Contract, or vice versa,

must have fair and reasonable regard to:

- (d) the fact that Western Power comprises a Network Business and an Other Business and the distribution of personnel and responsibilities between those businesses; and
- (e) the intent and purpose of Western Power's obligations under chapter 13 of the Code (and the intent and purpose of any regulations made under section 31A of the *Electricity Corporation Act 1994*) and anything done or not done by Western Power in connection with those obligations..

Final Decision

1301. The Authority is satisfied that Western Power has incorporated revisions into the revised electricity transfer access contract in accordance with the requirement of Draft Decision Amendment 109.

Miscellaneous Matters

Proposed Access Arrangement

1302. Clause 36 of the proposed electricity transfer access contract dealt with a range of miscellaneous matters.

Draft Decision

1303. The provisions of clause 36 of the proposed electricity transfer access contract were materially the same as clauses A3.125 to A3.138 of the model standard access contract.
1304. Clause 36.11 of the proposed electricity transfer access contract contained an apparent typographical error, referring to a specification of “authorised officer of a party” in a clause (a), where it is not apparent to what “clause (a)” referred.
1305. In its Draft Decision, the Authority required correction of the apparent typographical error in clause 36.11 of the revised proposed access arrangement.
1306. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 110

Western Power to amend Electricity Transfer Access Contract clause 36.11 (Authorised officers) to reproduce Model standard access contract clause A3.135 without material omission or variation.

Submissions from Interested Parties

1307. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1308. Western Power has incorporated revisions in clause 36.11 of the revised electricity transfer access contract as follows:

36.11 Authorised officers

- (a) Notice, approval, consent or other Communication given under this Contract may be given by an Authorised Officer of a Party specified in [Schedule 6](#) (a) to an Authorised Officer of another Party specified in [Schedule 6](#) (a).
- (b) A Party may at any time, by notice given to the other Party, add or replace an Authorised Officer for the purposes of clause 36.11.

Final Decision

1309. The Authority is satisfied that Western Power has incorporated revisions into the revised electricity transfer access contract in accordance with the requirement of Draft Decision Amendment 110.

Schedule - Tariffs

Proposed Access Arrangement

1310. The proposed electricity transfer access contract did not indicate the manner in which the tariffs applicable to the relevant services would be specified in the

access contract. In contrast, the model standard access contract provides for relevant tariffs to be established in a schedule to the access contract.

Draft Decision

1311. In its Draft Decision, the Authority determined that it is unreasonable and inconsistent with the requirements of section 5.3(a) of the Access Code that the electricity transfer access contract would not indicate the tariffs applicable to a service that would be specified in the access contract.

1312. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 111

Western Power to amend the Electricity Transfer Access Contract to include Schedule 4 (Tariffs) of the Model standard access contract completed so as to set out the tariffs payable for reference services under the Electricity Transfer Access Contract.

Submissions from Interested Parties

1313. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1314. Western Power has not incorporated revisions in the revised electricity transfer access contract that address Draft Decision Amendment 111.

1315. Western Power has submitted that it is unnecessary for the electricity transfer access contract to include a specification of the relevant tariffs as the specification of tariffs is achieved by cross reference (at clause 7.1 of the revised electricity transfer access contract) to the price list that is established under the access arrangement.²⁰⁶

Final Decision

1316. Western Power has not incorporated revisions into the revised electricity transfer access contract in accordance with the requirement of Draft Decision Amendment 111. The revised electricity transfer access contract accordingly remains materially different to the model standard access contract in that it does not incorporate a schedule for the specification of tariffs applicable to the access contract.

1317. The Authority has given further consideration to whether it is necessary for the electricity transfer access contract to make provision for the tariffs applicable to an access contract to be explicitly set out in the access contract.

1318. The Authority is of the view that the cross-referencing of the price list provides an unambiguous specification of the relevant reference tariffs. The Authority is also of the view that, in the event that a user wished to have tariffs explicitly set

²⁰⁶ Western Power, Response to the Required Amendments in Part B of the Draft Decision (Detailed Response), section 5, p42.

out in an access contract, this could be readily achieved by agreement with Western Power. Accordingly, the Authority does not persist in the requirement for amendment of the electricity transfer access contract as set out in Draft Decision Amendment 111.

10. Applications and Queuing Policy

10.1. Introduction

1319. Section 5.1(g) of the Access Code requires that an access arrangement include an applications and queuing policy. The particular requirements for an applications and queuing policy are set out in sections 5.7 to 5.11 of the Access Code:

5.7 An applications and queuing policy must:

- (a) to the extent reasonably practicable, accommodate the interests of the service provider and of users and applicants; and
- (b) be sufficiently detailed to enable users and applicants to understand in advance how the applications and queuing policy will operate; and
- (c) set out a reasonable timeline for the commencement, progressing and finalisation of access contract negotiations between the service provider and an applicant, and oblige the service provider and applicants to use reasonable endeavours to adhere to the timeline; and
- (d) oblige the service provider, subject to any reasonable confidentiality requirements in respect of competing applications, to provide to an applicant all commercial and technical information reasonably requested by the applicant to enable the applicant to apply for, and engage in effective negotiation with the service provider regarding, the terms for an access contract for a covered service including:
 - (i) information in respect of the availability of covered services on the covered network; and
 - (ii) if an augmentation will be required to provide the covered services sought:
 - operational and technical details of the required augmentation; and
 - commercial information regarding the likely cost of the required augmentation;
 and
- (e) set out the procedure for determining the priority that an applicant has, as against another applicant, to obtain access to covered services, where the applicants' access applications are competing applications; and
- (f) to the extent that contestable consumers are connected at exit points on the covered network, contain provisions dealing with the transfer of capacity associated with a contestable consumer from the user currently supplying the contestable consumer ("outgoing user") to another user or an applicant ("incoming user") which, to the extent that it is applicable, are consistent with and facilitate the operation of any Customer Transfer Code; and
- (g) establish arrangements to enable a user who is:

- (i) a 'supplier of last resort' as defined in section 67 of the Act to comply with its obligations under Part 5 of the Act; and
 - (ii) a 'default supplier' under regulations made in respect of section 59 of the Act to comply with its obligations under section 59 of the Act and the regulations; and
- (h) facilitate the operation of Part 9 of the Act, any enactment under Part 9 of the Act and the 'market rules' as defined in section 121(1) of the Act; and
- (i) if applicable, contain provisions setting out how access applications (or other requests for access to the covered network) lodged before the start of the relevant access arrangement period are to be dealt with.

{Note: For the first access arrangement period section 5.7(i) would apply in respect of access applications or requests for access lodged under any prior access regime such as the regimes established under the *Electricity Transmission Regulations 1996 (WA)* and *Electricity Distribution Regulations 1997 (WA)*. For subsequent access arrangement periods it would apply in respect of access applications lodged in a prior access arrangement period.}

5.8 The paragraphs of section 5.7 do not limit each other.

5.9 Under section 5.7(e), the applications and queuing policy may:

- (a) provide that if there are competing applications, then priority between the access applications is to be determined by reference to the time at which the access applications were lodged with the service provider, but if so the applications and queuing policy must:
 - (i) provide for departures from that principle where necessary to achieve the Code objective; and
 - (ii) contain provisions entitling an applicant, subject to compliance with any reasonable conditions, to:
 - A. current information regarding its position in the queue; and
 - B. information in reasonable detail regarding the aggregated capacity requirements sought in competing applications ahead of its access application in the queue; and
 - C. information in reasonable detail regarding the likely time at which the access application will be satisfied;

and

- (b) oblige the service provider, if it is of the opinion that an access application relates to a particular project or development:
 - (i) which is the subject of an invitation to tender; and
 - (ii) in respect of which other access applications have been lodged with the service provider,

("project applications") to treat the project applications, for the purposes of determining their priority, as if each of them had been lodged on the date that the service provider becomes aware that the invitation to tender was announced.

5.10 An applications and queuing policy may:

- (a) be based in whole or in part upon the model applications and queuing policy, in which case, to the extent that it is based on the model applications and queuing policy, any matter which in the model applications and queuing policy is left to be completed in the access arrangement, must be completed in a manner consistent with:

- (i) any instructions in relation to the matter contained in the model applications and queuing policy; and
- (ii) sections 5.7 to 5.9;
- (iii) the Code objective;

and

- (b) be formulated without any reference to the model applications and queuing policy and is not required to reproduce, in whole or in part, the model applications and queuing policy.

{Note: The intention of this section 5.10(b) is to ensure that the service provider is free to formulate its own applications and queuing policy which complies with sections 5.7 to 5.9 but is not based on the model applications and queuing policy.}

5.11 The Authority:

- (a) must determine that an applications and queuing policy is consistent with sections 5.7 to 5.9 and the Code objective to the extent that it reproduces without material omission or variation the model applications and queuing policy; and
- (b) otherwise must have regard to the model applications and queuing policy in determining whether the applications and queuing policy is consistent with sections 5.7 to 5.9 and the Code objective.

1320. Western Power included an applications and queuing policy in its proposed access arrangement²⁰⁷ (“proposed applications and queuing policy”) and has included a revised applications and queuing policy in its revised proposed access arrangement²⁰⁸ (“revised applications and queuing policy”).

1321. The Authority’s considerations and determinations in respect of the proposed and revised applications and queuing policies are set out in the following sections of the Final Decision.

10.2. Approach to Assessment

1322. In this Final Decision the Authority has assessed the revised applications and queuing policy against the requirements of sections 5.7 to 5.9 of the Access Code. In accordance with the requirements of clause 5.11 of the Access Code, the Authority has determined that the revised applications and queuing policy is consistent with sections 5.7 to 5.9 and the Code objective to the extent that it reproduces the model applications and queuing policy without material omission or variation. Otherwise, the Authority has had regard to the model applications and queuing policy in determining whether the revised applications and queuing policy is consistent with sections 5.7 to 5.9 of the Access Code and the Code objective.

1323. In this Final Decision, the assessment of the revised applications and queuing policy addresses in turn:

- the scope and operation of the revised applications and queuing policy;

²⁰⁷ Proposed access arrangement, Appendix 1.

²⁰⁸ Revised proposed access arrangement, Appendix 1.

- assessment against the specific requirements of the Access Code; and
- other material variations from the model applications and queuing policy.

10.3. Scope and Operation

Proposed Access Arrangement

General scope of the applications and queuing policy

1324. Western Power's proposed applications and queuing policy contemplated two parallel application processes:

- applications by a user (or prospective user) for access to the SWIN for an "electricity transfer service"; and
- applications by a user (or by some other party that is to be, or is representing, the person owning the connection facilities) for a "connection service", to be provided at the entry point or exit point relevant to the electricity transfer service.

1325. This distinction was established by clause 1.6 of the proposed applications and queuing policy, which also contemplated that the applications and queuing policy would apply to non-reference services that do not fall into either of these two categories:

1.6 Types of covered service

- (a) This applications and queuing policy specifically applies to the most commonly sought covered services, which are:
 - (i) an exit or entry service; or
 - (ii) a connection service; or
 - (iii) both.
- (b) Western Power and the applicant must act in accordance with the principles laid out in this applications and queuing policy, as far as they are applicable, when a non-reference service (other than a connection service) is sought by the applicant.

1326. The proposed applications and queuing policy provided for applications for electricity transfer services and connection services to be submitted as separate, but related, applications; or for a single application to be made for a combined connection service and electricity transfer service.

Application of the applications and queuing policy to increased capacity and changes in technical characteristics of facilities

1327. The proposed applications and queuing policy made provision for applications to be made in respect of matters other than obtaining a new service. Clause 1.5 of the proposed applications and queuing policy dealt with the scope of matters to which an application may relate and indicated that applications may relate to an increase in capacity of an existing covered service and/or a material change in the technical characteristics of facilities and equipment connected at an existing contracted point.

Classes of applications

1328. In the proposed applications and queuing policy, Western Power made provision for three classes of application that generally corresponded to, but were not exactly the same as, three classes of applications set out in clauses A2.5 to A2.7 of the model applications and queuing policy and relating generally to an application by an existing user for a reference service without augmentation of the network (class 1), an application by a new user for a reference service without augmentation of the network (class 2), and all other applications (class 3).

Draft Decision*General scope of the applications and queuing policy*

1329. In contemplating applications for two different types of services – an electricity transfer service or connection service – the proposed applications and queuing policy differs from the model applications and queuing policy, which does not contemplate applications for connection services or the dual application process set out in the proposed applications and queuing policy.

1330. The Authority did not take issue in its Draft Decision with the proposed applications and queuing policy distinguishing between applications of electricity transfer services and connection services.

1331. The Authority did, however, interpret clause 1.6 of the proposed applications and queuing policy, which indicates that the policy applies to “the most commonly sought covered services”, as having the potential effect of restricting the application of the applications and queuing policy to entry, exit or connection services rather than applying to all covered services. The Authority determined that the indication in clause 1.6 of the proposed applications and queuing policy that the policy applies to *the most commonly sought covered services* might result in exclusion of some covered services from treatment under the policy. The Authority considered this to be a material variation from the model applications and queuing policy and to be inconsistent with the requirements of sections 5.7(a) and (b) of the Access Code.

1332. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 116

Western Power to delete proposed applications and queuing policy clause 1.6 (Types of covered service).

Application of the applications and queuing policy to increased capacity and changes in technical characteristics of facilities

1333. Clause 1.5 of the proposed applications and queuing policy provided for the applications and queuing policy to extend to applications for an increase in capacity of an existing covered service and/or a material change in the technical characteristics of facilities and equipment connected at an existing contracted point. The Authority interpreted clause 1.5 as requiring that an application be made under the applications and queuing policy for increases in capacity for an existing reference service and/or for a user or controller to make material changes to the technical characteristics of facilities and

equipment. The Authority considered this clause to be a material variation from the model applications and queuing policy, which does not explicitly contemplate applications for either of these matters.

1334. The Authority noted in the Draft Decision that corresponding provisions in the proposed electricity transfer access contract (clauses 3.6 and 12(b)) required a user to make an application under the applications and queuing policy for an increase in capacity (in some circumstances) and for any material modification of facilities and equipment. The Authority determined that these provisions of the proposed electricity transfer contract were unreasonable and inconsistent with the relevant requirements of the Access Code, and required that the proposed electricity transfer access contract be amended to remove the provisions.
1335. As a consequential amendment, the Authority required that clause 1.5 of the proposed applications and queuing policy be deleted.
1336. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 115

Western Power to delete proposed applications and queuing policy clause 1.5 (Application of the policy).

Classes of applications

1337. In its Draft Decision, the Authority determined that the definition of a “class 1 application” under clause 3.2 of the proposed applications and queuing policy was materially different from the definition under clause A2.5 of the model applications and queuing policy.

1338. A “class 1 application” was defined in the proposed applications and queuing policy as follows:

3.2 Class 1 application

A class 1 application is an application:

- (a) by an applicant who is already a user of the network, seeking to modify their access contract; and
- (b) in respect of one or more existing contracted points; and
- (c) seeking only a reference service at the reference tariff, at the applicable service standard, using a standard access contract; and
- (d) which does not require any detailed studies to determine whether an augmentation is required.

1339. The corresponding definition in clause A2.5 of the model applications and queuing policy is:

A2.5 A “class 1 application” is an application:

- (a) by an applicant who is already a user of the network; and
- (b) in respect of one or more existing connection points; and
- (c) seeking only a reference service at the reference tariff; and
- (d) which does not require any augmentation.

1340. The Authority considered that the definition of a “class 1 application” under the proposed applications and queuing policy would include variations to existing access contracts, rather than only new access contracts as might be implied by the definition under the model applications and queuing policy.
1341. The Authority took the view that the definition of a “class 1 application” under the proposed applications and queuing policy would cause a user to be required to submit a class 1 application for increases in capacity, whereas under the model standard access contract and model applications and queuing policy this would be achieved by the more simple process of a capacity increase notice. The Authority determined that this is inconsistent with the requirement of section 5.7(a) of the Access Code for the applications and queuing policy to accommodate the interests of users and applicants.
1342. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 121

Western Power to amend proposed applications and queuing policy clause 3.2(a) (Class 1 application) to reproduce model applications and queuing policy clause A2.5(a) without material omission or variation.

Submissions from Interested Parties on the Draft Decision

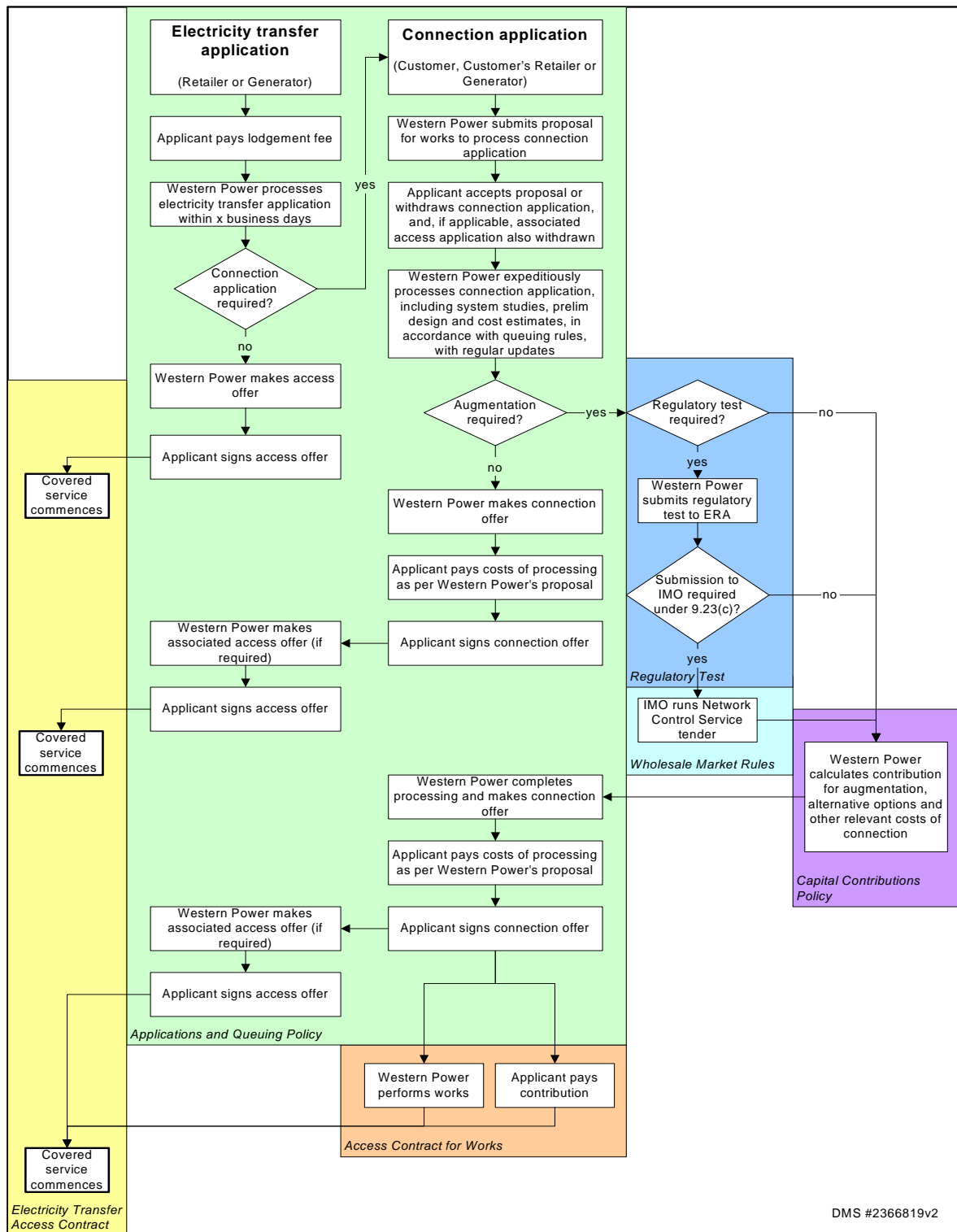
1343. No submissions were received from interested parties

Revised Proposed Access Arrangement

General scope of the applications and queuing policy

1344. In its revised applications and queuing policy, Western Power has maintained the distinction between applications for electricity transfer services and connection services. A flow chart has been provided in clause 1 of the revised applications and queuing policy to indicate the operation of the applications and queuing policy. This flow chart is reproduced as follows.

Application Process



1345. Western Power has substantially re-structured the revised applications and queuing policy to deal separately with general provisions relating to all applications, provisions relating to electricity transfer applications and provisions relating to connection applications. A new clause 2.2 has been incorporated into the revised applications and queuing policy to clearly indicate

the parts of the applications and queuing policy that deal with electricity transfer applications and connection applications:

2.2 Application to connection applications and electricity transfer applications

- (a) Part A and Part B but not Part C of this applications and queuing policy apply to an electricity transfer application.
- (b) Part A and Part C but not Part B of this applications and queuing policy apply to a connection application.

1346. A range of new and altered definitions have been included in section 2.1 of the revised applications and queuing policy associated with defining the two types of applications that may be made under the revised applications and queuing policy:

“applicant” means a person (who may be a user or a customer) who has lodged or intends to lodge an application ~~an applicant under this applications and queuing policy for an access contract and includes a prospective applicant.~~

“application” means an electricity transfer application or a connection application ~~access application under this applications and queuing policy (as amended under this applications and queuing policy) and includes any additional information provided by the applicant in relation to the access application.~~

...

“connection application” means an application lodged with Western Power under the applications and queuing policy that has the potential to require a modification to the network, including an application to:

- (a) connect facilities and equipment at a new connection point; or
- (b) increase consumption or generation at an existing connection point; or
- (c) materially modify facilities and equipment connected at an existing connection point; or
- (d) augment the network for any other reason,

{Note: this might be, for example, to service a subdivision.}

and includes any additional information provided by the applicant in regard to the application.

“connection offer” means an access offer made in respect of a connection application.

...

“electricity transfer application” means an application (as defined in the Code) lodged with Western Power under the applications and queuing policy seeking to obtain or modify an entry service or an exit service, and includes any additional information provided by the applicant in regard to the application.

1347. A new clause 3.4 of the revised applications and queuing policy indicates the manner in which applications may be made for related applications for electricity transfer services and connection services:

3.4 Related electricity transfer application and connection application

Where

- (a) a retailer seeks to obtain or modify an exit service or an entry service on behalf of a customer; or

(b) a generator seeks to obtain or modify an entry service on behalf of a controller who is not the generator,

and both a connection application and an electricity transfer application will be required under this applications and queuing policy, then the applications may:

(c) be submitted concurrently by the retailer or generator; or

(d) be submitted at different times by the retailer or generator and the customer or controller as applicable, in which case both parties are applicants.

1348. Western Power has not included clause 1.6 of the proposed applications and queuing policy in the revised applications and queuing policy. There is no indication in the revised applications and queuing policy that the applications and queuing policy is limited in the scope of covered services to which it applies.

Application of the applications and queuing policy to increased capacity and changes in technical characteristics of facilities

1349. Western Power has incorporated amendments into the revised applications and queuing policy that remove clause 1.5 of the proposed applications and queuing policy, which provided for an application under the applications and queuing policy to include an application for an increase in capacity under an existing access contract and a material change in facilities and equipment at a contracted point.

1350. Western Power has, however, maintained provision under the revised applications and queuing policy for applications to include applications for increases in capacity under an existing access contract and to materially modify facilities and equipment connected at an existing connection point. These provisions are included in the revised applications and queuing policy by:

- incorporating amendments into the revised applications and queuing policy to provide for the applications and queuing policy to relate to applications that are either “connection applications” or electricity transfer applications”; and
- including, within the scope of connection applications and electricity transfer applications, increases in capacity at existing connection points and material modifications of facilities and equipment at connection points.

1351. Relevant definitions of connection applications and electricity transfer applications in the revised applications and queuing policy are as set out above.

Classes of applications

1352. Western Power has incorporated revisions into the revised applications and queuing policy to remove the three classes of applications as contemplated by clauses A2.5 to A2.7 of the model applications and queuing policy and that were included as clauses 3.2 to 3.4 of the proposed applications and queuing policy. Western Power has introduced new clauses 9, 10 and 12 into the revised applications and queuing policy that set out the requirements for electricity transfer applications for, respectively, new connection points, modification of an existing covered service and obtaining a new access

contract, and which address the requirements for an electricity transfer application to modify an existing access contract:

9. Electricity transfer application for a new connection point

9.1 Customer transfer request

- (a) An incoming retailer may lodge a customer transfer request with Western Power with respect to a contestable exit point. With respect to the customer transfer request:
 - (i) Western Power, the incoming retailer and the previous retailer must comply with the Customer Transfer Code; and
 - (ii) except as specified in this clause 8, this applications and queuing policy does not apply.
- (b) Western Power must not process the customer transfer request if it determines under clause 13 that the exit point is not contestable.
- (c) Western Power must process a customer transfer request such that the incoming retailer receives the same covered service at the same contracted capacity as the previous retailer.
- (d) The exit point must be transferred as a complete and indivisible unit such that all associated meters are transferred in one transaction.
- (e) If the incoming retailer seeks to modify the covered service with respect to an exit point that has been the subject of a customer transfer request, then that incoming retailer must make an application under this applications and queuing policy as a separate transaction after the customer transfer request has been processed.

9.2 Creating a new connection point or connecting new generating plant

- (a) An applicant who seeks to create a new connection point or to install new generating plant at an existing connection point must:
 - (i) submit an electricity transfer application on the application form that is applicable for the type of facilities and equipment to be connected at the connection point provided by Western Power on its website; and
 - (ii) submit, or procure that its customer submits, a connection application.
- (b) If the applicant is seeking a reference service, then:
 - (i) if the applicant is an existing user, the new connection point lodgement fee applies to the application; or
 - (ii) if the applicant is not an existing user, the new access contract lodgement fee applies to the application,

but if the applicant is seeking a non-reference service then clause 7.2 applies to the application.
- (c) If an applicant submits an electricity transfer application subsequent to Western Power making an access offer for an associated connection application (to the applicant, its customer, or another person), and:
 - (i) the capacity; or
 - (ii) the services start date (as relates to the transfer of electricity); or
 - (iii) the services end date (as relates to the transfer of electricity),

sought in the connection application and the electricity transfer application are not the same, such that the application of the capital contributions policy based on the information in the electricity transfer

application would produce a contribution different to that specified in the access offer for the associated connection application, then Western Power may either:

(iv) require the applicant to pay the difference; or

(v) rebate the difference to the person who paid a contribution in respect of the connection application,

as applicable.

(d) The services start date for the covered services sought under the electricity transfer application will be the later of:

(i) the services start date (as it relates to the transfer of electricity) sought in the connection application; or

(ii) the services start date sought in the electricity transfer application; or

(iii) the completion date of any works resulting from the connection application.

10. Electricity transfer application to modify an existing covered service

10.1 Selection of different covered service

(a) An applicant may make an electricity transfer application to select a different reference service, or to select or modify a non-reference service, with respect to a connection point in the applicant's access contract, by notice to Western Power.

(b) If the applicant is seeking a reference service, then the new connection point lodgement fee applies to the application; or

(c) if the applicant is seeking a non-reference service then clause 7.2 applies to the application.

(d) If Western Power considers, as a reasonable and prudent person, that the requested change in covered service indicates that the applicant will require a greater capacity, then:

(i) Western Power must notify the applicant within 5 business days whether the applicant must also submit, or procure that its controller submits, a connection application for an increase in contracted capacity; and

(ii) the priority of such connection application shall be determined from the date Western Power received the notice given clause 10.1(a).

(e) If the application requests a new covered service that is serviced at a different voltage than the existing covered service, then Western Power must notify the applicant that it must submit, or procure that its controller submits, a connection application.

(f) If Western Power receives more than 1 notice seeking to change the covered service with respect to a single connection point in any rolling period of 12 months, then in relation to each additional notice Western Power:

(i) may, subject to this clause 10, accept the change of covered service, where Western Power is satisfied, as a reasonable and prudent person, that the new covered service will be sufficient to meet the actual requirements of the applicant, and that it is required by reason of one or more of the following circumstances:

(A) a change in the actual consumption or generation by the applicant in respect of that connection point over the 12

- month period prior to the applicant giving notice under clause 10.1(a), as recorded by the metering equipment; or
- (B) a change in the nature of the business or operation conducted at the connection point; or
- (C) a shutdown of the business or operation conducted at the connection point (including a shutdown for maintenance purposes) for longer than 1 continuous month; or
- (D) a rapid decline in the business at the connection point; or
- (E) a decrease in the number of capacity credits (as defined in the Market Rules) allocated to any generating plant at the connection point under the Market Rules; or
- (F) some other special circumstance,

and

- (ii) is entitled to refuse the change in covered service where Western Power is satisfied, as a reasonable and prudent person, that the change is sought by reason of the seasonal nature of the business or operation at the connection point.

10.2 Increase in contracted capacity

- (a) An electricity transfer application to increase contracted capacity with respect to an existing covered service under the applicant's access contract may be made by notice to Western Power.
- (b) The lodgement fee for an access contract modification applies to the applicant's application, plus any costs for any associated connection application.
- (c) Western Power must determine, as a reasonable and prudent person, within 5 business days whether it accepts the increase in contracted capacity.
- (d) If Western Power determines that it cannot automatically accept the request for an increase in contracted capacity under clause 10.2(c), then:
 - (i) Western Power must notify the applicant that it must submit, or procure that its controller submits, a connection application; and
 - (ii) the priority of such connection application shall be determined from the date Western Power received the notice given clause 10.2(a).

10.3 Modification of generating plant

- (a) An applicant must make a connection application before materially changing any of those characteristics of generating plant connected at a connection point required to be provided in the applicable application form.
- (b) If the applicant signs an access offer in respect of the connection application, then the parties must amend the applicant's access contract accordingly.

...

12. Electricity transfer application to obtain a new access contract

- (a) An applicant who seeks a new access contract, other than under clauses 8 to 11, may make an electricity transfer application by notice to Western Power.
- (b) If an applicant makes an application under clause 12(a), then:

- (i) if the applicant seeks a standard access contract, then the lodgement fee for a new access contract applies to the application; or
- (ii) if the applicant seeks an access contract that is materially different to a standard access contract, then clause 7.2 applies to the application.

1353. A new clause 16 of the revised applications and queuing policy specifies the scope of connection applications, which includes connection applications that relate to a modification of facilities:

16. Specific connection applications

16.1 Connection application for a new connection point

- (a) An applicant who seeks to create a new connection point or to install new generating plant at an existing connection point must:
 - (i) submit a connection application on the connection application form that is applicable for the type of facilities and equipment to be connected at the connection point, provided by Western Power on its website; and
 - (ii) submit, or procure that its retailer submits, an electricity transfer application under Part B of this applications and queuing policy.

16.2 Connection application for an increase of contracted capacity

- (a) If, after processing an electricity transfer application under clause 10.2, Western Power requires a connection application, then the user must submit, or, if applicable, procure that its customer submits, a connection application on the connection application form that is applicable for the type of facilities and equipment that is connected at the connection point, provided by Western Power on its website.
- (b) If a customer submits a connection application with respect to a connection point that will result in an increase to the contracted capacity of the customer's retailer for that connection point, then the customer must procure that its retailer submit an associated electricity transfer application under Part B of this applications and queuing policy.

16.3 Connection application to modify generating plant

If an applicant seeks to materially change the characteristics of generating plant connected at a connection point, then the applicant must complete those parts of the appropriate application form that deal with those characteristics, and include any additional information specified in the application form (which might include equipment schedules, drawings and computer models) that Western Power might require, as a reasonable and prudent person, to assess the impact of the modification on the network and other users.

16.4 Connection application to modify or augment the network

- (a) An applicant who seeks to modify or augment the network other than under clause 16.1 must submit a connection application on the applicable connection application form provided by Western Power on its website.

{Note: This might apply to, for example, a developer seeking to service a subdivision, a builder seeking a temporary supply, or a person seeking to relocate network assets.}
- (b) If there is no applicable connection application form provided by Western Power on its website then the applicant may submit its connection application by notice to Western Power.

Final Decision

General scope of the applications and queuing policy

1354. In its revised applications and queuing policy, Western Power has maintained the two parallel application processes for electricity transfer applications and connection applications. Revisions incorporated into the revised applications and queuing policy clarify the distinction and interrelationship between the two application processes.
1355. The Authority considers that this distinction is a material variation from the model applications and queuing policy. The Authority considers, however, that this general distinction is consistent with the practical process of commencing or modifying the provision of network services, which include both electricity transfer services and services in the nature of connection services. Accordingly, the Authority considers that this distinction is consistent with the requirement of section 5.7(b) of the Access Code for the applications and queuing policy to be sufficiently detailed to enable users and applicants to understand, in advance, how the applications and queuing policy will operate.
1356. Draft Decision Amendment 116 required deletion of clause 1.6 of the proposed applications and queuing policy to remove an implication that the applications and queuing policy would not apply to all covered services. Clause 1.6 of the proposed applications and queuing policy has not been included in the revised applications and queuing policy, with the effect of removing the direct implication that the applications and queuing policy may be limited in its application to most, but not necessarily all, covered services. The Authority notes, however, that the scope of services to which the applications and queuing policy might apply is now limited by the definitions of electricity transfer application and connection application. In particular, these definitions would operate to exclude from the applications and queuing policy a wide range of services that are in the nature of ancillary services, including most of the services listed by Western Power in clause 3.12 of the revised proposed access arrangement as non-reference services. Accordingly, the Authority is not satisfied that the revised applications and queuing policy incorporates Draft Decision Amendment 116.
1357. The Authority has given further consideration to whether the limitation in scope of the revised applications and queuing policy is consistent with the requirements of the Access Code.
1358. Neither the Access Code nor the model applications and queuing policy contain any explicit requirement for the applications and queuing policy to extend in scope to all covered services. The Access Code only requires that:
- the applications and queuing policy accommodates the interests of the service provider and of users and applicants, to the extent reasonably practicable (section 5.7(a)); and
 - the applications and queuing policy sets out the procedure for determining the priority that an applicant has, as against another applicant, to obtain access to covered services, where the applicants' access applications are competing applications (section 5.7(e)).
1359. The Authority considers that the limitation in scope of the applications and queuing policy to electricity transfer applications and connection applications,

as defined by Western Power, is consistent with the Access Code. These two types of application encompass all of the covered services for which it is necessary to apply the applications and queuing policy in order to accommodate the interests of Western Power, users and applicants, and for which there may be competing applications. Accordingly, the Authority is satisfied that any limitation in the scope of the applications and queuing policy that may be implied by the definitions of electricity transfer application and connection application is consistent with the Access Code and the Code objective.

Application of the applications and queuing policy to increased capacity and changes in technical characteristics of facilities

1360. Draft Decision Amendment 115 required deletion of clause 1.5 of the proposed applications and queuing policy so as to remove provisions that would require an application to be made under the applications and queuing policy for an increase in capacity or a material change in the technical characteristics of facilities and equipment at a connection point.
1361. While Western Power has removed clause 1.5 of the proposed applications and queuing policy from the revised applications and queuing policy, the revised applications and queuing policy has been otherwise amended to retain provisions for applications to be made under the applications and queuing policy for increases in capacity and material modifications to facilities and equipment at connection points for generation (clauses 16.2 and 16.3). The Authority is therefore not satisfied that Western Power has incorporated Draft Decision Amendment 115 into the revised applications and queuing policy.
1362. The Authority maintains the view expressed in the Draft Decision that provisions under the applications and queuing policy for applications to be made for increases in capacity under an existing access contract, and for modifications of equipment and facilities at connection points, are material variations from the model applications and queuing policy.
1363. The Authority has given further consideration to whether the provisions requiring applications to be made under the applications and queuing policy for increases in capacity and for modifications to equipment and facilities are consistent with the Access Code and the Code objective.
1364. Western Power has retained requirements in the revised electricity transfer access contract for a user to make applications under the applications and queuing policy for increases in capacity at existing connection points or to materially modify equipment and facilities at existing connection points (clauses 3.4 and 12(c)). The Authority has addressed the provisions of these clauses as part of this Final Decision (paragraph 954 and following, and paragraph 1172 and following) and determined that the provisions are reasonable and consistent with the Access Code. In making this determination, the Authority considered that it is reasonable that such applications are made under the applications and queuing policy rather than under provisions of the electricity transfer contract, despite the latter being contemplated by the model standard access contract (through “capacity increases notices”). Consistent with its determination on the revised electricity transfer access contract, the Authority accepts that the applications and queuing policy must include provisions that address applications for increases in capacity at existing connection points or to materially modify equipment and

facilities at existing connection points. The Authority therefore considers that provisions for applications of these types are consistent with the Access Code and the Code objective.

1365. The Authority notes, however, that in consideration of clause 3.4 of the revised electricity transfer access contract (paragraph 963 and following of this Final Decision), the Authority determined that the revised applications and queuing policy should set out the circumstances in which an application for an increase in capacity will be automatically accepted.
1366. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 17

The revised proposed access arrangement should be amended so that the applications and queuing policy indicates that Western Power *must* accept an electricity transfer application to increase contracted capacity if it forms the view as a reasonable and prudent person that:

- (i) accepting the capacity increase would not be likely to impede the ability of Western Power to provide a covered service sought in an access application lodged by another applicant; and
- (ii) it is not likely that an augmentation would be required to provide the capacity increase.

Classes of applications

1367. Draft Decision Amendment 121 required Western Power to amend clause 3.2(a) of the proposed applications and queuing policy to reproduce the corresponding clause A2.5(a) of the model applications and queuing policy, both defining a “class 1 application”. The purpose of this required amendment was to ensure that, in conjunction with related amendments to the electricity transfer access contract, users would be able to modify an existing access contract under provisions for capacity increase notices rather than through applications processes under the applications and queuing policy.
1368. Western Power has not incorporated Draft Decision Amendment 121 into the revised applications and queuing policy. Rather, Western Power has removed provisions for the different classes of applications and introduced provisions for a range of different situations of users and applicants to be accommodated under provisions that deal with the different purposes for which electricity transfer applications and connection applications may be submitted (at clauses 9, 10 and 12 as set out above).
1369. Under the model applications and queuing policy, the distinction between the different classes of applications is important in the specification of differences in levels of fees and costs that may be payable by the applicant, differences in the timing for processing of applications, and differences in levels of information that are required to be provided with the application. The Authority notes that the revised applications and queuing policy also includes

differences in these parameters for different classes of applications that distinguish between:

- electricity transfer applications for an existing user seeking a reference service;
- electricity transfer applications for a new user seeking a reference service;
- electricity transfer applications for a non-reference service; and
- connection applications (Table 77).

Table 77 Cost, timing and information requirements for different electricity transfer applications and connection applications under the revised applications and queuing policy

Nature of application	Fees and costs	Timing	Information requirements
Electricity transfer application for an existing user seeking a reference service	Lodgement fee (clause 7.1(a))	Modification of contract within later of 10 business days of application or 5 business days of access offer being signed (clause 7.1(e))	General applicant and service information (clause 3.6)
Electricity transfer application for a new user seeking a reference service	Lodgement fee (clause 7.1(a))	Modification of contract within later of 20 business days of notice for re-energisation of a connection point or 5 business days of access offer being signed for an associated connection application (clause 7.1(f))	General applicant and service information (clause 3.6)
Electricity transfer application for a non-reference service	Reasonable costs incurred by Western Power to process the application (clause 7.2(a))	As soon as possible after the application is lodged (clause 7.2(d))	General applicant and service information plus description of required non-reference services (clause 3.6)
Connection application Standard Benchmarks	Reasonable costs incurred by Western Power to process the application (clause 20).	No timing specified, but obligation exists for Western Power to provide initial responses, preliminary assessments and progress reports (clauses 18, 19)	General applicant and service information, description of facilities and equipment and description of any exemptions to the Technical Rules to be sought (clause 3.7)

1370. By establishing different costs, timing requirements and information requirements for different classes of applications, the Authority is satisfied that the relevant provisions for electricity transfer applications and connection

applications are materially the same, in terms of the practical outcome achieved, as the designation of different classes of applications under clauses A2.5 to A2.7 of the model applications and queuing policy.

1371. As a result of the revised applications and queuing policy not implementing the classes of applications contemplated by clauses A2.5 to A2.7 of the model applications and queuing policy, Draft Decision Amendment 122 (relating to misclassification of an application) has become redundant.

10.4. Assessment Against Specific Requirements of the Access Code

Timelines for Negotiation of Access Contracts

Access Code Requirements

1372. Section 5.7(c) of the Access Code requires that an applications and queuing policy:

... set out a reasonable timeline for the commencement, progressing and finalisation of access contract negotiations between the service provider and an applicant, and oblige the service provider and applicants to use reasonable endeavours to adhere to the timeline

1373. The model applications and queuing policy contemplates explicit timelines being established for certain stages in the processing of applications, including:

- lead times for an applicant to lodge an application ahead of the requested services start date, with lead times contemplated to vary between the different classes of applications and with guidance provided that the lead times should not exceed 10 business days in respect of services to be added to an existing access contract and 25 business days otherwise (clause A2.20);
- lead times for capacity increase notices ahead of the requested services start date, with guidance provided that the lead times should not exceed 10 business days (clause A2.37);
- provisions for an access application not to expire, but for applications to be considered “dormant” if no access offer is made within three years of the application being submitted (clause A2.78);
- a requirement on the service provider to process an application expeditiously and diligently (clause A2.81);
- requirements of the service provider to provide an “initial response” to an applicant within a certain period, with this period contemplated to vary between the different classes of applications and with guidance provided that the lead times should not exceed five business days in respect of a class 1 or class 2 application and 20 days for a class 3 application (clause A2.90);
- requirements for the initial response to a class 3 application to indicate the time by which the service provider will provide a preliminary

assessment and the time by which the service provider expects to make an initial offer (clause A2.89);

- requirements for the service provider to make an access offer to an applicant as soon as practicable, and maximum periods after an application is lodged within which the service provider must make an access offer, which are contemplated to vary between the different classes of applications and with guidance provided that the lead times should not exceed 5 business days for a class 1 application, 10 business days for a class 2 application and “as soon as practicable” for a class 3 application (clause A2.99);
- provision to extend the timeframes for processing of an application in certain circumstances (clause A2.100); and
- requirements for an applicant to respond to an access offer within 30 business days after receipt of the offer (clause A2.108).

Proposed Access Arrangement

1374. The provisions of the proposed applications and queuing policy that established timelines for the processing of applications are summarised in Table 78.

Table 78 Proposed applications and queuing policy – timelines for the processing of applications

Element of application process	Timelines of proposed applications and queuing policy	Corresponding timeline of the model applications and queuing policy
Lead times for applications ahead of requested services start date	Class 1 application – at least 10 business days (clause 6.4(c)(i)) Class 2 application – at least 25 business days (clause 6.4(c)(ii)) Class 3 application – none specified	Guidance provided that the lead times should not exceed 10 business days in respect of services to be added to an existing access contract and 25 business days otherwise (clause A2.20)
Correction of errors or omissions in an application	Western Power must immediately notify the applicant of any detected error. Applicant must correct any error as soon as practicable, or within 5 business days if the applicant is notified of the error by Western Power (clause 7.4)	Service provider must immediately notify the applicant of a detected error. Applicant must correct the error as soon as practicable. (clauses A2.25, A2.26)
Provision of additional information by the applicant after request from the service provider	As soon as reasonably practicable (clause 7.5(b))	As soon as reasonably practicable (clause A2.29)
Processing of the application	Application must be processed expeditiously and diligently (clause 10.1).	Application must be processed expeditiously and diligently (clause A2.81).
Initial response to an application (after lodgement of the application)	Class 1 application – within 5 business days (clause 11.2(a)(i)) Class 2 application – within 10 business days (clause 11.2(a)(ii)) Class 3 application – within 20 business days (clause 11.2(a)(iii))	Class 1 application – within 5 business days Class 2 application – within 5 business days Class 3 application – within 20 business days (clause A2.90)

Element of application process	Timelines of proposed applications and queuing policy	Corresponding timeline of the model applications and queuing policy
Making of an access offer (after lodgement of the application)	Reasonable endeavours for: Class 1 application – within 5 business days Class 2 application – within 10 business days Class 3 application – as soon as practicable (clause 11.2)	Reasonable endeavours for: Class 1 application – within 5 business days Class 2 application – within 10 business days Class 3 application – as soon as practicable (clause A2.99)
Applicant to respond to an access offer	30 business days (clause 15.2)	30 business days (clause A2.108)
Dormant applications	Application is considered dormant if no access offer is made within 6 months of the application (clause 1.1). Western Power may determine a dormant application to have been withdrawn (clause 9.6). Western Power may consider a “dormant access offer” to have been withdrawn if it considers that an access offer made in respect of the application is not likely to be signed within 20 days of the offer (clause 15.4).	Application is considered dormant if no access offer is made within three years of the application (clause A2.1). Service provider may determine a dormant access offer to have been withdrawn (clauses A2.78, A2.79)

Draft Decision

1375. In its Draft Decision, the Authority determined that, with two exceptions, the timeframes under the proposed applications and queuing policy for processing of applications are materially the same as the time frames contemplated under the model access contract or are otherwise consistent with the requirements of section 5.7(c) of the Access Code.

1376. The first exception was the time frames proposed by Western Power for making an initial response to a class 2 application. Western Power proposed a time limit of 10 days after lodgement of the application whereas the model applications and queuing policy contemplated a time limit of five days. The Authority determined that the time limit of 10 days proposed by Western Power is unreasonable and inconsistent with the requirements of section 5.7(c) of the Access Code.

1377. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 133

Western Power to amend proposed applications and queuing policy clause 11.2(a)(ii) (Timing of initial response) to be consistent with the instructions in Note 15 in the model applications and queuing policy.

1378. The second exception was the treatment of “dormant applications” and “dormant access offers”.

1379. Clause 9.6 of the proposed applications and queuing policy provided for dormant applications to be treated in the same manner as provided for under

clauses A2.78 and A2.79 of the model applications and queuing policy. A dormant application was defined as an application in respect of which no access offer has been made within six months (under the proposed applications and queuing policy) or three years (under the model applications and queuing policy). Under both the proposed applications and queuing policy and the model applications and queuing policy, the service provider would be able to determine that a dormant application has been withdrawn where it is unlikely that an access offer will be made.

1380. Clause 15.4 of the proposed applications and queuing policy contained a further provision relating to “dormant access offers” for which there is no corresponding provision in the model applications and queuing policy. A dormant access offer was defined in the proposed applications and queuing policy as an access offer which remains unsigned for more than three months. Clause 15.4 provided for Western Power to deem that the application to which a dormant access offer relates has been withdrawn if it is unlikely that the dormant access offer would be signed within a further 20 days.

1381. In its Draft Decision, the Authority determined that the provision for access offers to be classed and treated as a dormant access offer was a material variation from the model applications and queuing policy. The Authority further determined that dormant access offers can be adequately managed under provisions relating to dormant applications and the additional provisions for dormant access offers do not reasonably accommodate the interests of applicants.

1382. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 143

Western Power to amend proposed applications and queuing policy clause 15.4 (Dormant access offers) to reproduce model applications and queuing policy clause A2.78 without material omission or variation.

1383. The Authority also noted in its Draft Decision that there is a difference between the model applications and queuing policy and the proposed applications and queuing policy in the definition of a dormant application. Under the proposed applications and queuing policy, a dormant application was defined as an application which is lodged on a date more than *six months* before the date on which the service provider is considering the application. In contrast, the model applications and queuing policy defines a dormant application as an application which is lodged on a date more than *three years* before the date on which the service provider is considering the application.

1384. The Authority determined that the proposed period of six months before an application was deemed to be a dormant application is a material variation from the model applications and queuing policy. The Authority further determined that the period of six months does not accommodate the interests of the applicant and is inconsistent with the requirements of section 5.7(a) of the Access Code.

1385. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 155

Western Power to amend proposed applications and queuing policy definition of “dormant application” to reproduce the definition of that term in the model applications and queuing policy without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1386. Verve Energy submitted

Access offer timeframes ... Reasonable endeavours to satisfy timeframes is not adequate. ERA is requested to reconsider paragraph 17 of Western Power Generation’s submission on the Proposed Access Arrangement

1387. Paragraph 17 of Western Power Generation’s submission on the proposed access arrangement, referred to in Verve Energy’s submission, is as follows.

Clauses 8.10 and 12.1 of the AQP provide that Networks need only use "reasonable endeavours" to comply with the timeframes in the AQP. The timeframes should be binding, as contemplated in the Model Applications and Queuing Policy in the ENAC ("MAQP")

1388. The Western Australian Sustainable Energy Association submitted:

We query whether the time limits, for example for acceptance of an access offer, are realistic given the parties experience to date. Also, we query whether it is appropriate for no time limit to be imposed on Western Power for the making of an access offer in the event of a class 3 application. Finally, we view as important imposing an upper limit on the period of time after acceptance of an access offer that access services are to be provided by Western Power.

Revised Proposed Access Arrangement

1389. The provisions of the revised applications and queuing policy that establish timelines for the processing of applications are summarised in Table 79.

Table 79 Revised applications and queuing policy – timelines for the processing of applications

Element of application process	Timelines of revised applications and queuing policy	Corresponding timeline of the model applications and queuing policy
Lead times for applications ahead of requested services start date	Electricity transfer application: no lead time contemplated. Connection application: reasonable time taking into account time required for works (including time required to undertake a regulatory test), time required to finalise an access offer and time required to process any request for derogation from the Technical Rules (clause 17).	The lead times should not exceed 10 business days in respect of services to be added to an existing access contract and 25 business days otherwise (clause A2.20)
Notification to applicant of receipt of application	Electricity transfer application: 5 business days	Not contemplated

Element of application process	Timelines of revised applications and queuing policy	Corresponding timeline of the model applications and queuing policy
Correction of errors or omissions in an application	Western Power must immediately notify the applicant of any detected error. Applicant must correct any error as soon as practicable, or within 20 business days if the applicant is notified of the error by Western Power (clause 3.11)	Service provider must immediately notify the applicant of a detected error. Applicant must correct the error as soon as practicable. (clauses A2.25, A2.26)
Provision of additional information by the applicant after request from the service provider	20 business days (clause 3.12))	As soon as reasonably practicable (clause A2.29)
Processing of the application	Application must be processed expeditiously and diligently (clause 3.13).	Application must be processed expeditiously and diligently (clause A2.81).
Initial response to an application (after lodgement of the application)	Electricity transfer application: no initial response contemplated. Connection application: 20 days (clause 19.1)	Class 1 application – within 5 business days Class 2 application – within 5 business days Class 3 application – within 20 business days (clause A2.90)
Making of an access offer (after lodgement of the application)	Electricity transfer application where the applicant is an existing user and selects a reference service: reasonable endeavours to make an access offer within the later of 10 days of receiving the application or within 5 days of an access offer being signed for any associated connection application (clause 7.1(e)) Electricity transfer application where the applicant is not an existing user and selects a reference service: reasonable endeavours to make an access offer within the later of 20 days of receiving the application or within 5 days of an access offer being signed for any associated connection application (clause 7.1(f)) Electricity transfer application where the applicant seeks a non-reference service: as soon as practicable (clause 7.2) Connection application: as soon as practicable (clause 26)	Reasonable endeavours for: Class 1 application – within 5 business days Class 2 application – within 10 business days Class 3 application – as soon as practicable (clause A2.99)
Applicant to respond to an access offer	30 business days (clause 5.2)	30 business days (clause A2.108)

Element of application process	Timelines of revised applications and queuing policy	Corresponding timeline of the model applications and queuing policy
Dormant applications	Application is considered dormant if no access offer is made within 12 months of the application (clause 2.1). Western Power may determine a dormant application to have been withdrawn where there is a competing application (clause 21.14).	Application is considered dormant if no access offer is made within three years of the application (clause A2.1). Service provider may determine a dormant access offer to have been withdrawn (clauses A2.78, A2.79)

1390. Western Power has incorporated revisions into the provisions of the revised applications and queuing policy dealing with dormant applications, as follows.

2.14-4 Definitions

...

“dormant application” means an connection application that has been in the queue for longer than 12 months ~~that was lodged by the applicant on a date that is more than six months before the date on which Western Power is considering the application under clause 9.6 and in respect of which Western Power has not made an access offer.~~

...

24.14~~9.6~~ Dormant applications

- (a) Where Western Power holds the opinion as a reasonable and prudent person that it is unlikely that an access offer will be signed ~~made~~ in respect of an applicant’s dormant application, and Western Power has received a competing application, then Western Power must give the applicant a notice requiring the applicant to provide information to Western Power demonstrating why the dormant application should not be taken to have been withdrawn by the applicant.
- (b) At least ~~30~~20 business days after giving a notice under clause ~~24.14(a)~~9.6(a), Western Power must make a fresh determination, having regard to all relevant material including anything which has occurred, and any information provided, since the notice was given under clause ~~24.14(a)~~9.6(a) whether the dormant application should be taken to have been withdrawn by the applicant.
- (c) If Western Power makes a determination under clause ~~24.14(b)~~9.6(b) that the dormant application should be taken to have been withdrawn by the applicant then the dormant application is deemed to have been withdrawn by the applicant.

1391. Western Power has not included provisions relating to dormant access offers in the revised applications and queuing policy.

Final Decision

1392. Western Power has incorporated revisions in the revised applications and queuing policy that change the timelines established for the processing of applications. Substantive changes from the proposed applications and queuing policy are:

- there are no lead times specified for electricity transfer applications, and lead times for connection applications are specified only as a “reasonable” time, whereas actual lead times were stated under the proposed applications and queuing policy;
 - there is a requirement for Western Power to notify an applicant of the receipt of an application within five days of receiving the application, whereas no such requirement or timeline existed under the proposed applications and queuing policy;
 - a timeline of 20 days is established for an applicant to correct any errors or omissions in an application where the applicant is notified by Western Power of the errors or omissions, where a timeline of five business days existed under the proposed applications and queuing policy;
 - a timeline of 20 days is established for an applicant to provide further information requested by Western Power, whereas the requirement under the proposed applications and queuing policy was only for provision as soon as practicable;
 - a timeline of 20 days is established for Western Power to provide an initial response to a connection application and no initial responses are contemplated for electricity transfer applications, whereas the proposed applications and queuing policy required initial responses to be provided in 5, 10 or 20 business days for class 1, 2 and 3 applications under;
 - for electricity transfer applications broadly corresponding to class 1 and class 2 applications as defined by the model applications and queuing policy, timelines are established for making an access offer of 10 or 20 days after lodgement of the application or 5 days after an access offer is made for an associated connection offer, whereas the proposed applications and queuing policy established timelines of 5 and 10 days after lodgement of an application;
 - for connection applications, timelines are established for making an access offer of “as soon as practicable”, whereas the proposed applications and queuing policy did not contemplate such applications; and
 - provisions relating to dormant access offers have been removed, and provisions relating to dormant applications have been revised to allow a dormant application to be deemed to be withdrawn where it is considered that it is unlikely that an access offer will be signed, rather than made.
1393. Draft Decision Amendment 133 required that the time frame for Western Power to make an initial response to a class 2 application be changed from 10 days to 5 days.
1394. Western Power has not incorporated Draft Decision Amendment 133 into the revised applications and queuing policy. Western Power has removed provisions for classes of applications from the revised applications and queuing policy, and has established a uniform time limit of 20 days for initial responses to connection applications. Western Power has not contemplated initial responses to electricity transfer applications.
1395. In view of the substantial changes introduced into the revised applications and queuing policy in respect of the scope of applications (comprising the two classes of electricity transfer applications and connection applications) and the

timelines for assessment of applications, the Authority has given further consideration to the provisions of the revised applications and queuing policy that establish timelines.

1396. The relevant requirements under the Access Code are that the timeline established under the applications and queuing policy must:

- establish a reasonable timeline for the commencement, progressing and finalisation of applications (section 5.7(a));
- oblige the service provider and applicants to use reasonable endeavours to adhere to the timeline (section 5.7(a));
- be consistent with instructions provided in the model applications and queuing policy, sections 5.7 to 5.9 of the Access Code and the Code objective where the applications and queuing policy is based on the model applications and queuing policy and the model applications and queuing policy leaves a matter relating to the timeline to be completed in the access arrangement (section 5.10).

1397. In addition, the general requirements of clauses 5.7(a) and (b) of the Access Code apply to require that the timeline accommodates the interests of Western Power, users and applicants and that the timelines be sufficiently detailed to be understood by users and applicants.

1398. The revised applications and queuing policy establishes a timeline for generally the same elements in the applications process as does the model applications and queuing policy:

- lead times for applications;
- time periods for correction of errors or omissions in an application;
- a requirement for Western Power to process applications expeditiously and diligently;
- the issue by Western Power of an initial response (for connection applications);
- the making of an access offer; and
- the applicant responding to the access offer.

1399. The Authority is satisfied that the timeline for processing of applications is described adequately and in such a manner as to oblige both Western Power and applicants to use reasonable endeavours to comply with the timeline. While Verve Energy has expressed concern over the “reasonable endeavours” qualification of requirements to comply with the timelines, there has been no substantive evidence put forward that such a qualification may frustrate the timely processing of applications. Moreover, this qualification is consistent with provisions of the model applications and queuing policy and, as such, the Authority would in any case be limited in its ability to impose a more stringent requirement in respect of compliance with the timeline.

1400. There are differences in some parameters of the timeline between the revised applications and queuing policy and corresponding provisions and instructions of the model applications and queuing policy.

1401. First, the model applications and queuing policy contemplates explicit lead times for applications, whereas the revised applications and queuing policy does not contemplate lead times for electricity transfer applications and requires only a “reasonable” lead time be adhered to for connection applications. In circumstances where a connection application would not be required, the revised applications and queuing policy (at clauses 7.1 and 7.2) establishes explicit times for making access offers. The Authority considers that these times adequately imply a lead time for making applications ahead of the required start date for services and that an explicit statement of lead times is not necessary for compliance with the relevant requirements of the Access Code. The Authority also considers that a requirement only for a “reasonable” lead time to apply to connection applications is consistent with the potential diversity of works to which connection applications may relate. The maximum lead time of 25 days contemplated by the model applications and queuing policy would be unable to be achieved where the works to which a connection application relates are large in scale or complexity, or approvals processes for the works (such as the regulatory test under chapter 10 of the Access Code) must be completed. Accordingly, the Authority is satisfied that the specification of lead times in the revised applications and queuing policy is consistent with the Access Code.
1402. Second, the revised applications and queuing policy establishes maximum times of 20 business days for an applicant to correct errors or omissions in an access arrangement or to provide additional information requested by Western Power. The model applications and queuing policy does not contemplate maximum times being established for this step in an application process. Notwithstanding this difference from the model applications and queuing policy, however, the Authority considers that the establishment of maximum time for this element of the applications process is reasonable as it obliges applicants to comply with the overall timeline for processing of applications and reasonably accommodates the interests of Western Power and applicants.
1403. Third, the model applications and queuing policy contemplates initial responses being made to applicants in respect of all applications, and within 5 or 20 days of lodgement of the application, whereas the revised applications and queuing policy provides for initial responses to be made only in respect of connection applications within 20 days of lodgement of the application. In circumstances where a connection application would not be required, the revised applications and queuing policy (at clauses 7.1 and 7.2) establishes explicit timelines of 5 or 10 business days for making access offers. The Authority considers that these timelines obviate the need for initial responses for these applications. The Authority also considers that a requirement for initial responses to be made only for connection applications is reasonable, as it is only for connection applications that Western Power would need to undertake investigations to determine if the application can be met and that an initial response is relevant. The maximum time of 20 business days for an initial response to a connection application is consistent with the time contemplated by the model applications and queuing policy for a class 3 application, which broadly corresponds to the circumstances where a connection application would be required under the revised applications and queuing policy. Accordingly, the Authority is satisfied that the specification of requirements and times for initial responses in the revised applications and queuing policy is consistent with the Access Code.

1404. Fourth, the model applications and queuing policy establishes timelines for making access offers of periods not exceeding 5 and 10 business days for class 1 and class 2 applications, respectively, unless the Code objective and the section 5.7 of the Access Code require otherwise.²⁰⁹ Under the revised applications and queuing policy, timelines of 10 and 20 business days would apply for broadly corresponding applications (i.e., where the application is for a reference service and no connection application would be likely to be required). Western Power has not made any submission to explain this difference. Having regard to the maximum periods contemplated by the model applications and queuing policy, the Authority considers that the time periods proposed by Western Power are unreasonable and inconsistent with the Access Code and the Code objective.
1405. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 18

The revised applications and queuing policy should be amended so that:

- (i) clause 7.1(e) requires Western Power to use reasonable endeavours to make an access offer within the later of 5 business days of receiving the electricity transfer application or within 5 business days of an access offer being signed for any associated connection contract; and
- (ii) clause 7.1(f) requires Western Power to use reasonable endeavours to make an access offer within the later of 10 business days of receiving the electricity transfer application or within 5 business days of an access offer being signed for any associated connection contract.

1406. The Authority notes the submission from the Western Australian Sustainable Energy Association contending that specific timelines should be established for the making of access offers for class 3 applications as defined by clauses A2.5 to A2.7 of the model applications and queuing policy. The Authority notes that the model applications and queuing policy does not establish specific timelines for the making of access offers for class 3 applications but requires only that such applications are processed expeditiously and diligently. The revised applications and queuing policy is materially the same as the model applications and queuing policy in this respect and, as such, the Authority is satisfied that the absence of specific timeframes in the revised applications and queuing policy for applications in the nature of class 3 applications as contemplated by the model applications and queuing policy is consistent with the Access Code and Code objective.
1407. Draft Decision Amendment 143 required that provisions of the proposed applications and queuing policy relating to dormant access offers be removed from the applications and queuing policy. Western Power has incorporated this amendment into the revised applications and queuing policy.

²⁰⁹ Model applications and queuing policy, clause A2.99 and footnotes 17 and 18.

1408. Draft Decision Amendment 155 required that the period between submission of an application and the date at which the application is able to be deemed dormant be increased from six months to three years, consistent with the corresponding provision of the model applications and queuing policy. Western Power has not incorporated this amendment into the revised applications and queuing policy, but rather has increased the period from six months to 12 months. Western Power has submitted that the period of three years under the model applications and queuing policy would not accommodate the interests of all applicants in the operation of a queue, as a requirement to wait for three years before deeming an application to be dormant has the potential to hold up a queue of applications.²¹⁰ Notwithstanding the difference from the model applications and queuing policy, the Authority accepts Western Power's submission and considers that the period of 12 months is consistent with the requirement of section 5.7(c) of the Access Code for a reasonable timeframe to be established for the applications process.

1409. Western Power has incorporated a further revision, unrelated to any amendment required under the Draft Decision, into the provisions of the revised applications and queuing policy dealing with dormant applications. The pre-requisite for Western Power to deem that a dormant application has been withdrawn has been changed from an opinion that an access offer will not be *made* to an opinion that an access offer will not be *signed*. Western Power has submitted that this revision was made to reflect that the end of the application process is an access offer being signed rather than made and an application should be able to be considered dormant until an access offer is signed. Notwithstanding a difference from the model applications and queuing policy, the Authority accepts that this revision is consistent with the requirements of section 5.7(b) of the Access Code for parties to be able to understand the operation of the applications and queuing policy, and the requirements of section 5.7(c) for a reasonable timeline to be established for the applications process.

Provision of Information to Applicants

Access Code Requirements

1410. Section 5.7(d) of the Access Code requires that an applications and queuing policy oblige the service provider to provide information to applicants:

5.7 An applications and queuing policy must:

...

- (d) oblige the service provider, subject to any reasonable confidentiality requirements in respect of competing applications, to provide to an applicant all commercial and technical information reasonably requested by the applicant to enable the applicant to apply for, and engage in effective negotiation with the service provider regarding, the terms for an access contract for a covered service including:

²¹⁰ Western Power, Response to the Required Amendments in Part B of the Draft Decision (Detailed Response), section 5, pages 63, 64.

- (i) information in respect of the availability of covered services on the covered network; and
- (ii) if an augmentation will be required to provide the covered services sought:
 - A. operational and technical details of the required augmentation; and
 - B. commercial information regarding the likely cost of the required augmentation;

...

1411. The model applications and queuing policy contemplates the service provider providing information to an applicant through:

- informal communications on the likely classification of the application, availability of sufficient spare capacity, possible requirements for an augmentation, possible requirements for new connection assets, possible capital contributions, the likely timing for necessary augmentations, and the system studies that may be required in the processing of the application (clauses A2.9 and A2.10);
- an initial response indicating the classification of the application and, for a class 3 application, the timing for a preliminary assessment and access offer (clauses A2.89 to A2.92);
- a preliminary assessment indicating availability of sufficient spare capacity, requirements for an augmentation, requirements for new connection assets, requirements for capital contributions, the likely timing for necessary augmentations, and the system studies that may be required in the processing of the application (clauses A2.93 to A2.95); and
- progress reports on the processing of the application, provided at the request of the applicant (clauses A2.96 to A2.98).

Proposed Access Arrangement

1412. The proposed applications and queuing policy addressed the provision of information to applicants in a manner broadly similar to the corresponding provisions of the model applications and queuing policy, encompassing:

- informal communications (clause 4.1 of the proposed applications and queuing policy);
- an initial response (clauses 11.1 to 11.3); and
- progress reports (clause 11.4).

1413. There was no provision in the proposed applications and queuing policy for Western Power to provide an applicant with a preliminary assessment, as contemplated by clauses A2.93 to A2.95 of the model applications and queuing policy.

Draft Decision

1414. In its Draft Decision, the Authority determined that the absence of provision in the proposed applications and queuing policy for Western Power to provide an

applicant with a preliminary assessment constituted a material variation from the model applications and queuing policy.

1415. The Authority determined that the absence of provision for Western Power to provide an applicant with a preliminary assessment is inconsistent with the requirement of section 5.7(d) of the Access Code for the service provider to be obliged to provide information necessary for the applicant to effectively engage in negotiations for access. The Authority also noted that inclusion in the applications and queuing policy of provisions relating to preliminary assessments would require a consequential amendment to requirements for progress reports – requiring progress reports only after a preliminary assessment has been provided.

1416. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 147

Western Power to amend proposed applications and queuing policy to reproduce model applications and queuing policy clauses A2.93 to A2.95 (Preliminary assessment) without material omission or variation.

Draft Decision Amendment 148

Western Power to amend proposed applications and queuing policy clause 11.1 to reproduce model applications and queuing policy clause A2.89(b)(i) (Preliminary assessment) without material omission or variation.

Draft Decision Amendment 149

Western Power to amend the proposed applications and queuing policy to reproduce model applications and queuing policy clause A2.98 (Preliminary assessment) without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1417. No submissions were received from interested parties

Revised Proposed Access Arrangement

1418. Western Power has incorporated revisions into the revised applications and queuing policy that amend the clause dealing with informal discussions between an applicant and Western Power and with provision of a preliminary assessment. The amended clauses relate only to connection applications.

18.4. Informal discussions ~~communications~~

18.14.1 Applicant may contact Western Power

Prior to lodging a connection application with Western Power, an applicant may contact Western Power, where the applicant expects, in good faith, to proceed to a connection application, to discuss the proposed connection application, including to request a preliminary assessment under clause 19.3,

(a) ~~what classification will likely apply to the proposed application;~~

(b) ~~whether it is likely that there is sufficient spare capacity to provide the requested covered services or whether an augmentation may be required to provide the covered services, including whether it is likely that any new connection assets will be required to provide the covered services requested in the application; and~~

- ~~(c) if it is likely that an augmentation will be required — whether or not a contribution will likely be required from the applicant under the capital contributions policy and a good faith estimate of the approximate amount of the contribution; and [the definitions now cover all contributions]~~
- ~~(d) if it is likely that an augmentation will be required — a good faith estimate of the likely time required for the planning, designing, approving, financing, construction and commissioning, as applicable, of any necessary augmentations; and~~
- ~~(e) what system or other studies are likely to be required in the processing of the application, whether Western Power is able to undertake the studies and the approximate costs of such studies,~~

and Western Power must engage in such discussions in good faith and use all reasonable endeavours to satisfactorily and promptly address any matters raised by the applicant.

18.2 Applicant may request studies

An applicant may request Western Power to undertake system studies or perform other work necessary to assist the applicant in preparing its connection application, in which case:

- (a) Western Power must endeavour to perform such work within a reasonable time, without affecting the timing and cost of processing applications currently in the queue; and
- (b) for the purposes of processing applications currently in the queue, such work is to be disregarded; and
- (c) clause 20 applies.

{This might occur, for example, if the applicant needs input into feasibility studies to determine which of its potential projects proceeds to an application.}

4.2 Western Power may require costs

~~If, during informal discussions, an applicant requests Western Power to perform any studies, prepare detailed cost estimates or do any other work to assist the applicant prior to the applicant lodging an application; then~~

- ~~(a) the applicant must, when requested by Western Power, pay an amount to Western Power equal to a reasonable cost incurred, or to be incurred within a reasonable timeframe; and~~
- ~~(b) the total of the costs referred to in clause 4.2(a) must not exceed the reasonable costs which would be incurred by a prudent service provider, acting efficiently and in good faith, in accordance with good electricity industry practice, seeking to achieve the lowest practicable cost of performing the requested works.~~

~~{This might occur, for example, if the applicant needs input into feasibility studies to determine which project proceeds to an application.}~~

18.34.3 Informal discussions not binding

The discussions under this clause 184 are not binding on Western Power, and Western Power is not liable for any error or omission that is made as a reasonable and prudent person in the discussions under clause 184.

1419. In clause 18.2(c) of the revised applications and queuing policy, the cross-referenced clause 20 provides for Western Power to recover costs from the applicant for any studies or work undertaken.

1420. Revised clauses 19.1 to 19.4 of the revised applications and queuing policy set out provisions for Western Power to provide an initial response, preliminary assessment and progress reports.

19.14. Reporting during the processing of the connection application

19.14.1 Initial response

(a) Subject to clause ~~19.1(b)~~~~14.2(b)~~, Western Power must provide an initial response to the applicant within 20 business days of receiving the applicant's connection application, specifying:

(i) Western Power's preliminary assessment with regards to the connection application under clause 19.3; and

~~(a) Western Power's classification of the application; and~~

~~(b) the estimated costs of processing the application; and~~

(ii)(c) an estimate of the time by which Western Power expects to make an access offer; and

(iii) whether the connection application has caused Western Power to give a notice under clause ~~24.7~~~~8.6~~ to any person.

~~14.2 Timing of initial response~~

~~(a) The initial response must be provided:~~

~~(i) for a class 1 application — within 5 business days after the application is lodged; or~~

~~(ii) for a class 2 application — within 10 business days after the application is lodged; or~~

~~(iii) for a class 3 application — within 20 business days after the application is lodged.~~

(b) If, by the time by which Western Power is required to give an applicant an initial response under clause ~~19.1~~~~14.2~~, Western Power has given the applicant an access offer, Western Power is not required to provide an initial response to the applicant.

19.24.3 Initial response is not binding

An initial response is not binding on Western Power, and Western Power is not liable for any error or omission, which is made as a reasonable and prudent person, in an initial response.

19.3 Preliminary assessment

A preliminary assessment with regards to a connection application may consist of:

(a) whether it is likely that there is sufficient spare capacity to provide the requested covered services or whether any works might be required to provide the covered services, including whether it is likely that any new connection assets will be required to provide the covered services requested in the application; and

(b) if it is likely that works will be required — operational and technical details of the works; and

(c) if it is likely that works will be required — whether or not a contribution will likely be required from the applicant under the capital contributions policy and a good faith estimate of the approximate amount of the contribution; and

(d) if it is likely that an augmentation will be required — a good faith estimate of the likely time required for the planning, designing,

approving, financing, construction and commissioning, as applicable, of any necessary augmentation; and

- (e) Western Power's proposal for processing the application, if applicable under clause 20.2.

19.411.4 Progress reporting

- (a) An applicant must upon request by Western Power (which request will not be made more frequently than once per month ~~fortnight~~) provide a progress report to Western Power containing information in reasonable detail regarding its connection application, including whether there has been any material change in any information previously provided by the applicant.
- (b) Western Power must upon request by the applicant (which request must not be made more frequently than once per month ~~fortnight~~, and must not be made less than 1 month following the provision of an initial response) provide a progress report to the applicant containing information in reasonable detail regarding the processing of the connection application, including whether there has been any material change in any estimates of scope, costs or times, either for processing the connection application or for any works that might result from the connection application, previously provided by Western Power.

Final Decision

1421. Draft Decision Amendments 147, 148 and 149 required Western Power to incorporate in the applications and queuing policy requirements to provide an applicant with a preliminary assessment and to make consequential changes to the timing of progress reports. The Authority is satisfied that the revisions incorporated in the revised applications and queuing policy incorporate these required amendments.

1422. The Authority is further satisfied that, as a general matter, clauses 18 and 19 of the revised applications and queuing policy create obligations on Western Power to provide an applicant with information as required by clause 5.7(d) of the Access Code.

Priority of Competing Applications

Access Code Requirements

1423. Sections 5.7(e) and 5.9 of the Access Code set out the requirements for the "queuing" component of the applications and queuing policy:

5.7 An applications and queuing policy must:

...

- (e) set out the procedure for determining the priority that an applicant has, as against another applicant, to obtain access to covered services, where the applicants' access applications are competing applications; and

...

5.9 Under section 5.7(e), the applications and queuing policy may:

- (a) provide that if there are competing applications, then priority between the access applications is to be determined by reference to the time at

which the access applications were lodged with the service provider, but if so the applications and queuing policy must:

- (i) provide for departures from that principle where necessary to achieve the Code objective; and
- (ii) contain provisions entitling an applicant, subject to compliance with any reasonable conditions, to:
 - A. current information regarding its position in the queue; and
 - B. information in reasonable detail regarding the aggregated capacity requirements sought in competing applications ahead of its access application in the queue; and
 - C. information in reasonable detail regarding the likely time at which the access application will be satisfied;

and

- (b) oblige the service provider, if it is of the opinion that an access application relates to a particular project or development:
 - (i) which is the subject of an invitation to tender; and
 - (ii) in respect of which other access applications have been lodged with the service provider,

(“project applications”) to, treat the project applications, for the purposes of determining their priority, as if each of them had been lodged on the date that the service provider becomes aware that the invitation to tender was announced.

1424. The establishment of queuing rules for competing applications is addressed by clauses A2.45 to A2.69 of the model applications and queuing policy that provide for:

- queuing rules to apply where there are competing applications (clause A2.45);
- queuing rules to determine the priority of applications (clauses A2.46 to A2.48);
- more than one queue to be established for a network (clause A2.49);
- the priority of applications to be determined on a “first come first served” principle (clause A2.50);
- applications to bypass the first come first served queue in certain circumstances (clauses A2.51 to A2.55);
- multiple applications to be given equal priority where they are made in respect of a tendered project (clauses A2.56 to A 2.62);
- the holding of reserve-capacity auctions (clause A2.63);
- applications to be processed concurrently regardless of the operation of a queue (clauses A2.64 and A2.65);
- the exercise of an option to extent the duration of an access contract to not be subject to the queuing rules (clause A2.66);
- the loss of priority of a withdrawn application (clause A 2.67); and
- requirements of the service provider to provide information to an applicant with an application in a queue (clauses A 2.68 and A2.69).

Proposed Access Arrangement

1425. Western Power set out queuing provisions in clauses 8.1 to 8.14 of its proposed applications and queuing policy. These provisions addressed the same matters, and in the same order, as the provisions of the corresponding clauses A2.45 to A2.69 of the model applications and queuing policy.
1426. Additional provisions of the proposed applications and queuing policy addressed the priority in a queue of amended applications (clause 9.3), the disposition of “dormant applications” (an application for which an access offer has not been made after a period of six months after the application, clause 9.6), the consideration of existing contracts in the determination of spare capacity (clause 10.2), and dealing with applications other than in accordance with the applications and queuing policy (clause 10.4).

Draft Decision

1427. In its Draft Decision, the Authority addressed four material variations in the queuing provisions of the proposed applications and queuing policy from the corresponding provisions of the model applications and queuing policy.
1428. First, the proposed applications and queuing policy provided for three circumstances in which an application may bypass a queue that are not contemplated in the model applications and queuing policy:
- to the extent necessary to allow a supplier of last resort (as defined in the section 67 of the *Electricity Industry Act 2004*) to comply with its obligations under Part 5 of the *Electricity Industry Act 2004* (clause 8.4(b));
 - to the extent necessary to allow a default supplier (as defined in the section 59 of the *Electricity Industry Act 2004*) to comply with its obligations under section 59 of the *Electricity Industry Act 2004* (clause 8.4(c)); and
 - if directed by the Authority (clause 8.4(d)).
1429. The Authority determined that providing for bypass of the queue to occur “if directed by the Authority” would have the effect of creating a role for the Authority that is not contemplated by the *Electricity Industry Act 2004* or the Access Code. The Authority determined that such a provision in an access arrangement is neither appropriate nor reasonable.
1430. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 129

Western Power to delete proposed applications and queuing policy clause 8.4(d) (When bypass is permitted).

1431. Second, the Authority determined that clause 8.9 of the proposed applications and queuing policy would provide Western Power with substantially greater discretion than contemplated by the corresponding clauses A2.56 to A2.62 of the model applications and queuing policy in determining and treating applications made in relation to a tender project. The Authority determined that clause 8.9 of the proposed applications and queuing policy does not provide sufficient detail for users and applicants to understand how the queue

would operate in those circumstances, and, hence, that the clause is inconsistent with the requirements of section 5.7(b) of the Access Code.

1432. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 130

Western Power to amend proposed applications and queuing policy clause 8.9 (Applications in relation to tender projects etc) to reproduce model applications and queuing policy clauses A2.56 to A2.62 without material omission or variation.

1433. Third, the Authority determined that clause 9.3 of the proposed applications and queuing policy deals inadequately with establishing the priority of amended applications in a queue. Clause 9.3 provided for the effect of an amendment on the priority of the application to be established by consideration of whether the amended application is materially different from the original application. There is no definition or guidance provided as to the meaning of “materially different”. The Authority considered that the absence of definition or guidance was a material variation from clause A2.75 of the model applications and queuing policy, which provides for “materially different” to be defined in terms of a percentage change in the capacity sought, a percentage change in the charges payable, the requirement of an augmentation, or some other factor. The Authority determined that the absence of definition or guidance for determining whether an amended application is “materially different” is inconsistent with the requirement of section 5.7(b) of the Access Code for the applications and queuing policy to be understandable by applicants.

1434. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 145

Western Power to amend proposed applications and queuing policy to reproduce model applications and queuing policy clause A2.75 (Material variations to amended application) without material omission or variation.

1435. Fourth, the Authority addressed clause 10.2 of the proposed applications and queuing policy (in particular clauses 10.2(b) and (c)), which provides Western Power with a power to unilaterally reduce a user’s contracted capacity in circumstances where Western Power is of the view that the contracted capacity of the user is in excess of the user’s actual requirements and the capacity is sought by an applicant. There is no corresponding provision in the model applications and queuing policy. In accordance with the Authority’s determination on a related clause in the proposed electricity transfer access contract,²¹¹ the Authority determined that such a provision does not reasonably accommodate the interests of users in maintaining contractual entitlements.

²¹¹ Draft Decision, paragraphs 1016 to 1026.

1436. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 132

Western Power to delete proposed applications and queuing policy clauses 10.2(b) and (c) (Existing access contracts and determination of spare capacity).

Submissions from Interested Parties on the Draft Decision

1437. Newmont Australia Limited submitted:

Required Amendment 129, When bypass is permitted – The Authority has deleted clause 8.4(d), however, has retained clause 8.5 (When the bypass test might be satisfied). We previously stated our view on this clause that the abilities for Western Power to remove the priority of an application should be further qualified. A more rigorous test should be incorporated, inclusive of explicit project viability requirements, for applicants to remain in the queue. The Authority has not addressed this issue, presumably because the wording of clause 8.5 is consistent with the comparable clause of the Model AQP of the Access Code.

1438. Verve Energy submitted:

ERA does not appear to have considered the requirement per clause A2.63 of the Model Application and Queuing Policy ("MAQP") for the Reserve Capacity Auction Process to be dealt with in the [Proposed Access Arrangement].

Revised Proposed Access Arrangement

1439. In its revised applications and queuing policy, Western Power has maintained provisions for queuing of applications that address the same matters, and in the same order, as the corresponding clauses A2.45 to A2.69 of the model applications and queuing policy. There have, however, been some revisions from the proposed applications and queuing policy, indicated as follows. These revisions include a consolidation of all provisions relating to queuing into one clause dealing with connection applications, including the previous clauses of the proposed applications and queuing policy that deal with the priority of amended applications, dormant applications, and the consideration of existing contracts in the determination of spare capacity.

24.8- Queuing rules~~The queue~~

24.18-4 When queuing rules apply

- (a) The queuing rules apply only where there are competing applications.
- (b) The queuing rules apply to determine the priority of an applicant's connection application in the queue.

24.2 Initial priority of a connection application

(a)(c) Subject to clause 24.10, the priority of an applicant's connection application in a queue is to be determined by reference to the time at which the application is lodged, which is the time at which Western Power actually receives the connection application.

(b)(d) If an applicant submits more than one connection application, then the applicant has a different priority in respect of each connection application, and every reference in the queuing rules to the applicant's priority is to be read as a reference to the applicant's priority in respect of the relevant connection application.

24.38-2 More than one queue

Under clause 24.2(a)~~8.1(e)~~, there may from time to time be more than one queue in respect of a network.

{Example: One group of applications may relate to new generation projects in one part of a network and another group of applications may relate to new consumers at an industrial area at a different part of the network and each group of applications may be in a separate queue.}

24.48.3 Release of contracted capacity First come first served principle

When an existing user reduces contracted capacity at one connection point, and that reduction increases spare capacity, then that spare capacity is made available to applicants in accordance with the first come, first served principle, regardless of whether the user makes a concurrent connection application at that or another connection point. ~~Subject to clauses 8.4 to 8.9, Western Power must ensure that applications are processed in accordance with the first come, first served principle~~

24.58-4 When bypass is permitted

Subject to the process in clauses 24.7 to 24.9~~8.6 to 8.8~~, bypass is permitted:

- (a) to the extent necessary to better achieve the Code objective; or
- (b) to the extent necessary to allow a supplier of last resort (as defined in the section 67 of the Act) to comply with its obligations under Part 5 of the Act; or
- (c) to the extent necessary to allow a default supplier (as defined in the section 59 of the Act) to comply with its obligations under section 59 of the Act; or
- (d) if required under a Law ~~if directed by the Authority.~~

24.68-5 When the bypass test might be satisfied

Without limiting clause 24.58-4, circumstances where the bypass test in clause 24.58-4 might be satisfied include:

- (a) where a connection application that has earlier priority in a queue cannot, and a connection application with later priority can, presently proceed to an signed access contract or otherwise progress through the applications process, for example because:
 - (i) the applicant with earlier priority has requested Western Power to suspend processing its connection application because it has not obtained environmental or other approvals that it requires in order to proceed; or
 - (ii) of delays in processing the connection application that has earlier priority caused by the arbitration of an access dispute under Chapter 10 of the Code;
- or
- (b) where an applicant fails to use reasonable endeavours to progress its connection application in accordance with this applications and queuing policy; or
- (c) where the connection application is frivolous, vexatious or was not made in good faith.

24.78-6 Western Power to give notice

If Western Power considers that the bypass test in clause 24.58-4 is satisfied in relation to a connection application, it must give the applicant a notice (subject to clause 6.25-2) setting out in reasonable detail the basis on which Western

Power considers that the bypass test in clause [24.58.4](#) is satisfied and requiring the applicant to either:

- (a) if possible, progress the application; or
- (b) otherwise provide information to Western Power demonstrating why the [connection](#) application should not be bypassed.

[24.88.7](#) Western Power may bypass after fresh determination

At least 20 business days after giving a notice under clause [24.78.6](#), Western Power must make a fresh determination, having regard to all relevant material, including anything which has occurred, and any information provided, since the notice was given under clause [24.78.6](#), whether the bypass test in clause [24.58.4](#) is satisfied. If Western Power considers that the bypass test in clause is satisfied, it may bypass the [connection](#) application to the extent permitted under clause [24.58.4](#).

[24.98.8](#) Western Power to provide reasons for bypass

If Western Power bypasses a [connection](#) application under clause [24.88.7](#), Western Power must (subject to clause [6.25.2](#)) provide reasons to the applicant for its decision to bypass the [connection](#) application including information in reasonable detail explaining on what basis Western Power determined that bypassing the [connection](#) application was necessary to better achieve the Code objective under clause [24.58.4](#).

[24.108.9](#) [Connection](#) applications in relation to tender projects

(a) If:

- (i) two or more applicants notify Western Power that they are competing under a tender process, with respect to new generating plant; and
- (ii) only the applicant that is successful in its bid will proceed with an access contract,

then Western Power must assign the same priority to those of the connection applications that are competing, equal to the priority of the earliest such connection application.

(b) If an applicant who has been unsuccessful in a tender process under clause 24.10(a) decides to continue with a connection application, then the priority of the connection application become the priority the connection application would have had based on the date the applicant submitted the connection application.

- ~~(a) Western Power must decide, as a reasonable and prudent person, if it is practical to treat competing applications as having the same priority. This may occur, for example, if two applicants are competing under a tender process for the same capacity, and only the applicant that is successful in its bid will proceed with an access contract.~~
- ~~(b) Where clause 8.9(a) does not apply, Western Power must treat bidders in a tender process in accordance with the first come, first served principle.~~

[24.118.10](#) Processing of [connection](#) applications not affected

- ~~(a) Nothing in the queuing rules prevents Western Power from processing more than one [connection](#) application concurrently.~~
- ~~(b) Western Power must use reasonable endeavours to comply with the timeframes set out in this applications and queuing policy in respect of each application which is lodged with Western Power, whether or not it is processing more than one application concurrently.~~

8.11 — Exercising an option not affected

~~An option granted to a user as part of the terms of an access contract to extend the duration of the access contract is not an application and is not subject to the queuing rules if it is exercised in accordance with its terms.~~

~~24.12~~⁸⁻¹² Priority of withdrawn [connection](#) applications

An application which is withdrawn or deemed by this applications and queuing policy to have been withdrawn, loses its priority under the queuing rules, even if it is subsequently amended or resubmitted.

~~24.13~~⁹⁻³ Priority of amended [connection](#) applications

(a) Subject to clause ~~24.13(b)~~^{9-3(b)}, an amended [connection](#) application has the same priority as the original [connection](#) application.

(b) Subject to clause 24.13(c), if an amended [connection](#) application is materially different from the original [connection](#) application, and if the difference is such that an applicant whose competing application has a date of priority subsequent to the original [connection](#) application is materially prejudiced in terms of the likelihood, timing, cost and terms of its obtaining access (compared with that later applicant's position with respect to the original [connection](#) application), then:

- (i) if it is possible to construe the amended [connection](#) application as a combination of the original [connection](#) application and a notional supplementary [connection](#) application (whether for further capacity or otherwise), the original [connection](#) application retains its priority and the notional supplementary [connection](#) application has priority according to the time of amendment; but
- (ii) otherwise — the amended [connection](#) application has priority according to the time of amendment.

(c) For the purposes of clause 24.13(b), without limiting the ways in which an amended connection application may be materially different from the original connection application, an amended connection application is not materially different from the original connection application if the capacity sought in the amended connection application is less, or less than 5% more than, the capacity sought in the original connection application.

~~24.14~~⁹⁻⁶ Dormant applications

(a) Where Western Power holds the opinion as a reasonable and prudent person that it is unlikely that an access offer will be signed in respect of an [applicant's](#) dormant application, and Western Power has received a competing application, then Western Power must give the applicant a notice requiring the applicant to provide information to Western Power demonstrating why the dormant application should not be taken to have been withdrawn by the applicant.

(b) At least ~~30~~²⁰ business days after giving a notice under clause ~~24.14(a)~~^{9-6(a)}, Western Power must make a fresh determination, having regard to all relevant material including anything which has occurred, and any information provided, since the notice was given under clause ~~24.14(a)~~^{9-6(a)} whether the dormant application should be taken to have been withdrawn by the applicant.

(c) If Western Power makes a determination under clause ~~24.14(b)~~^{9-6(b)} that the dormant application should be taken to have been withdrawn by the applicant then the dormant application is deemed to have been withdrawn by the applicant.

24.15~~10-2~~ Existing access contracts and determination of spare capacity

- ~~(a)~~ In determining whether there is sufficient spare capacity to provide covered services requested in a [connection](#) application, Western Power must assume that any existing access contract will be renewed in accordance with the terms of that access contract.
- ~~(b)~~ ~~If covered services provided under an existing access contract in relation to capacity at a contracted point impede Western Power's ability to provide covered services sought by an applicant, and Western Power determines, as a reasonable and prudent person, that the capacity which is provided under that access contract is not reasonably necessary to satisfy that user's actual requirements, then Western Power may:~~
- ~~(i)~~ ~~by written notice to the existing user, decrease that capacity accordingly; and~~
 - ~~(ii)~~ ~~consider that the amount of capacity by which the capacity under the user's access contract was decreased is now spare capacity for the purposes of processing the application.~~
- ~~(c)~~ ~~When making a determination under clause 10.2(b), Western Power must have regard to:~~
- ~~(i)~~ ~~the nature, condition and use of the facilities and equipment installed, or to be installed within a reasonable time, at the contracted point; and~~
 - ~~(ii)~~ ~~whether the user cannot use the covered services because of a circumstance beyond the user's control which the user is diligently attempting to rectify.~~

24.16~~8-13~~ Provision of information about position in queue

Western Power must make known to any applicant with a [connection](#) application in a queue, or to any existing user with a conditional access contract under clause [4.8](#)~~14.4~~:

- (a) in respect of each competing application in the queue:
 - (i) the fact that the competing application exists in the queue; and
 - (ii) whether the competing application is ahead of, or behind, the applicant's position in the queue;
- and
- (b) a description of the circumstances which caused the [connection](#) applications in the queue to be competing applications (including information in reasonable detail regarding the aggregated capacity requirements of those competing applications which are ahead of the applicant in the queue); and
 - (c) the likely time until the making of an access offer and the commissioning of any necessary augmentation in respect to the competing application; and
 - (d) except to the extent that it is prevented from doing so by clause [6.25](#)~~2~~, in respect of each competing application in the queue:
 - (i) the capacity requirements of the competing application; and
 - (ii) the geographic location at which the competing application seeks the capacity; and
 - (iii) reasonable details regarding any augmentation required by the competing application.

~~24.17~~⁸⁻¹⁴ When Western Power is to provide queue information

Western Power must provide the information in clause ~~24.13~~⁸⁻¹³:

- (a) as part of the initial response to an application; and
- (b) at any time after a reasonable request by the applicant for updated information; and
- (c) as soon as practicable after a material change in the information previously notified under this clause ~~24.17~~⁸⁻¹⁴, including when information of the kind referred to in clause ~~24.16(d)~~^{8-13(d)} which was previously withheld on the ground that Western Power was prevented from doing so by clause ~~6.2~~⁵⁻² is no longer entitled to be withheld on that ground.

1440. Within the above queuing provisions of the revised applications and queuing policy:

- clause 8.11 of the proposed applications and queuing policy (relating to exercise of an option to extend an access contract) has been deleted from what is now clause 24 of the revised applications and queuing policy, but has been reproduced unchanged as clause 2.6 of the revised applications and queuing policy;
- clause 24.13 of the revised applications and queuing policy (relating to priority of amended applications) has been reproduced from clause 9.3 of the proposed applications and queuing policy;
- clause 24.14 of the revised applications and queuing policy (relating to dormant applications) has been reproduced from clause 9.6 of the proposed applications and queuing policy; and
- clause 24.15 of the revised applications and queuing policy (relating to existing access contracts and determination of spare capacity) has been reproduced from clause 10.2(a) of the proposed applications and queuing policy.

Final Decision

1441. Western Power has incorporated revisions into the queuing provisions of the revised applications and queuing policy that include several changes from the provisions of the proposed applications and queuing policy, including changes in response to Draft Decision Amendments 129 and 130. The Authority's consideration of these revisions is set out as follows.

Queuing Provisions Relate only to Connection Applications

1442. Western Power has incorporated revisions into the queuing provisions of the revised applications and queuing policy that limit the operation of queues to connection applications, and not to electricity transfer applications.

1443. Clauses 16.1 to 16.4 of the revised applications and queuing policy require a connection application to be submitted in circumstances where the service being applied for requires a new connection point to be created; where an increase in contracted capacity is required; where generating plant is to be modified; or where there is to be a modification or augmentation of the network. Taking these requirements into account, the Authority is satisfied that a connection application will be made in all circumstances where the ability of Western Power to provide a service may be constrained by the capacity of the

network. Accordingly, the Authority is satisfied that application of the queuing provisions only to connection applications is appropriate and consistent with the Access Code.

Applying the First Come First Served Principle to Spare Capacity

1444. Western Power has incorporated revisions into the queuing provisions of the revised applications and queuing policy that modify the statement of the first come first served principle from the principle as stated in the proposed applications and queuing policy and model applications and queuing policy.
1445. In both the proposed applications and queuing policy (clause 8.3 and definition of “first come first served”) and model applications and queuing policy (clause A2.50), the first come first served principle is established as a principle of determining the order of priority of competing applications for spare capacity. “Spare capacity” is defined as the capacity of the network to provide services, taking into account the service provider’s existing contractual obligations.
1446. In clause 24.4 of the revised applications and queuing policy, Western Power appears to have maintained the first come first served principle as the underlying principle for queues, but indicates that this principle applies to spare capacity that becomes available as a result of an existing user reducing contracted capacity at one connection point and that reduction increases spare capacity (clause 24.4). This provision, for which there is no corresponding clause in the model applications and queuing policy, may be interpreted as indicating that the queue applies only to spare capacity that becomes available as a result of an existing user reducing contracted capacity and not spare capacity that may become available by other mechanisms.
1447. The Authority considers that clause 24.4 of the revised applications and queuing policy creates ambiguity as to whether the applications and queuing policy applies to spare capacity generally on the network or only spare capacity that arises as a result of an existing user reducing contracted capacity at one connection point and that reduction increases spare capacity.
1448. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 19

The revised applications and queuing policy should be amended to clearly indicate that the queuing provisions of the policy apply generally to access to spare capacity at locations on the network more generally.

When Bypass is Permitted

1449. Draft Decision Amendment 129 required deletion of clause 8.4(d) of the proposed applications and queuing policy to remove provision for an application to bypass a queue if directed by the Authority. Western Power has incorporated revisions into the revised applications and queuing policy to change this clause (now clause 24.5(d)) to an application to bypass a queue *if required under a law*. The Authority is satisfied that this revision incorporates the requirements of Draft Decision Amendment 129, and that the new

provision for an application to bypass a queue if required under a law is a reasonable provision in operation of a queue and consistent with the requirement of clause 5.7(b) of the Access Code for an applicant to be able to understand the applications and queuing policy.

1450. The Authority notes the submission from Newmont Australia Limited that requests that the test for bypass be specified in more detail and give attention to whether applications in the queue actually relate to viable projects. The Authority considers, however, that the broad tests of clauses 24.5 and 24.6 of the revised applications and queuing policy provide scope for Western Power to allow an application to bypass the queue where other queued applications do not relate to viable projects. In particular, bypass of such applications could be considered to be consistent with the Code objective (clause 24.5), and could be allowed for after taking into account the fact that applications relating to non-viable projects would be unlikely to proceed (clause 24.6).

Applications in Relation to Tender Projects

1451. Draft Decision Amendment 130 required that Western Power amend the proposed applications and queuing policy to include clauses of the model applications and queuing policy that deal with applications made in relation to tender projects (clauses A2.56 to A262) without material omission or variation.

1452. Western Power has not incorporated the relevant clauses of the model applications and queuing policy into the revised applications and queuing policy. Western Power has, however, incorporated revisions into the relevant clause of the revised applications and queuing policy (now clause 24.10). These revisions:

- require Western Power to treat two or more applications as “applications in relation to tender projects” only if Western Power is notified as such by the relevant applicants, rather than if Western Power decides this to be the case as a reasonable and prudent person; and
- provide for an applicant that has been unsuccessful in a tender process to decide to continue with the connection application, with a priority determined on the basis of the date that the application was received (this provision was not included in the proposed applications and queuing policy).

1453. The process established by clause 24.10 of the revised applications and queuing policy for determining that multiple applications relate to a tender project is stricter than the process established under the model applications and queuing policy, the latter involving a discretionary determination by the service provider taking into account information provided by a project proponent or applicant. Notwithstanding this, the Authority considers that the process established under clause 24.10 is reasonably consistent with the model applications and queuing policy and consistent with the requirements of section 5.9(b) of the Access Code, which requires only that applications be treated as relating to a single tender project where the service provider is “of the opinion” that this is the case.

1454. The provision for an applicant that has been unsuccessful in a tender process to decide to continue with the connection application is additional to the explicit requirements of the Access Code and provisions of the model applications and queuing policy. The Authority considers, however, that this provision is

consistent with the general requirement of section 5.7(e) of the Access Code as part of a procedure for determining the priority of competing applications, and consistent with the first come first served principle.

1455. The Authority notes the submission from Verve Energy contending that the Authority has not required the applications and queuing policy to deal with the queuing of applications relating to reserve capacity auctions.
1456. Clause A2.63 of the model applications and queuing policy contemplates the queuing rules potentially dealing explicitly with applications made in respect of a tender process for reserve capacity auctions, although indicating that such provisions may be included in the applications and queuing policy “if applicable”. The Authority considers that any such applications may be dealt with under the general provisions of the applications and queuing policy dealing with applications that relate to tender projects and that there is no need for explicit provisions to be included in the applications and queuing policy for this purpose.

Priority of Amended Applications

1457. Draft Decision Amendment 145 required that Western Power incorporate the provisions of clause A2.75 of the model applications and queuing policy into the applications and queuing policy to define when an amended application is materially different from an original application.
1458. In clause 24.13 of the revised applications and queuing policy, Western Power has maintained the provision for “materially different” to be determined by a discretionary judgement, but has included a new clause (clause 24.13(c)) to indicate that an amended application is not materially different to the original application if the requested capacity in the amended application is less than, or less than five per cent more than the required capacity, in the original application.
1459. The determination of whether an amended application is materially different to the original application under clause 24.13 of the revised applications and queuing policy is in the context of whether a competing application is materially prejudiced. While clause A2.75 of the model applications and queuing policy provides for a determination of material difference to take into account the charges payable under an application or the requirement of an augmentation, the Authority does not consider that these matters are relevant to potential prejudice of a competing application. The Authority is therefore satisfied that, with the guidance provided as to when a change in requested capacity may be considered a material difference, the provisions in the revised applications and queuing policy for establishing the priority of an amended application are materially the same as the corresponding provisions of the model applications and queuing policy and therefore consistent with the Access Code.

Inclusion of other provisions in the queuing rules

1460. Western Power has incorporated revisions into the queuing provisions of the revised applications and queuing policy that cause the queuing rules to include assumptions about existing access contracts when determining spare capacity (clause 24.15), including the matter of dormant applicants.

1461. The matter of dormant applications has been dealt with earlier in this Final Decision in relation to the timing of the applications process (paragraph 1372 and following). The other provisions of clause 24.15 of the revised applications and queuing policy are materially the same as the provisions of the proposed applications and queuing policy, but were set out in the proposed applications and queuing policy separately from the queuing rules (at clauses 9.3 and 10.2(a) of the proposed applications and queuing policy). The Authority is satisfied that these provisions appropriately form part of the queuing rules and are otherwise consistent with the Access Code.
1462. The provisions of clauses 10.2(b) and (c) of the proposed applications and queuing policy (relating to the ability of Western Power to unilaterally reduce a user's contracted capacity where this capacity is unused) have not been included in the revised applications and queuing policy. The Authority is therefore satisfied that the revised applications and queuing policy incorporates Draft Decision Amendment 132, which required deletion of these clauses.

Customer Transfers

Access Code Requirements

1463. Section 5.7(f) of the Access Code requires that the applications and queuing policy include provision for the transfer of capacity that may occur where there is a change in the user supplying electricity to a contestable consumer:

5.7 An applications and queuing policy must:

...

- (f) to the extent that contestable consumers are connected at exit points on the covered network, contain provisions dealing with the transfer of capacity associated with a contestable consumer from the user currently supplying the contestable consumer ("outgoing user") to another user or an applicant ("incoming user") which, to the extent that it is applicable, are consistent with and facilitate the operation of any Customer Transfer Code; and

...

1464. The model applications and queuing policy provides for customer transfers to be handled under the Customer Transfer Code, except where there is no such code or the Customer Transfer Code does not address certain matters, in which case customer transfers would be dealt with under the transfer provisions of the access arrangement, but in any case a customer transfer request would not be assessed as an application under the applications and queuing policy nor subject to the queuing rules (clauses A2.41 to A2.44).

Proposed Access Arrangement

1465. Clause 3.1 of the proposed applications and queuing policy provided for customer transfers to be handled under the Customer Transfer Code and outside of the applications and queuing policy, that is, for customer transfer requests to not be assessed as an "application" under the applications and queuing policy and for the queuing rules to not apply to these requests.

Draft Decision

1466. In its Draft Decision, the Authority determined that clause 3.1 of the proposed applications and queuing policy is materially different from clauses A2.41 to A2.44 of the model applications and queuing policy for reason that this clause does not contemplate the possibility that there is no Customer Transfer Code or that the Customer Transfer Code does not address certain matters.
1467. The Authority took the view that the absence of equivalent provisions to clause A2.43 of the model applications and queuing policy would result in applicants being unable to determine how the relevant matters would be dealt with by Western Power if they are not dealt with by the Customer Transfer Code. The Authority determined that omitting these provisions from the applications and queuing policy is inconsistent with the requirement of section 5.7(b) of the Access Code for the applications and queuing policy to be understandable to relevant parties.
1468. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 144

Western Power to amend proposed applications and queuing policy to reproduce model applications and queuing policy clause A2.43 (Customer transfer requests) without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1469. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1470. Western Power has incorporated revisions into the revised applications and queuing policy to change the provisions dealing with customer transfers that are now dealt with by clause 9.1. The revisions are indicated as follows.

9.1~~3.1~~ Customer transfer request

- (a) An incoming retailer ~~user~~ may lodge a customer transfer request with Western Power with respect to a contestable exit point. With respect to the customer transfer request:
- (i) Western Power, the incoming retailer ~~incoming user~~ and the previous retailer ~~outgoing user~~ must comply with the Customer Transfer Code; and
 - (ii) except as specified in this clause 8, this applications and queuing policy does not apply.
- (b) Western Power must not process the customer transfer request if it determines under clause 13 that the exit point is not contestable.
- (c) Western Power must process a customer transfer request such that the incoming retailer receives the same covered service at the same contracted capacity as the previous retailer.
- (d) The exit point must be transferred as a complete and indivisible unit such that all associated meters are transferred in one transaction.
- (e) If the incoming retailer seeks to modify the covered service with respect to an exit point that has been the subject of a customer transfer request,

then that incoming retailer must make an application under this applications and queuing policy as a separate transaction after the customer transfer request has been processed.

- ~~(b) Western Power must not assess the customer transfer request as an application; and~~
- ~~(c) the queuing rules do not apply.~~

Final Decision

1471. Western Power has not incorporated Amendment 144 into the revised applications and queuing policy.

1472. Given that Western Power has incorporated substantial revisions into the provisions of the revised applications and queuing policy dealing with customer transfers, the Authority has given further consideration to whether the revised provisions are consistent with the requirements of the Access Code.

1473. Consistent with section 5.7(f) of the Access Code and clause A2.44 of the model applications and queuing policy, clause 9.1 of the revised applications and queuing policy provides for customer transfers to be dealt with outside of provisions of the applications and queuing policy. Clause 9.1 also contains provisions that:

- limit the use of a customer transfer request to circumstances where the relevant exit point is contestable;
- require the service for the incoming retailer to be the same as for the previous retailer or, if the service is to be changed, then the change to be undertaken under the provisions of the applications and queuing policy; and
- require the exit point to be transferred as a complete and indivisible unit.

1474. While these provisions of clause 9.1 are additional to provisions contemplated by either section 5.7(f) of the Access Code or the model applications and queuing policy, they are consistent with the requirements of the Customer Transfer Code.²¹² As such, the Authority considers that the inclusion of these provisions in the applications and queuing policy is consistent with the requirement of section 5.7(b) of the Access Code for the applications and queuing policy to be sufficiently detailed to enable users and applicants to understand in advance how the applications and queuing policy will operate.

1475. Clause 9.1 of the revised applications and queuing policy does not include the provisions of clause A2.43 of the model applications and queuing policy that address the circumstances of there being no Customer Transfer Code in place or the Customer Transfer Code not addressing certain matters. As the Customer Transfer Code is established and deals with the matters contemplated by clause A2.43 of the revised applications and queuing policy, the Authority accepts that it is not necessary that clause A2.43 be reproduced in the applications and queuing policy.

²¹² Western Australian Government Gazette, Wednesday 29 December 2004, No. 233.

1476. Taking the above matters into account, the Authority is satisfied that the revised applications and queuing policy meets the requirements of section 5.7(f) of the Access Code.

Suppliers of Last Resort and Default Suppliers

Access Code Requirements

1477. Section 5.7(g) of the Access Code requires that the applications and queuing policy include provisions addressing the obligations of “suppliers of last resort” and “default suppliers”:

5.7 An applications and queuing policy must:

...

(g) establish arrangements to enable a user who is:

- (i) a ‘supplier of last resort’ as defined in section 67 of the Act to comply with its obligations under Part 5 of the Act; and
- (ii) a ‘default supplier’ under regulations made in respect of section 59 of the Act to comply with its obligations under section 59 of the Act and the regulations; and

...

1478. Part 5 of the *Electricity Industry Act 2004* provides for the Authority to licence a retail supplier of electricity for a designated geographical area in circumstances where that area would otherwise not be serviced by any retail supplier, and for a “last resort supply plan” to be implemented to ensure supply of electricity to the area.

1479. Section 59 of the *Electricity Industry Act 2004* provides for regulations to be enacted that enable a retail supplier of electricity to be determined to be the default supplier for defined connection points within the SWIN.

1480. The model applications and queuing policy does not contain any provisions that deal explicitly with the arrangements contemplated by section 5.7(g) of the Access Code.

Proposed Access Arrangement

1481. Clause 8.4 of the proposed applications and queuing policy provided for an application to bypass a queue of applications:

- to the extent necessary to allow a supplier of last resort (as defined in section 67 of the *Electricity Industry Act 2004*) to comply with its obligations under Part 5 of the *Electricity Industry Act 2004*; and
- to the extent necessary to allow a default supplier (as defined in section 59 of the *Electricity Industry Act 2004*) to comply with its obligations under section 59 of the *Electricity Industry Act 2004*.

Draft Decision

1482. In its Draft Decision, the Authority did not explicitly address the compliance of the proposed applications and queuing policy with the requirements of section 5.7(g) of the Access Code.

Submissions from Interested Parties on the Draft Decision

1483. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1484. Western Power has maintained provisions in the revised applications and queuing policy to allow the queue to be bypassed to the extent necessary to allow a supplier of last resort to comply with its obligations under Part 5 of the *Electricity Industry Act 2004* and to allow a default supplier to comply with its obligations under section 59 of the *Electricity Industry Act 2004* (clauses 24.5(b) and (c) of the revised applications and queuing policy).

Final Decision

1485. The provisions of clauses 24.5(b) and (c) of the revised applications and queuing policy are additional to provisions contemplated by the model applications and queuing policy. The Authority is satisfied, however, that the provisions are an appropriate means of meeting the requirements of section 5.7(g) of the Access Code and are consistent with the Access Code.

Facilitating Part 9 of the Electricity Industry Act 2004 and the Market Rules

Access Code Requirements

1486. Section 5.7(h) of the Access Code requires that the applications and queuing policy facilitate the operation of the wholesale electricity market:

5.7 An applications and queuing policy must:

...

(h) facilitate the operation of Part 9 of the Act, any enactment under Part 9 of the Act and the 'market rules' as defined in section 121(1) of the Act; and:

...

1487. Part 9 of the *Electricity Industry Act 2004* provides for regulations to be made to establish a market in relation to the wholesale supply of electricity in the SWIN, including for persons to be determined to be market participants and for market rules to be established.

1488. The model applications and queuing policy does not contain any provisions that deal explicitly with the facilitation of the wholesale electricity market or implementation of the market rules.

Proposed Access Arrangement

1489. The proposed applications and queuing policy contained a single provision that was indicated to relate particularly to facilitation of the wholesale electricity market or implementation of the market rules. This was clause 2.2, which required that any applicant seeking an electricity transfer contract must be, or must intend to be, a participant in the wholesale electricity market at the time that the electricity transfer is to take place.

Draft Decision

1490. In its Draft Decision, the Authority did not explicitly address the compliance of the proposed applications and queuing policy with the requirements of section 5.7(h) of the Access Code.

1491. The Authority did, however, consider whether the requirement that an applicant be a market participant is consistent with the requirements of the Access Code. The Authority noted that this requirement would not exist under the model applications and queuing policy, and determined that inclusion of the requirement in the applications and queuing policy would be a material difference from the model applications and queuing policy.

1492. The Authority determined that any requirement for a person to be registered (with the Independent Market Operator) as a market participant is a matter appropriately dealt with under the *Electricity Industry Act 2004* and the Market Rules, and that any requirement under the applications and queuing policy would potentially result in duplication and inconsistency between the applications and queuing policy and the other statutory instruments. Accordingly, the Authority determined that the requirement for an applicant to be market participant is inconsistent with the requirements of sections 5.7(a) and (b) of the Access Code.

1493. The Authority indicated that the following amendment would have to be made to the proposed applications and queuing policy before the proposed access arrangement would be approved.

Draft Decision Amendment 118

Western Power to delete proposed applications and queuing policy clause 2.2 (must be a wholesale market participant to transfer electricity).

Submissions from Interested Parties on the Draft Decision

1494. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1495. Western Power has maintained a requirement in the revised applications and queuing policy for an applicant to be a market participant. The relevant clause of the revised applications and queuing policy has been revised from the proposed applications and queuing policy as follows:

3.32.2 Applicant to be market participant ~~Must be a wholesale market participant to transfer electricity~~

An applicant who seeks an exit service or an entry service ~~electricity transfer contract:~~

- (i) must submit an electricity transfer application; and
- (ii) must be, or intend to be (providing reasonable proof of intent), a ~~wholesale~~-market participant at the time the electricity transfer is to take place.

1496. Western Power has submitted:

If a user is not a market participant and is not associated with an NMI, there is a risk that all electricity flowing through the network will not be accounted for. This is because the wholesale market will operate on the principle that all electricity transferred in or out of the network is part of the wholesale market and will be settled by WEMS (the Wholesale Electricity Market System). The market will settle based on the following equation:

$$\text{Market Generators (SCADA and interval meters) – Market Customers (interval meters) = Electricity Retail Corporation's Notional Wholesale Meter (un-metered and non-interval meter loads – primarily the residential market)}$$

Because the equation only contemplates Market Participants, the transfer of electricity on the network by a non-market participant will affect the settlement of the Notional Wholesale Meter.

In these circumstances, the Electricity Retail Corporation will be obliged to purchase the electricity in order to cover the inflated notional load, or will receive free electricity offsetting the notional load, as the case might be.

Western Power is obliged under the WEM rules to provide settlement ready meter data. In order to enable Western Power to do this, each interval meter must be associated with a market participant that the WEMS will recognise. This metering data comes from the same source used to run invoices for network access billing, and several other functions under the Act. If a user is not a market participant, errors will be created in the energy settlement process.

The WEM rules require that any generator over 10 MW must be a market generator. There is no mechanism outside of the Wholesale Market for a generator to get paid for generation, so a generator under 10 MW must either be its own market generator, be a NMI on another market generator's electricity transfer access contract, or be a generator behind an exit point meter, and thus will already be on the customer's retailer's electricity transfer access contract.

Although there could conceivably be cases where a small generator, not at an exit point, was happy to spill electricity into the network without being paid, Western Power considers that such a situation is unlikely, and should be discouraged due to its effect on an orderly market.

Under section 7 (4) of the Act, a person must have a retail licence before selling electricity to customers. A person with a retail licence must be a market participant, and hence must have an access contract. A person who consumes electricity must purchase that electricity, and hence must purchase from a retailer. Therefore, it follows that a person who consumes electricity will have their NMI on a retailer's electricity transfer access contract.

Finally, a customer is still given the flexibility to contract directly with Western Power for services, as the WEM Rules allow it to become its own market customer. It is essential for the practical workability of the system that an applicant who seeks to enter into an access contract is, or intends to be a market participant and the time the electricity transfer takes place. Western Power submits that these reasons adequately address the Authority's concerns and substantiate that the proposed provisions are consistent with sections 5.7 (a) and (b) of the Code objective.

Final Decision

1497. Western Power has maintained a requirement in the revised applications and queuing policy for an applicant to be a market participant and, thus, has not incorporated Draft Decision Amendment 118 into the revised applications and queuing policy.
1498. The Authority has considered Western Power’s submission that the settling of the electricity market will be facilitated by all users being market participants. The Authority has also consulted with the Independent Market Operator, which has confirmed that the requirement for all users being market participants will facilitate the operation of the wholesale electricity market. Taking this into account, the Authority accepts that the requirement for an applicant to be a market participant is consistent with the requirements of section 5.7(h) of the Access Code. Accordingly, the Authority does not maintain the requirement for amendment of the applications and queuing policy in accordance with Draft Decision Amendment 118.

Transition of Prior Applications

Access Code Requirements

1499. Section 5.7(i) of the Access Code requires that the applications and queuing policy indicate how applications received before the commencement of the access arrangement will be dealt with:

5.7 An applications and queuing policy must:

...

- (i) if applicable, contain provisions setting out how access applications (or other requests for access to the covered network) lodged before the start of the relevant access arrangement period are to be dealt with.

{Note: For the first access arrangement period section 5.7(i) would apply in respect of access applications or requests for access lodged under any prior access regime such as the regimes established under the *Electricity Transmission Regulations 1996 (WA)* and *Electricity Distribution Regulations 1997 (WA)*. For subsequent access arrangement periods it would apply in respect of access applications lodged in a prior access arrangement period.}

1500. The model applications and queuing policy contemplates the inclusion of provisions dealing with the “transition of prior applications” but leaves the actual provisions to be determined and included in the applications and queuing policy that is incorporated into an access arrangement, if applicable.²¹³

Proposed Access Arrangement

1501. Clause 1.3 of the proposed applications and queuing policy dealt with the disposition of applications for services that were received by Western Power before the access arrangement (and hence the applications and queuing policy) comes into effect. This clause provided generally for the applications

²¹³ Access Code, model applications and queuing policy, footnote 1.

and queuing policy to apply retrospectively for the purposes of determining the priority of applications (clauses 1.3(a) and (b)) and for all prior applications to be deemed to have been received on the day of commencement of the access arrangement for the purposes of applying timeframes set out in the applications and queuing policy (clause 1.2(c)).

Draft Decision

1502. In its Draft Decision, the Authority considered separately the provisions of (i) clauses 1.3(a) and (b) of the proposed applications and queuing policy, dealing with the priority order of applications; and (ii) clause 1.3(c), dealing with the disposition of prior applications under the timeframes set out in the applications and queuing policy.

1503. The Authority determined that both sets of provisions are reasonable and consistent with the requirements of section 5.7(i) of the Access Code.

Submissions from Interested Parties on the Draft Decision

1504. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1505. Western Power has not incorporated any revisions into the revised application and queuing policy in respect of the transition of prior applications (clause 2.4 of the revised applications and queuing policy).

Final Decision

1506. The Authority maintains the determination made under the Draft Decision that the provisions dealing with the disposition of prior applications are reasonable and consistent with the requirements of section 5.7(i) of the Access Code.

10.5. Variations from the Model Applications and Queuing Policy

Introduction

1507. In its Draft Decision, the Authority identified a number of clauses of the proposed applications and queuing policy that were materially different to a corresponding clause of the model applications and queuing policy or that addressed matters not contemplated by the model applications and queuing policy. Also, some clauses of the model applications and queuing policy were not reproduced in the proposed applications and queuing policy, or the relevant matters otherwise addressed.

1508. The Authority considered each of the material differences between the model applications and queuing policy and the proposed applications and queuing policy to determine whether the variation from the model applications and queuing policy was consistent with the requirements of sections 5.7 to 5.9 of the Access Code and the Code objective. The Authority determined that some of the differences were not consistent with the requirements of the Access

Code and the Code objective. The Authority indicated amendments to the proposed applications and queuing policy that would be required before the proposed access arrangement would be approved.

1509. Several of the amendments required under the Draft Decision have been addressed above, either in relation to the general scope and operation of the revised applications and queuing policy or the specific requirements of the Access Code. The Authority's consideration of remaining amendments required under the Draft Decision, and the manner in which Western Power has dealt with these required amendments in the revised applications and queuing policy, is set out as follows.

Applications to be Made in Good Faith

Proposed Access Arrangement

1510. Clause 1.4 of the proposed applications and queuing policy dealt with a requirement for applications to be made and dealt with in good faith by both the applicant and the service provider.

Draft Decision

1511. Clause 1.4 of the proposed applications and queuing policy corresponded to clause A2.4 of the model applications and queuing policy, which imposes an obligation on the service provider to negotiate in good faith in relation to the terms for an access contract for a covered service, but does not impose any such obligation on the applicant.
1512. In its Draft Decision, the Authority took the view that the requirement under the proposed applications and queuing policy for applicants to act in good faith is a material variation from the corresponding provisions of the model applications and queuing policy.
1513. The Authority also took the view that an explicit requirement for applicants to act in good faith adds complexity and potential costs to the applications and queuing processes. Taking this additional complexity into account, the Authority determined that the explicit requirement for applicants to act in good faith is inconsistent with the requirements of sections 5.7(a) and 5.7(b) of the Access Code.
1514. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 114

Western Power to amend the proposed applications and queuing policy to reproduce model applications and queuing policy clause A2.4 (Applications to be made in good faith) without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1515. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1516. Western Power has incorporated revisions into the revised application and queuing policy in respect of obligations to act in good faith, but has maintained the explicit requirement for both Western Power and the applicant to act in good faith:

3.14.4 Applications to be made in good faith

- ~~(a) An applicant who makes an application must do so expecting in good faith to proceed to a signed access contract.~~
- ~~(b) Western Power and an applicant must act in good faith with regard to each other in regard to an application.~~

Final Decision

1517. Western Power has not incorporated Draft Decision Amendment 114 in the revised applications and queuing policy.

1518. The Authority has given further consideration to the explicit requirement under (the now clause 3.1) of the revised applications and queuing policy for the applicant to act in good faith in regard to an application.

1519. The Authority is of the view that several clauses of the model applications and queuing policy imply a requirement for the applicant to act reasonably in the applications and queuing process, including using reasonable endeavours to provide accurate information and undertaking actions in a timely manner. Accordingly, and on reconsideration, the Authority takes the view that an explicit general requirement for an applicant to act in good faith is not a material variation from the model applications and queuing policy and is therefore consistent with the Access Code and the Code objective.

One Contract per Contracted Point

Proposed Access Arrangement

1520. Clause 2.1 of the proposed applications and queuing policy provided that each contracted point must be included in one and only one electricity transfer contract to allow the transfer of electricity at that contracted point.

1521. There is no equivalent provision in the model applications and queuing policy.

Draft Decision

1522. In its Draft Decision, the Authority noted that it is possible that multiple consumers or users could potentially contract at the same connection point. Taking this into account, the Authority considered that requiring only one access contract to apply at a particular connection point may limit entry onto the network, thus inhibiting the promotion of competition upstream and downstream of the network. Accordingly, the Authority determined that clause 2.1 of the proposed applications and queuing policy is inconsistent with the Code objective.

1523. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 117

Western Power to delete proposed applications and queuing policy clause 2.1 (One contract per contracted point).

Submissions from Interested Parties on the Draft Decision

1524. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1525. In the revised applications and queuing policy, Western Power has maintained clause 2.1 (now as clause 3.9), but changed it to refer to each “connection point” rather than “contracted point”.

1526. Western Power has submitted that definitions have been added to the revised proposed access arrangement and revised applications and queuing policy that differentiate a connection point from an attachment point. A connection point is indicated to be a notional point of transfer of electricity to or from the network, whereas an attachment point is indicated to refer to the physical point on the network at which network assets are connected to assets owned by another person. Western Power further indicated that the connection point is the point associated with a single end user and is indivisible.²¹⁴

Final Decision

1527. The Authority has given further consideration to the requirement that there be only one access contract associated with a connection point.

1528. With the clarification of the intent and effect of the requirement, the Authority accepts that it is necessary that this limitation exists and that a statement to this effect in the applications and queuing policy aids understanding as to how the applications and queuing policy will operate. The Authority is therefore satisfied that a statement to this effect is consistent with section 5.7(b) of the Access Code, and the Authority does not persist in the requirement of Draft Decision Amendment 117.

Requested Capacity Must Match Actual Requirement

Proposed Access Arrangement

1529. Clause 2.3 of the proposed applications and queuing policy provided that an applicant for an entry or exit service (clause 2.3(a)) or a connection service (clause 2.3(b)) must not apply for a greater capacity than is reasonably required by the facilities installed or to be installed at the contracted point.

²¹⁴ Western Power Submission “Response to the Required Amendments in Part B of the Final Decision – Detail”, section 2.

Draft Decision

1530. Clause 2.3 of the proposed applications and queuing policy had no equivalent or corresponding clause in the model applications and queuing policy.
1531. In its Draft Decision, the Authority determined that the requirement for requested capacity to not exceed the capacity reasonably required by the applicant could act to ensure that competition is encouraged and the network is efficiently utilised. On this basis, the Authority determined that the requirement is consistent with the requirements of section 5.7 of the Access Code and the Code objective.
1532. The Authority also determined, however, that applying this requirement to connection applications is redundant as the limitation would be placed on a user through the application for an electricity transfer contract. The Authority determined that clause 2.3(b) of the proposed applications and queuing policy is inconsistent with section 5.7(b) of the Access Code as it is not sufficiently detailed to enable applicants and users to understand how the proposed applications and queuing policy would operate.
1533. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 119

Western Power to delete proposed applications and queuing policy clause 2.3(b) (Requested capacity must match actual requirement).

Submissions from Interested Parties on the Draft Decision

1534. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1535. In the revised applications and queuing policy, Western Power has maintained clause 2.3(a) (now as clause 3.8) and removed clause 2.3(b). Clause 3.8 of the revised applications and queuing policy has been revised in accordance with the use of the term “connection point” in place of “contracted point”:

3.82-3 Requested capacity must match actual requirement

- (a) — An applicant who seeks a covered service ~~an exit or entry service~~ at a connection ~~contracted~~ point must not apply for a greater capacity than is reasonably required by the facilities and equipment connected ~~installed~~, or to be connected ~~installed~~ within a reasonable period, at the connection ~~contracted~~ point.
- (b) — ~~An applicant who seeks a connection service at a contracted point must not apply for a greater capacity than is reasonably required by the facilities installed, or to be installed within a reasonable period, at the contracted point, except:~~
- (i) — ~~as relates to any ensuing connection asset only (not any shared asset); and~~
- (ii) — ~~where the connection asset will be solely for the use of the applicant.~~

Final Decision

1536. The Authority has given further consideration to the requirement under clause 3.8 of the revised applications and queuing policy that an applicant not apply for greater capacity than is reasonably required by the facilities and equipment connected, or to be connected within a reasonable period, at the connection point.
1537. The terms of clause 3.8 imply discretion on the part of Western Power to determine whether an amount of capacity applied for by an applicant is reasonably required by that applicant. The Authority considers that, under the regulatory scheme established by the Access Code, the decision on the amount of capacity contracted for by a user should rest with the user, subject to the user paying the relevant tariffs and any capital contribution for the capacity. It is the user, and not Western Power, that is in the best position to take into account the range of commercial considerations relevant to determination of the amount of capacity that the user should contract for, including contracting for capacity that is in excess of the user's immediately foreseeable requirements. The latter may occur, for example, where a user values an option to use capacity at some time in the future, even though there is not foreseeable requirement for this capacity.
1538. Furthermore, the Authority considers that where capacity is created as a result of a capital contribution of a user, that the user should be able to secure contractual rights to that capacity even though the amount of capacity may be in excess of the user's foreseeable requirements. The inability of a user to do so would potentially engender inefficient decisions for capital contributions for investment in the network by not allowing the user to benefit from capacity created by the capital contribution, but in excess of the user's own requirement.
1539. The Authority therefore considers that clause 3.8 of the revised applications and queuing policy is inconsistent with the Access Code and Code objective.
1540. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 20

The revised proposed access arrangement should be amended to delete clause 3.8 of the applications and queuing policy, relating to the requirement that an applicant must not apply for a greater capacity than is reasonably required by the facilities and equipment connected or to be connected at the connection point.

1541. The requirement of the Authority for deletion of clause 3.8 of the revised applications and queuing policy is consistent with the Authority's determination in respect of clause 3.2 of the revised electricity transfer access contract that Western Power should not be able to unilaterally determine to reduce a user's contracted capacity in circumstances where Western Power considers that the contracted capacity is not reasonably required by the user.

Applying for a New Connection

Proposed Access Arrangement

1542. Clause 2.4 of the proposed applications and queuing policy stated that Western Power must not energise a new contracted point until a variety of matters have been settled, including construction of facilities, payment of costs and capital contributions, signing of contracts and installation of metering equipment.

Draft Decision

1543. Clause 2.4 of the proposed applications and queuing policy had no equivalent or corresponding clause in the model applications and queuing policy.

1544. In its Draft Decision, the Authority took the view that terms and conditions in the nature of pre-conditions for the commencement of a service would appropriately form part of an access contract and not the applications and queuing policy. The Authority determined that the proposed clause 2.4 is inconsistent with section 5.7 of the Access Code because it deals with a matter not properly within the scope of an applications and queuing policy.

1545. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 120

Western Power to delete proposed applications and queuing policy clause 2.4 (Applying for a new connection).

Submissions from Interested Parties on the Draft Decision

1546. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1547. Western Power has not included the provisions of clause 2.4 of the proposed applications and queuing policy in the revised applications and queuing policy.

Final Decision

1548. The Authority is satisfied that Western Power has incorporated Draft Decision Amendment 120 in the revised applications and queuing policy.

Western Power May Require Costs

Proposed Access Arrangement

1549. Clause 4.2 of the proposed applications and queuing policy provided for Western Power to require an applicant to pay costs of any studies that the applicant requested Western Power to perform to assist the applicant prior to an application being lodged.

Draft Decision

1550. Clause 4.2 of the proposed applications and queuing policy had no equivalent or corresponding clause in the model applications and queuing policy.
1551. In its Draft Decision, the Authority determined that the provisions of clause 4.2 of the proposed applications and queuing policy constitute a material variation from the model applications and queuing policy as these provisions may result in costs being incurred by an applicant that are not contemplated by the model applications and queuing policy.
1552. The Authority accepted that Western Power may reasonably seek to recover costs of studies undertaken at the request of an applicant. However, the Authority determined that the provisions of clause 4.2 of the proposed applications and queuing policy are unreasonable in that:
- there is no explicit provision requiring Western Power to consult with the applicant as to the potential costs; and
 - there is no explicit provision for the applicant to have relevant studies undertaken by a party other than Western Power.
1553. The Authority determined that clause 4.2 is inconsistent with a reasonable accommodation of the interests of applicants and, hence, the requirements of section 5.7(a) of the Access Code.
1554. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 123

Western Power to delete proposed applications and queuing policy clause 4.2 (Western Power may require costs).

Submissions from Interested Parties on the Draft Decision

1555. Newmont Australia Limited submitted:

The Authority agreed with views put forward by industry participants regarding a more collaborative and transparent process for system studies. However the Authority has rejected the proposed clause because it limits the application of the clause to Western Power determining the costs without consultation with the applicant and does not provide an opportunity for alternate parties to undertake the studies.

We previously expressed the view that applicants should have the right to participate fully in the interconnection studies, and to request a practical degree of independent review of these studies. This participative approach to system studies may minimise the occurrences of dispute requiring costly arbitration.

1556. The Western Australian Sustainable Energy Association submitted:

We note that the ERA requires an amendment be made to clause 4.2 of the Applications and Queuing Policy in relation to the payment of Western Power's costs during the informal discussion process (during the period prior to an access application being made). This change will be welcomed. However, we remain concerned about the costs related to the provision of information and the present approach to the undertaking of system studies, this process can be expensive and lacks transparency.

Revised Proposed Access Arrangement

1557. Western Power has not deleted clause 4.2 of the proposed applications and queuing policy from the revised applications and queuing policy, but rather has revised the clause (now clause 20.1) as follows.

20.1.4.2 Applicant must pay costs ~~Western Power may require costs~~

- (a) If,
 - (i) _____ during informal discussions under clause 18, an applicant requests Western Power to perform any studies, prepare detailed cost estimates or do any other work to assist the applicant prior to the applicant lodging an application; or
 - (ii) _____ an applicant has submitted a connection application,
- ~~(a)~~ then the applicant must, when requested by Western Power, pay ~~an amount to Western Power its equal to a reasonable costs~~ incurred, or to be incurred within a reasonable timeframe, in processing the connection application; and
- (b) the total of the costs referred to in clause 20.1(a) ~~4.2(a)~~ must not exceed the reasonable costs which would be incurred by a prudent service provider, acting efficiently and in good faith, in accordance with good electricity industry practice, seeking to achieve the lowest practicable cost of processing the connection application ~~performing the requested works; and~~
- ~~(c)~~ the costs referred to in clause 20.1(a) must not include any costs of Western Power in relation to an access dispute (which are to be awarded by an Arbitrator under Chapter 10 of the Code)
{This might occur, for example, if the applicant needs input into feasibility studies to determine which project proceeds to an application.}

1558. Western Power has also added a new clause 20.2 to the revised applications and queuing policy that requires Western Power to provide an applicant with a proposal in respect of works or studies for which costs may be recovered:

20.2 Processing proposal

Where Western Power expects that it will seek to recover costs from an applicant under clause 20.1:

- (a) Western Power must provide a proposal to the applicant outlining the scope, timing and a good faith estimate of the likely costs to be incurred for processing the connection application; and
- (b) the applicant may request amendments to the scope of work in the proposal, in which case Western Power must negotiate in good faith with the applicant regarding the proposal; and
{Note: This might occur, for example, where the applicant is able to perform some of the works itself.}
- (c) the applicant may reject the proposal, in which case the connection application and any associated electricity transfer application are deemed to have been withdrawn; and
- (d) the applicant may at any time request Western Power to cease processing the connection application, in which case the connection application and any associated electricity transfer application are deemed to have been withdrawn and Western Power must cease all work on the applications.

1559. Western Power has submitted that there is nothing in the revised applications and queuing policy that limits an applicant in having studies undertaken by parties other than Western Power.²¹⁵

Final Decision

1560. Western Power has not incorporated Draft Decision Amendment 123 into the revised applications and queuing policy.

1561. In revisions incorporated in clause 20.2 of the revised applications and queuing policy, Western Power has introduced provision for any studies associated with informal discussions or a connection application to be undertaken only with an applicant's acceptance of a proposal and cost estimate. The Authority accepts that this will give applicants some control over the nature of studies undertaken and costs that may be incurred for the studies.

1562. The Authority has given further consideration to whether the provisions for Western Power to recover costs of studies still have the potential effect of limiting the ability of the applicant to have relevant studies undertaken by a party other than Western Power.

1563. The Authority notes that the applicant performing some works itself is contemplated in the note to clause 20.2(b) of the revised applications and queuing policy as a matter that could be taken into account in the negotiation of works to be undertaken by Western Power and the cost of those works. Taking this into account, the Authority accepts that clause 20.2 adequately recognises the potential for the applicant to have the relevant studies undertaken by itself or another party, and for the application to remain on foot while these studies are undertaken.

Lodgement Fees

Proposed Access Arrangement

1564. Clause 6.1 of the proposed applications and queuing policy provided for an applicant making a class 1 or class 2 application to pay a lodgement fee as published by Western Power from time to time.

Draft Decision

1565. Clause A2.13 of the model applications and queuing policy also provides for an applicant to pay a lodgement fee for a class 1 or class 2 application. Clause A2.14 of the model applications and queuing policy provides for the value of the lodgement fee to be specified as part of the applications and queuing policy.

1566. In its Draft Decision, the Authority determined that the provision for the value of the lodgement fee to be established by Western Power "from time to time"

²¹⁵ Western Power Submission "Response to Part B of Draft Decision – section 5, pages 50 – 52.

rather than specified in the applications and queuing policy is a material variation from the model applications and queuing policy.

1567. The Authority determined that the absence of a specified lodgement fee in the applications and queuing policy would be inconsistent with the requirement of section 5.7(b) of the Access Code for the applications and queuing policy to be sufficiently detailed to be understood in advance by applicants, and with the Code objective.

1568. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 124

Western Power to amend proposed applications and queuing policy clause 6.1 (Class 1 and 2 application costs) to reproduce model applications and queuing policy clause A2.13 without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1569. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1570. Western Power has not incorporated Draft Decision Amendment 124 into the revised applications and queuing policy.

1571. Western Power has maintained a requirement (under clause 7.1 of the revised applications and queuing policy) for a lodgement fee to be paid where an applicant makes an electricity transfer application for a reference service. The lodgement fee is now specified in the price list that is published under the provisions of the access arrangement.

1572. In the price list submitted as Appendix 5 of the revised proposed access arrangement, Western Power specified lodgement fees as follows.

- New standard access contract – \$1,260.00
- Add a new connection point to an existing access contract – \$250.00 per new connection point
- Account modification – \$150.00 per modification.

1573. Western Power has further submitted:

Western Power has submitted three types of fees: a new connection point fee, an access contract modification fee and a new access contract fee. Western Power developed these fees by considering the amount of work involved in processing the different types of applications. A new connection point (or new NMI) requires greater modification of Western Power's systems (for example, to set up the information required to be included in the metering database under the Metering Code) than a simple modification of one of the characteristics regarding an existing connection point. A new connection point (or new NMI) is also more likely to involve crosschecking with a connection application that has been separately submitted.

A new access contract requires even more administrative work to set up. The fees represent estimates of the average number of hours required to process each type of application, and then applying standard hourly rates.

Final Decision

1574. Western Power has addressed Draft Decision Amendment 124 by specification of lodgement fees in the price list that is published under the provisions of the revised proposed access arrangement.
1575. The Authority accepts that specification of these fees in the price list is materially the same as specification under the applications and queuing policy and, as such, the revisions incorporated in the revised applications and queuing policy address the reasons for Draft Decision Amendment 124.
1576. The Authority has given consideration to the values of lodgement fees specified in the price list submitted as part of the revised proposed access arrangement. The Authority finds no reason to consider that the values of these fees are unreasonable or unreflective of the costs that may be incurred in processing applications.

Application Forms and Required Information

Proposed Access Arrangement

1577. Clauses 7.1 to 7.5 of the proposed applications and queuing policy set out requirements for the applications process to be commenced by submission of an application on the application form provided on Western Power's web site, and set out the information required to be provided with an application.
1578. These provisions of the proposed applications and queuing policy differed in several respects from the corresponding provisions of clauses A2.21 to A2.24 of the model applications and queuing policy including:
- provision for application forms to be provided on Western Power's web site rather than as part of the access arrangement; and
 - some differences in the information required to be provided with applications.

Draft Decision

1579. In its Draft Decision, the Authority determined that material differences of the proposed applications and queuing policy from the model applications and queuing policy occurred in:
- the provision for the application form to be provided on Western Power's web site rather than in the access arrangement; and
 - the differences from the model applications and queuing policy in information required to be submitted with an application, were material differences from the model applications and queuing policy.
1580. The Authority considered that the provision for the application form to be published on Western Power's web site would enable the form to be changed during the access arrangement period, removing certainty afforded to applicants under the provisions of the model applications and queuing policy for the application form to be included in the access arrangement. The Authority determined that this was inconsistent with the requirement of section

5.7(b) of the Access Code for the applications and queuing policy to be able to be understood in advance by an applicant, and that the application form should be included in the access arrangement.

1581. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 125

Western Power to amend proposed applications and queuing policy clause 7.1 (Commencing the application process) to reproduce model applications and queuing policy clause A2.21 without material omission or variation.

1582. The Authority determined that some of the requirements for information to be provided with an application were inconsistent with the requirements of section 5.7 of the Access Code and the Code objective. The offending provisions of the proposed applications and queuing policy were as follows:

- Clause 7.2(c)(ii) of the proposed applications and queuing policy required provision of information on the location or unique market identifier (UMI) for each contracted point. The identifier used under the Metering Code, that the Authority understands is the recognised industry standard, is a national market identifier (NMI). The Authority was not satisfied that the use of the UMI as the relevant identifier is consistent with the Metering Code, and hence was not satisfied that an applicant would be able to understand how this requirement of the applications and queuing policy would operate, contrary to the requirements of section 5.7(b) of the Access Code.
- Clauses 7.2(c)(iii) and (iv) of the proposed applications and queuing policy required that the applicant assert that facilities and equipment at the contracted point met the requirements of the Technical Rules, and/or required that the applicant provide a full description of any exemptions to the Technical Rules sought by the applicant. The Authority noted that the mechanisms for provision of information in relation to these matters are dealt with in chapter 12 of the Access Code and the Technical Rules and determined that additional requirements to provide information in relation to the Technical Rules under the applications and queuing policy are inconsistent with section 5.7(b) of the Access Code.
- Clause 7.2(c)(vi) of the proposed applications and queuing policy placed a requirement on users to provide information on nominated controllers, rather than providing the applicant with an option to provide information, as contemplated by clause A2.22(g)(ii) of the model applications and queuing policy. The Authority determined that this requirement is potentially contrary to the interests of the applicant and inconsistent with requirements of section 5.7(a) of the Access Code.
- Clause 7.2(d)(i) of the proposed applications and queuing policy required that an application made where works may be required to provide the requested covered service include the applicant's preliminary proposal in relation to the form of a capital contribution and the proposed terms on which such contribution may be made. Under clause A2.22(h) of the model applications and queuing policy, the application has an option to provide this information, but is not required to do so. The Authority determined that the requirement under the proposed applications and queuing policy is potentially contrary to the

interests of the applicant and inconsistent with requirements of section 5.7(a) of the Access Code.

- Clause 7.2(d)(ii) of the proposed applications and queuing policy required that an application made where works may be required to provide the requested covered service include information on any deviation sought by the applicant from the interconnection works agreement that was included as a standard access contract under the proposed access arrangement. As the Authority required elsewhere in the Draft Decision the deletion of the proposed interconnection works agreement, the Authority determined that this clause should also be deleted as a consequential amendment.

1583. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 126

Western Power to amend proposed AQP clause 7.2(c) (Information required with the application for each requested contracted point) by:

- replacing the reference to a unique market identifier in clause 7.2(c)(ii) to a reference to a national market identifier;
- deleting clauses 7.2(c)(iv) and (v); and
- amending clause 7.2(c)(vi) to reproduce model AQP clause A2.22(g)(ii),

without material omission or variation

Draft Decision Amendment 127

Western Power to amend proposed applications and queuing policy clause 7.2(d) (Information required with each application where works may be required to provide the requested covered service) to:

- reproduce model applications and queuing policy clause 2.22(h) without material omission or variation; and
- delete Proposed AQP clause 7.2(d)(ii)

Submissions from Interested Parties on the Draft Decision

1584. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1585. Western Power has maintained provision in the revised applications and queuing policy for an application to be made on an application form provided by Western Power on its web site rather than provided as part of the access arrangement (clause 3.2 of the revised applications and queuing policy).

1586. Western Power has submitted that the content of application forms (in particular the information requirements) is limited by the relevant provisions of clause 3 of the revised applications and queuing policy:

Western Power considers that clause 3 of the AQP adequately addresses the content of application forms for the purposes of an approved AA, and that Western Power's ability to change the forms will be limited to non-material changes that do not include more or less information than that required by the AQP. The forms currently in use will need significant revision to improve their usability for applicants and Western Power over time, including improvements

to ensure they work conveniently with other instruments under the Act (such as the communication rules under the Metering Code).

1587. Western Power has also incorporated revisions into the revised applications and queuing policy in relation to the information required to be provided with applications. The revised clauses of the revised applications and queuing policy are as follows.

3.5 Information required with all applications

All applicants must provide the following information to Western Power in respect of an application at the time of submitting the application:

- (a) details of the applicant, including:
 - (i) the full name and address of the applicant; and
 - (ii) whether the applicant is acting as agent for any person in making the application, and if so, details of the applicant's principals; and
 - (iii) whether the applicant is an existing user, and if so, details of the applicant's existing access contract number,

and
- (b) any conditions precedent that the applicant seeks to include in the resulting access offer; and
- (c) details of the connection point, including
 - (i) the location or NMI of the connection point, as applicable; and
 - (ii) the forecast annual consumption of electricity, if applicable; and
 - (iii) the forecast annual generation of electricity, if applicable,

and
- (d) such information concerning the applicant as Western Power requires, acting as a reasonable and prudent person, to assess the applicant's ability to meet its obligations under the resulting access contract.

3.6 Information required with electricity transfer applications

The applicant must provide the following information to Western Power in respect of an electricity transfer application at the time of submitting the electricity transfer application:

- (a) the covered services requested, and for each requested covered service:
 - (i) the requested services start date and requested services end date; and
 - (ii) if the covered service is a non-reference service, then a description of the non-reference service, including any deviation sought from the applicable tariff, service standard or standard access contract for an equivalent reference service; and
 - (iii) if applicable, the contracted capacity sought for the covered service; and

and
- (b) details of the connection point; including
 - (i) for an existing connection point, any changes to be made to the standing data for that connection point as a result of the application; and

- (ii) for a new connection point, such information regarding the connection point required as standing data; and
- (iii) information regarding the controller, if the applicant will not be the controller, in compliance with the relevant provisions of the Metering Code in regard to the provision of controller information (where all references to a 'customer' under the relevant provisions of the Metering Code are to be read as references to the controller for the purposes of this clause 3.6).

3.7 Information required with connection applications

The applicant must provide the following information to Western Power in respect of a connection application at the time of submitting the connection application:

- (a) whether the application is being made in connection with a tender process; and
- (b) the covered services requested; and
- (c) the requested services start date and requested services end date, for:
 - (i) works; and
 - (ii) covered services involving the transfer of electricity that are likely to be sought under an associated electricity transfer application, as applicable, and
- (d) the capacity sought, if applicable; and
- (e) such information regarding the facilities and equipment at the connection point to the extent required by:
 - (i) the technical rules; and
 - (ii) Western Power acting as a reasonable and prudent person, and
- (f) a full description of any exemptions to the technical rules sought by the applicant under Chapter 12 of the Code.

Final Decision

1588. Draft Decision Amendment 125 required inclusion in the applications and queuing policy of provisions materially the same as clause A2.21 of the model applications and queuing policy, for reason of ensuring that the application form is provided as part of the access arrangement rather than on Western Power's web site.
1589. Western Power has not incorporated Draft Decision Amendment 125 into the revised applications and queuing policy, but rather has maintained provision for application forms to be provided on its web site.
1590. The Authority notes Western Power's submission that the content of application forms – in terms of the information that an applicant is required to submit – is established by clauses 3.5 to 3.7 of the revised applications and queuing policy and, as such, is not subject to change during the access arrangement period. Taking this into account, the Authority is of the view that there is no material difference between having application forms provided on Western Power's web site or as part of the access arrangement. The Authority therefore does not maintain the requirement for amendment of the access arrangement as indicated in Draft Decision Amendment 125.

1591. Draft Decision Amendment 126 required amendments to provisions establishing the requirements for information to be provided with an application for an electricity transfer service, which relate to an electricity transfer application under the scheme of the revised applications and queuing policy.
1592. The first of the requirements of Draft Decision Amendment 126 was to replace the requirement for an applicant to specify unique market identifiers for connection points with a requirement to specify national market identifiers. Western Power has incorporated this revision in clause 3.5(c)(i) of the revised applications and queuing policy.
1593. The second requirement of Draft Decision Amendment 126 was the deletion of provisions that would require an applicant to assert that facilities and equipment at the contracted point met the requirements of the Technical Rules, and/or required that the applicant provide a full description of any exemptions to the Technical Rules sought by the applicant. Western Power has incorporated revisions in the revised applications and queuing policy to delete these provisions and replace them with provisions (at clause 3.7(e)) that are materially the same as clause A2.22(g)(i) of the model applications and queuing policy and that require the applicant to provide information required by the Technical Rules or otherwise required by Western Power as a reasonable and prudent person. As these provisions are materially the same as corresponding provisions of the model applications and queuing policy, the Authority considers that they are consistent with the requirements of section 5.7 of the Access Code and the Code objective.
1594. The third requirement of Draft Decision Amendment 126 was for the amendment of provisions relating to the provision of information on controllers of connection points so as to make the provision of such information optional for the applicant. Western Power has not incorporated this required amendment into the revised applications and queuing policy, but has revised the relevant provisions of the revised applications and queuing policy (clause 3.6(b)(iii)) to require information on controllers to be provided to the extent that this is necessary to comply with relevant requirements of the Metering Code. The Authority accepts the requirement for information on controllers is appropriately limited to the extent that such information may be required under the Metering Code, and that the statement in the revised applications and queuing policy of this requirement for information assists understanding of the operation of the revised applications and queuing policy and is consistent with the requirements of section 5.7(b) of the Access Code.
1595. Taking the above matters into account, the Authority is satisfied that the revised applications and queuing policy incorporates, or otherwise addresses the reasons for, Draft Decision Amendment 126.
1596. Draft Decision Amendment 127 required amendments to provisions establishing the requirements for information to be provided with an application where works may be required, which relate to a connection application under the scheme of the revised applications and queuing policy.
1597. The first requirement of Draft Decision Amendment 127 was for the amendment of provisions relating to the provision of information on the applicant's preferred manner of payment of capital contributions, so as to make the provision of such information optional for the applicant. Western Power has incorporated revisions in the revised applications and queuing

policy that have deleted any requirement for provision of such information in a connection application. The revised applications and queuing policy (at clause 22) indicates only that the capital contribution policy applies if works are required to provide the covered services sought in the connection application. The Authority notes that a provision in the applications and queuing policy for an applicant to make a proposal on the manner of payment of capital contributions does not appear necessary for the applications and queuing policy to meet the requirements of sections 5.7 to 5.9 of the Access Code. The Authority also notes that Western Power's revised capital contributions policy (at clause 9) provides for an applicant to choose between options for payment. Taking both of these matters into account, the Authority is satisfied that the revised applications and queuing policy addresses the reasons for the first requirement of Draft Decision Amendment 127.

1598. The second requirement of Draft Decision Amendment 127 was for deletion of a provision that would require an application to include information on any deviation sought from the interconnection works agreement that was included as part of the proposed access arrangement. Western Power has deleted this clause from the revised applications and queuing policy and, accordingly, the Authority is satisfied that the revised applications and queuing policy incorporates this required amendment.
1599. Taking the above matters into account, the Authority is satisfied that the revised applications and queuing policy incorporates, or otherwise addresses the reasons for, Draft Decision Amendment 127.

Correction of Errors or Omissions in an Application

Proposed Access Arrangement

1600. Clause 7.4 of the proposed applications and queuing policy provided for an applicant to correct errors or omissions in an application.

Draft Decision

1601. The provisions of clause 7.4 of the proposed applications and queuing policy were materially the same as provisions of the corresponding clauses A2.25 to A2.27 of the model applications and queuing policy, with the exception that the proposed applications and queuing policy included a requirement that, if notified by Western Power of an error or omission, the applicant must amend the application within five business days or the application would be deemed to be withdrawn. There is no such time limit under the model applications and queuing policy.
1602. In its Draft Decision, the Authority determined that the inclusion in the proposed applications and queuing policy of a time limit for an applicant to correct errors or omissions in an application is a material difference from the model applications and queuing policy.
1603. The Authority accepted that the inclusion of a time limit in the applications and queuing policy would aid understanding of the applications and queuing policy, and hence be consistent with section 5.7(b) of the Access Code. However, the Authority determined that the limit of five days was unreasonably short and inconsistent with section 5.7(c) of the Access Code, which requires the

applications and queuing policy to set out reasonable timelines for matters relating to the applications process.

1604. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 128

Western Power to amend proposed applications and queuing policy clause 7.4(c) (Errors or omissions in an application) to specify a reasonable timeframe.

Submissions from Interested Parties on the Draft Decision

1605. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1606. Western Power has maintained in the revised applications and queuing policy the same provisions for correction of errors or omissions in an application (clause 3.11 of the revised applications and queuing policy), but has changed the time limit for an applicant to correct errors or omissions to 20 business days.

Final Decision

1607. The Authority is satisfied that, by changing the time limit for an applicant to correct errors or omissions from five business days to 20 business days, Western Power has incorporated Draft Decision Amendment 128 into the revised applications and queuing policy.

Amendment of Applications

Proposed Access Arrangement

1608. Clause 9 of the proposed applications and queuing policy provided for an applicant to amend or withdraw an application.

1609. The provisions of clause 9 were materially the same as the corresponding clauses A2.70 to A2.74 of the model applications and queuing policy with the exception of clause 9.2. This clause enables an applicant to revise its application to amend the applicant's preferred manner of contribution under the capital contributions policy in circumstances where the application would require an augmentation. The corresponding clause A2.72 of the model applications and queuing policy provides that, in the same circumstances, the applicant may revise its application to add the terms of a works contract or a payment contract under the capital contributions policy.

Draft Decision

1610. In its Draft Decision, the Authority took the view that clause 9.2 of the proposed applications and queuing policy is materially different to the corresponding clause A2.72 of the model applications and queuing policy as clause 9.2 does not include provision for the applicant to revise its application to add the terms of a works contract, and hence does not provide the applicant

with an option for the applicant to make an “in-kind” capital contribution for an augmentation. The Authority determined the absence of this option does not accommodate the interests of the applicant and, therefore, clause 9.2 is inconsistent with the requirements of section 5.7(a) of the Access Code.

1611. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 131

Western Power to amend proposed applications and queuing policy clause 9.2 (Amending application to address necessary augmentation) to reproduce model applications and queuing policy clause A2.72 without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1612. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1613. Western Power has incorporated revisions into the revised applications and queuing policy that substantially alter the provisions for amendment and withdrawal of applications. Provisions under the revised applications and queuing policy for amendment and withdrawal of an application relate only to connection applications and no longer address matters relating to a change in the applicable fee for the application or amendments to address necessary augmentations. Relevant revisions incorporated in the revised applications and queuing policy are as follows.

219. Amendment and withdrawal of connection application

21.19.4 Amendment to connection application

- (a) An applicant may at any time by notice to Western Power amend an connection application.
- ~~(b) If the amended application changes the class of the application, resulting in change in applicable application fee, Western Power may charge the applicant a new fee or refund part of the original fee, having regard for work in processing the application already completed.~~
- ~~(c) Without limiting clause 9.1, an amendment to an application may include a change to the identity of the applicant in which case the other information in the application must also be amended accordingly.~~

~~9.2~~ Amending application to address necessary augmentation

~~Without limiting clause 9.1, if an application would require an augmentation, then at any time after Western Power provides the necessary information the applicant may revise its application to amend the applicant's preferred manner of contribution under the capital contributions policy.~~

1614. Western Power submits that matters relating to capital contributions are dealt with under the capital contributions policy, rather than the applications and queuing policy, with clause 22 of the revised applications and queuing policy indicating that, if works are required to provide the covered services sought in the connection application, then the capital contribution policy applies.

Final Decision

1615. Draft Decision Amendment 131 required inclusion in the applications and queuing policy of provisions materially the same as clause A2.72 of the model applications and queuing policy, for reason of ensuring that an application may be amended to address the terms of a works contract or payment of capital contributions under the capital contributions policy, in circumstances where an application would require an augmentation.
1616. Western Power has not incorporated Draft Decision Amendment 131 in the revised applications and queuing policy. Rather, Western Power has removed relevant provisions from the applications and queuing policy and referred to the capital contributions policy for all matters relating to capital contributions in respect of augmentations. Western Power's revised capital contributions policy (at clause 9) provides for an applicant to choose amongst options for payment, including "payment" of capital contributions by in-kind contribution of assets. The Authority is satisfied that matters of capital contributions are appropriately addressed under the capital contributions policy rather than under the applications and queuing policy and, accordingly, is satisfied that the revised applications and queuing policy otherwise addresses the reasons for Draft Decision Amendment 131.
1617. The Authority has given consideration to the additional revisions incorporated in the revised applications and queuing policy in relation to the amendment or withdrawal of applications. The Authority can see no reason why provisions for amendment or withdrawal of applications should not explicitly allow for a change in the identity of the applicant, should not apply to electricity transfer applications, or should not include provision for changes to or refunds of lodgement fees where an electricity transfer application is amended or withdrawn. The Authority considers that the absence of such provisions does not accommodate the interests of the applicant and is inconsistent with the requirements of section 5.7(a) of the Access Code.
1618. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 21

The revised applications and queuing policy should be amended to provide for a change in the identity of the applicant, for electricity transfer applications to be amended or withdrawn and for appropriate changes to, or refunds of, lodgement fees where an electricity transfer application is amended or withdrawn.

Constituent Parts of an Access Offer

Proposed Access Arrangement

1619. Clause 13.2 of the proposed applications and queuing policy indicated that an access offer will separately address offers relating to amendments to an existing contract, requirements for the applicant to enter into an electricity

transfer contract, requirements for the applicant of nominated controller to enter into a connection contract, and for the applicant to enter into an interconnection works agreement (clause 13.2 of the proposed applications and queuing policy).

Draft Decision

1620. Clause 13.2 of the proposed applications and queuing policy had no equivalent or corresponding provision in the model applications and queuing policy.

1621. In its Draft Decision, the Authority determined that it is outside of the proper scope of an applications and queuing policy, and hence inconsistent with section 5.7 of the Access Code, for the policy to explicitly state that an access offer will separately address offers relating to amendments to an existing contract, requirements for the applicant to enter into an electricity transfer contract, requirements for the applicant of nominated controller to enter into a connection contract, and for the applicant to enter into an interconnection works agreement (clause 13.2 of the proposed applications and queuing policy).

1622. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 134

Western Power to delete proposed applications and queuing policy clause 13.2 (Constituent parts of the access offer).

Submissions from Interested Parties on the Draft Decision

1623. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1624. The provisions of clause 13.2 of the proposed applications and queuing policy have not been included in the revised applications and queuing policy.

Final Decision

1625. Draft Decision Amendment 134 required that Western Power delete clause 13.2 of the proposed applications and queuing policy that set out constituent parts of an access offer. The provisions of clause 13.2 of the proposed applications and queuing policy have not been included in the revised applications and queuing policy and, accordingly, the Authority is satisfied that the revised applications and queuing policy incorporates Draft Decision Amendment 134.

Conditions Precedent Not Longer than Six Months

Proposed Access Arrangement

1626. Clauses 14.4 to 14.6 of the proposed applications and queuing policy dealt with the maximum period that may be allowed for in an access contract for the fulfilment of conditions precedent. In particular:

- a maximum period for fulfilment of conditions precedent of six months (clause 14.4);
- provision for extension of the period for fulfilment of conditions precedent if there is no competing application (clause 14.5); and
- provision to deal with an inability to reach agreement of the disposition of conditions precedent after a six month period has elapsed (clause 14.6).

Draft Decision

1627. The model applications and queuing policy does not contemplate there being a maximum period for fulfilment conditions precedent, but would require that the service provider, in determining spare capacity, disregard any obligation to provide services under a conditional access contract with a period for fulfilment of conditions precedent of longer than 18 months.

1628. In its Draft Decision, the Authority determined that the provision of clause 14.4 of the proposed applications and queuing policy for a maximum period of six months for fulfilment of conditions precedent was a material variation from the model applications and queuing policy.

1629. The Authority considered that a maximum period of six months for fulfilment of conditions precedent would erode flexibility for applicants in meeting the relevant conditions. The Authority determined that this does not accommodate the interests of applicants as far as reasonably practicable and is inconsistent with section 5.7(a) of the Access Code.

1630. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 135

Western Power to amend proposed applications and queuing policy clauses 14.4 to 14.6 (Conditions precedent and determination of spare capacity) to reproduce model applications and queuing policy clauses A2.84(b) and A2.85 without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1631. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1632. Western Power has incorporated revisions into the revised applications and queuing policy dealing with conditions precedent, as follows.

4.54.4.1 Conditions precedent permitted in access contract

Western Power and an applicant must negotiate in good faith regarding any conditions precedent that the applicant or Western Power seeks to have included in an access contract in order to achieve the objectives set out in clause 4.64.4.2.

4.64.4.2 Objectives with regard to conditions precedent

The objectives of this applications and queuing policy with regard to conditions precedent are:

- (a) conditions precedent in access contracts should facilitate the development of electricity consuming and generating projects and provide flexibility; and
- (b) conditions precedent should not unduly impede the ability of Western Power to provide covered services to applicants with later priority or cause uncertainty and delay; and
- (c) conditions precedent should not constitute an inappropriate barrier to entry into a market or be for the purpose of hindering or preventing access by any person to covered services.

4.74.4.3 Conditions precedent and determination of spare capacity

In determining whether there is sufficient spare capacity to provide covered services requested in an application, Western Power must regard any existing conditional access contract as being unconditional.

4.84.4.4 Conditions precedent not longer than 86 months

- (a) Western Power and an applicant may not enter into an access contract that contains a condition precedent for which a period of longer than 8 months from the date the access contract was entered into is allowed for its fulfilment.

~~4.4.5~~(b) If, after 86 months, a condition precedent in an access contract has not been fulfilled, then:

~~(i)~~(a) if there is no competing application, Western Power and the relevant user may agree within 20 business days to extend the period in the access contract allowed for the satisfaction of conditions precedent by up to a further 6 months; or

~~(ii)~~(b) if there is a competing application, then, subject to clause 6, Western Power and the existing user must negotiate in good faith within 20 business days to accommodate both the user's and the competing applicant's requirements.

{Note: this might mean sharing the costs of augmentation as calculated under the capital contributions policy, or agreeing to some form of constraint, or some other means of ~~resolving the conflict~~.}

~~4.4.6~~(c) If no agreement is reached under clause 4.8~~(b)~~4.4.5, then the user may either:

~~(i)~~(a) terminate the access contract; or

~~(ii)~~(b) waive the conditions precedent and have the access contract become unconditional; or

(iii)(e) refer this matter to the Arbitrator as an access dispute.

Final Decision

1633. Draft Decision Amendment 135 required deletion of the provisions of the proposed applications and queuing policy that would establish a maximum period for the fulfilment of conditions precedent, for reason that the Authority considered such a maximum period would erode flexibility for conditions precedent to be met.

1634. Western Power has not incorporated Draft Decision Amendment 135 into the revised applications and queuing policy, but rather has made revisions to increase the maximum period for fulfilment of conditions precedent from six months to eight months.

1635. Western Power has further submitted:

Western Power has considered the Authority's assessment, and, while adhering to the original submission in principle, has extended the time to satisfy conditions precedent to 8 months (now clause 4.8 (a) of the AQP). Western Power recognises the Authority's concerns regarding limiting the time to satisfy conditions precedent, but considers that if the time frame for satisfaction of such conditions is not limited, parties to an access contract are not provided with sufficient certainty that conditions precedent will be satisfied promptly. Western Power submits that 8 months is a reasonable time for an applicant to obtain normal project requirements and approvals including financial backing, internal company approvals, the issue of licenses from the Authority under the Act, environmental and other land approvals. Similarly, a period of 8 months will give Western Power sufficient time to receive its internal approvals and funding. It also enables Western Power enough time to complete a regulatory test under the Code and, if required by the Authority as a result of the regulatory test, a tender process by the Independent Market Operator for an alternative option.

This time frame is also reasonable from the competing applicant's perspective. This is because an applicant can opt to wait until the end of the time for satisfying the conditions precedent before determining whether to proceed with its project (if, for example, the alternative is to pay a contribution that exceeds the applicant's resources). In these circumstances, a competing applicant may be forced to wait for an indefinite amount of time.

However, if the time frame for satisfaction is limited to 8 months, a competing applicant is only required to wait for a limited period and may then choose to participate in the following capacity auction under the Market Rules.

Western Power notes its additional provision clause 4.8 (b)(i) that if there is not a competing applicant, then the parties may extend the time for satisfaction of the conditions precedent by up to a further 6 months. Western Power considers this gives the existing user the flexibility required by the Authority's assessment.

By specifying a time limit for satisfaction of conditions precedent, the AQP reasonably balances the interests of existing users and new applicants and is therefore consistent with section 5.7(a) of the Code. This avoids impeding competition in markets upstream and downstream of the network, and hence promotes the Code objective.

1636. Consideration of the provision for a maximum period for fulfilment of conditions precedent is a matter of balancing the interests of the applicant to whom the conditions precedent apply and a competing applicant for whom an extended period for conditions precedent to be fulfilled creates uncertainty in gaining access to the network. The model access contract addresses this by,

effectively, giving a competing applicant priority over the original applicant if the period for fulfilment of conditions precedent is longer than 18 months.

1637. Western Power has proposed an alternative, and not directly comparable, mechanism for achieving a balance of interests. This is to limit the period for fulfilment of conditions to eight months, provide for an extension of this period by up to six months if there is no competing application, or otherwise to require negotiation to accommodate the requirements of both the original and competing applicants.

1638. The Authority accepts Western Power's submission that the proposed maximum period of eight months for fulfilment of conditions precedent should be sufficient time for any relevant conditions to be fulfilled. The Authority also accepts that Western Power has proposed reasonable provisions for reconciliation of the interests of an applicant and a competing applicant in circumstances where this maximum period is not met.

1639. Accordingly, the Authority accepts that the maximum period for fulfilment of conditions precedent proposed by Western Power under clause 4.8 of the revised applications and queuing policy reasonably accommodates the interests of Western Power, users and applicants and is consistent with the requirements of section 5.7(a) of the Access Code.

Requirements for Security

Proposed Access Arrangement

1640. Clause 14.8 of the proposed applications and queuing policy dealt with the security requirements that may be applied to an applicant under an electricity transfer contract or interconnection works agreement, including:

- provision for no security requirements to be applied if the applicant provides evidence of an unqualified credit rating of BBB from Standard and Poor's Australia Pty Ltd or Baa from Moody's Investor Service Pty Ltd (clause 14.8(a));
- the types of security that may be provided by the applicant, at the applicant's election (clause 14.8(b)); and
- requirements for terms for security under an interconnection works agreement (clause 14.8(c)).

Draft Decision

1641. Clause A2.86 of the model applications and queuing policy provides for the service provider to require security where the service provider determines that there is a material risk of the applicant not being able to meet its obligations under the access contract, and provides for a number of alternative forms of security to be applied or otherwise negotiated in respect of either charges under the access contract or payment of capital contributions.

1642. In its Draft Decision, the Authority determined that the provisions of the proposed applications and queuing policy varied materially from the

corresponding provisions of the model applications and queuing policy in a number of respects:

- the test for the circumstances in which security may be required was different, that is, the proposed applications and queuing policy allows the service provider to require security where the applicant cannot prove it has one of two specified credit ratings, whereas the model applications and queuing policy provides for a more general test based on consideration of the applicant's technical and financial resources;
- there was an express statement in the proposed applications and queuing policy that advance payment of charges must be by way of cash deposit;
- there was an express statement in the proposed applications and queuing policy that Western Power would pay interest on advance payments, whereas the model applications and queuing policy is silent on the payment of interest;
- there was a requirement in the proposed applications and queuing policy that any bank guarantee be "irrevocable and unconditional", whereas the model applications and queuing policy does not include such a requirement; and
- the proposed applications and queuing policy does not provide applicants with an option to negotiate alternative forms of security than those explicitly contemplated by the applications and queuing policy.

1643. The Authority determined that the test proposed by Western Power for determining whether security will be required (the credit rating requirement) does not reasonably accommodate the interests of applicants in view of the potential cost of obtaining a rating and the absence of provision for applicants to otherwise satisfy Western Power of the absence of a material risk of being unable to meet obligations under an access contract.

1644. The Authority also determined that the provisions for security do not reasonably accommodate the interests of applicants by not providing for negotiation of forms of security other than as explicitly provided for in the applications and queuing policy.

1645. Taking both of these matters into account, the Authority determined that the proposed security arrangements do not accommodate the interests of applicants as far as reasonably practicable and are inconsistent with the requirements of section 5.7(a) of the Access Code.

1646. The Authority also determined that provision for obtaining security against obligations under an interconnection works agreement should be deleted as a consequential amendment to the required amendment to delete the interconnection works agreement from the access arrangement.

1647. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 136

Western Power to amend proposed applications and queuing policy clause 14.8(a) (Security) to reproduce model applications and queuing policy clause

A2.86(a) without material omission or variation and by deleting proposed applications and queuing policy clause 14.8(b).

Draft Decision Amendment 146

Western Power to amend proposed applications and queuing policy to reproduce model applications and queuing policy clause A2.87 (Alternative security) without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1648. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1649. Western Power has incorporated revisions into the provisions of the revised applications and queuing policy dealing with security, as follows.

4.944.8 Security

(a) Subject to clause 4.9(b), if there is a material risk that the applicant will be unable to meet any or all of its liabilities under an access contract resulting from the applicant's application, then Western Power may require the applicant to procure:

(i) an indemnifier acceptable to Western Power (acting as a reasonable and prudent person) who will agree to be a party to the access contract and indemnify Western Power in respect of those liabilities; or

(ii) a guarantor acceptable to Western Power (acting as a reasonable and prudent person) to provide a guarantee in favour of Western Power substantially in the form set out Schedule 1,

(b)(a) ~~If an applicant does not provide evidence to Western Power that it has an unqualified credit rating of at least:~~

~~(i) BBB from Standard and Poor's Australia Pty Ltd; or~~

~~(ii) Baa from Moody's Investor Service Pty Ltd,~~

and provides evidence to this effect to Western Power, then Western Power is not entitled to require the User to provide the security under clause 4.9(a).

~~Western Power may require as a term of an electricity transfer contract a provision, requiring the applicant to, at the applicant's election:~~

~~(iii) pay the charges for up to 2 months' services in advance as a cash deposit, on which no interest is payable by Western Power; or~~

~~(iv) provide an irrevocable and unconditional bank guarantee in terms acceptable to Western Power (acting as a reasonable and prudent person), guaranteeing the charges for 2 months' services; or~~

~~(v) if the applicant's parent company meets at least one of the credit ratings given in clauses 14.8(a)(i) and 14.8(a)(ii), procure from the applicant's parent company a guarantee substantially in the form set out in the electricity transfer contract in the access arrangement guaranteeing the charges under the electricity transfer contract.~~

~~(b) Western Power may require as a term of an interconnection works agreement a provision, at the applicant's election, requiring the applicant~~

~~to provide an irrevocable and unconditional bank guarantee in terms acceptable to Western Power (acting as a reasonable and prudent person), guaranteeing:~~

- ~~(i) if the applicant has selected to make periodic payments for a contribution under the capital contributions policy, the amount of the contribution that remains unpaid at any time; and~~
- ~~(ii) if an electricity transfer contract has not been signed with regards to the contracted point, then, unless and until an electricity transfer contract is signed, the full cost of the works; and~~
- ~~(iii) any other payment determined under the capital contributions policy.~~

(c) Western Power must perform a security assessment under this clause 4.9 within 30 business days of receiving an application.

Final Decision

1650. Western Power has not incorporated clause 2.86(a) and 2.87 into the revised applications and queuing policy and, hence, has not incorporated Draft Decision Amendments 136 and 146 into the revised applications and queuing policy.
1651. Western Power has instead incorporated revisions into the revised applications and queuing policy to provide for a more general test for the requirement for an applicant to provide security and to remove the range of options for the nature of security that may be provided.
1652. The Authority has given consideration to the requirements for security under an access contract as an element of the revised electricity transfer access contract (clause 9, addressed at paragraph 1143 and following of this Final Decision) and has accepted that the relevant provisions of the revised electricity transfer access contract are reasonable and meet the requirements of the Access Code. The Authority notes that the provisions under the revised applications and queuing policy that establish requirements for security are a statement of the test to be applied to determine whether Western Power will require an indemnifier to be a party to the access contract or a guarantor to provide a guarantee in favour of Western Power. The requirements for and amount and form of security would be assessed independently of this test under clause 9 of the revised electricity and transfer contract.
1653. After consideration of the provisions for security in both the revised applications and queuing policy and the revised electricity transfer access contract, the Authority is satisfied that the provisions of the revised applications and queuing policy dealing with security, when read in conjunction with the electricity transfer access contract are consistent with the requirement of section 5.7(b) of the Access Code for an applicant to be able to determine how the applications and queuing policy will operate.

Terms for Payments Due Under the Capital Contributions Policy

Proposed Access Arrangement

1654. Clause 14.9 of proposed applications and queuing policy provide for Western Power to include, in the access contract, terms related to any payment under the capital contributions policy.
1655. There is no corresponding provision under the model applications and queuing policy.

Draft Decision

1656. In its Draft Decision, the Authority determined that clause 14.9 of the proposed applications and queuing policy is a material variation from the model applications and queuing policy.
1657. The Authority determined that the terms for payments under the capital contributions policy are appropriately dealt with under the access contract and not the applications and queuing policy. Accordingly, the Authority determined that the inclusion of the proposed clause is inconsistent with section 5.7 of the Access Code.
1658. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 137

Western Power to delete proposed applications and queuing policy clause 14.9 (Payments due under capital contributions policy).

Submissions from Interested Parties on the Draft Decision

1659. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1660. Western Power has incorporated a new clause 25.1 into the revised applications and queuing policy to indicate that the amount and terms of any payment under the capital contributions policy will form part of an access offer:

25.1 Terms under capital contributions policy

Western Power must include as terms of the access offer:

- (a) the amount of any contribution and other payments, such as rebates, determined under the capital contributions policy; and
- (b) any terms related to the provision of the contribution that the applicant has selected under the capital contributions policy.

Final Decision

1661. Western Power has responded to Draft Decision Amendment 137 by, in effect, redrafting provisions of the proposed applications and queuing policy to explicitly indicate that the amounts and terms of any payments under the capital contributions policy will be indicated in the access offer, rather than simply contemplating that they will be part of the access contract.

1662. The Authority considers that requirements under the revised applications and queuing policy for Western Power to indicate, in the access offer, the terms that will be included in the access contract assists users' and applicants' understanding of the applications and queuing process and is consistent with the requirements of section 5.7(b) of the Access Code.

Terms of an Access Offer for a Reference Service

Proposed Access Arrangement

1663. Clause 14.10 of the proposed applications and queuing policy required that, where an application is made for a reference service on terms materially the same as set out in the electricity transfer access contract, the access offer must be on materially the same terms as requested in the application.

Draft Decision

1664. Clause 14.10 of the proposed applications and queuing policy corresponded to clause A2.103 of the model applications and queuing policy, which refers to the terms as set out in the access arrangement rather than referring particularly to a relevant standard access contract.

1665. Clause A2.104 of the model applications and queuing policy would further require that any terms of an access offer relating to capital contributions, augmentations, services start date or security and prudential arrangements must be consistent with the Code objective, reasonable and as similar as practical to any relevant terms requested in the application.

1666. In its Draft Decision, the Authority determined that reference under clause 14.10 of the proposed applications and queuing policy to the terms of the electricity transfer access contract is a material variation from the model applications and queuing policy, as a reference to terms of the access arrangement (under the model applications and queuing policy) may include terms beyond the terms of the standard access contract for the reference service.

1667. The Authority determined that the effect of clause 14.10 would be to detract from the rights of an applicant as they would exist under the model applications and queuing policy and that this would be inconsistent with the requirements of section 5.7(a) of the Access Code as it would not accommodate the interests of the applicant as far as reasonably practicable.

1668. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 138

Western Power to amend proposed applications and queuing policy clause 14.10 (If application requests reference service) to reproduce model applications and queuing policy clause A2.103 without material omission or variation.

1669. The Authority further noted that the proposed applications and queuing policy contains no provision equivalent to clause A2.104 of the model applications and queuing policy, which would require that any terms of an access offer

relating to capital contributions, augmentations, services start date or security and prudential arrangements must be consistent with the Code objective, reasonable and as similar as practical to any relevant terms requested in the application. The Authority considered that omission of these provisions is inconsistent with the requirement of section 5.7(a) of the Access Code for the applications and queuing policy to accommodate, to the extent reasonably practicable, the interests of applicants.

1670. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 150

Western Power to amend proposed applications and queuing policy to reproduce the model applications and queuing policy clause A2.104 (Terms of access offer) without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1671. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1672. Western Power has incorporated revisions in the relevant clause of the revised applications and queuing policy (now clause 4.2) as follows.

4.2 4.10 If application requests reference service

If an application requests a reference service, then the access offer must be on materially the same terms as the standard access contract applicable to the reference service. ~~If an application requests a reference service on terms materially the same as those set out in the electricity transfer contract in the access arrangement, then the access offer must be on materially the same terms as those requested in the application, save that the access offer must not specify an earlier services start date than that requested in the application where doing so may impede the ability of Western Power to provide a covered service that is sought by another applicant.~~

Final Decision

1673. In clause 4.2 of the revised applications and queuing policy, Western Power has maintained the provision for an access offer responding to an application for a reference service to be on materially the same terms as the standard access contract for the reference services, rather than terms of the access arrangement applying to the reference service, as contemplated by clause A2.108 of the model applications and queuing policy. As such, the revised applications and queuing policy does not incorporate Draft Decision Amendment 138.

1674. The Authority has given further consideration to the requirement for Draft Decision Amendment 138 and notes that the terms and conditions for a reference service are established in an access arrangement as the standard access contract for that reference service. A reference to the terms for a reference service under an access arrangement is synonymous with a reference to the terms and conditions under a standard access contract for the reference service. As such, the Authority accepts that clause 4.2 of the

revised applications and queuing policy would have materially the same effect as clause A2.108 of the model applications and queuing policy.

1675. Western Power has not incorporated any revisions into the revised applications and queuing policy that would require that any terms of an access offer for a reference service that relate to capital contributions, augmentations, services start date or security and prudential arrangements must be consistent with the Code objective, reasonable and as similar as practical to any relevant terms requested in the application.

1676. The Authority notes, however, that any works to which the capital contributions relate would be carried out as non reference services. Western Power has incorporated revisions in the relevant clause of the revised applications and queuing policy (now clause 4.2) as follows.

4.3~~4.12~~ If application requests non-reference service

If an application requests a non-reference service, ~~other than a connection service,~~ then the terms of the access offer must be:

- (a) consistent with the Code objective; and
- (b) reasonable; and
- (c) subject to this applications and queuing policy ~~clauses 14.12(a) and 44.12(b),~~ as similar as practicable to those terms requested in the application dealing with the relevant matter, and negotiated in good faith by the applicant and Western Power during the processing of the application.

1677. The Authority is satisfied that, for capital contributions and augmentations, this provision achieves the same result as clause A2.104 of the model applications and queuing policy.

1678. The Authority also notes that clause 4.4 of the revised applications and queuing policy would require the services start date for a reference service to be as close as practicable to the services start date sought in the application. The Authority is satisfied that this provision achieves the same result as clause A2.104 of the model applications and queuing policy.

1679. Finally, the Authority notes that requirements for security are addressed by clause 4.9 of the revised applications and queuing policy and clause 9 of the revised electricity transfer access contract. The Authority considers that the requirements for security are reasonable and consistent with the requirements of the Access Code. Accordingly, the Authority is satisfied that the provisions of the revised applications and queuing policy dealing with security are consistent with clause A2.104 of the model applications and queuing policy.

1680. Taking the above matters into account, the Authority is satisfied that revisions incorporated into the revised applications and queuing policy address the reasons for Draft Decision Amendment 150.

Terms of an Access Offer for a Connection Service

Proposed Access Arrangement

1681. Clause 14.11 of the proposed applications and queuing policy required that, where an application is made for a connection service on terms materially the same as set out in the connection contract, the access offer must be on materially the same terms as requested in the application.

Draft Decision

1682. Clause 14.11 of the proposed applications and queuing policy had no equivalent or corresponding provision in the model applications and queuing policy.

1683. In its Draft Decision, the Authority determined that the proposed connection access contract did not satisfy the definition of a standard access contract and should be removed from the proposed access arrangement. As a consequential amendment, the Authority determined that the proposed applications and queuing policy should be amended to remove references to the connection access contract.

1684. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 139

Western Power to delete proposed applications and queuing policy clause 14.11 (If application requests a connection service).

Submissions from Interested Parties on the Draft Decision

1685. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1686. The provisions of clause 14.11 of the proposed applications and queuing policy have not been included in the revised applications and queuing policy.

Final Decision

1687. The Authority is satisfied that the revised applications and queuing policy incorporates Draft Decision Amendment 139.

Terms of an Access Offer for a Non-Reference Service

Proposed Access Arrangement

1688. Clause 14.12 of the proposed applications and queuing policy provided for the determination of the terms of an access offer for non-reference services, other than connection services, and provided for the terms to be:

- consistent with the Code objective;
- reasonable; and

- as similar as practical to the terms requested in the application, and negotiated in good faith by the applicant and Western Power.

Draft Decision

1689. Clause 14.12 of the proposed applications and queuing policy is similar to the corresponding clause A2.105 of the model applications and queuing policy, with the exceptions that clause 14.12 explicitly excludes connection services and the model applications and queuing policy does not contemplate “negotiation in good faith by the applicant and Western Power”.

1690. In its Draft Decision, the Authority interpreted clause 14.12 of the proposed applications and queuing policy as indicating that the requirement that the access offer be as similar as practicable to terms requested in the application only applies to those terms “negotiated in good faith” by the parties during the processing of the application. The Authority considers that this creates uncertainty in the determination of terms for non-reference services and is inconsistent with the requirements of section 5.7(b) of the Access Code.

1691. The Authority also considered that connection services should be included in the class of non-reference services.

1692. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 140

Western Power to amend proposed applications and queuing policy clause 14.12 (If application requests non-reference service) to delete:

- the words in the preamble “other than a connection service”; and
- the words in clause 14.12(c) “and negotiated in good faith by the applicant and Western Power during the processing of the application”.

Submissions from Interested Parties on the Draft Decision

1693. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1694. Western Power has incorporated revisions in the relevant clause of the revised applications and queuing policy (now clause 4.2) as follows.

4.34.12 If application requests non-reference service

If an application requests a non-reference service, ~~other than a connection service,~~ then the terms of the access offer must be:

- (a) consistent with the Code objective; and
- (b) reasonable; and
- (c) subject to this applications and queuing policy ~~clauses 14.12(a) and 14.12(b),~~ as similar as practicable to those terms requested in the application dealing with the relevant matter, and negotiated in good faith by the applicant and Western Power during the processing of the application.

Final Decision

1695. In clause 4.2 of the revised applications and queuing policy, Western Power has deleted the exclusion of connection services but has maintained the provision for the terms of an access offer responding to an application for a non-reference service to be negotiated in good faith by the applicant and Western Power. As such, the revised applications and queuing policy does not incorporate Draft Decision Amendment 140.
1696. The Authority has given further consideration to the requirement for Draft Decision Amendment 140 and notes that clause 4.3(c) of the revised applications and queuing policy is better interpreted as indicating that the terms must be as similar as practicable to the terms requested in the application and the terms must be negotiated in good faith by the applicant. With this interpretation, the Authority accepts that the provision for negotiation in good faith is consistent with the requirements of section 5.7 of the Access Code and the Code objective. Accordingly, the Authority does not maintain the requirement for amendment of the applications and queuing policy under Draft Decision Amendment 140.

*Terms of an Access Offer for Works***Proposed Access Arrangement**

1697. Clause 14.13 of the proposed applications and queuing policy required that, where an application is made for a covered service that will result in works and the terms for the works are requested to be materially the same as the terms set out in the applicable interconnection works agreement in the access arrangement, then the access offer must be on materially the same terms as requested in the application.

Draft Decision

1698. Clause 14.13 of the proposed applications and queuing policy had no equivalent or corresponding provision in the model applications and queuing policy.
1699. In its Draft Decision, the Authority determined that the proposed interconnection works agreement did not satisfy the definition of a standard access contract and should be removed from the proposed access arrangement. As a consequential amendment, the Authority determined that the proposed applications and queuing policy should be amended to remove references to the interconnection works agreement.
1700. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 141

Western Power to delete proposed applications and queuing policy clause 14.13 (If application triggers works).

Submissions from Interested Parties on the Draft Decision

1701. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1702. The provisions of clause 14.13 of the proposed applications and queuing policy have not been included in the revised applications and queuing policy.

Final Decision

1703. The Authority is satisfied that the revised applications and queuing policy incorporates Draft Decision Amendment 141.

Rejection of an Access Offer and Requests for Amendments

Proposed Access Arrangement

1704. Clause 15.3 of the proposed applications and queuing policy provided a process for an applicant to reject an access offer and request amendments to the access offer. This process involved treatment of requests for amendments as an amended application, with consideration according to the relevant provisions of the applications and queuing policy for determining the priority of an amended application, processing the request and making a further access offer.

Draft Decision

1705. Clause 15.3 of the proposed applications and queuing policy was the same as the corresponding clause A2.109 of the model applications and queuing policy, except that the latter would require that the further access offer incorporate the requested amendments, subject to these requested amendments being consistent with the Code objective and being reasonable.

1706. The Authority determined that clause 15.3 of the proposed applications and queuing policy is materially different from the corresponding clause A2.109 of the model applications and queuing policy due to the absence of a requirement that the further access offer incorporate the amendments requested by the applicant.

1707. The Authority considered that the absence of the requirement for the further access offer to incorporate the requested amendments could significantly disadvantage applicants by frustrating the application process. The Authority considered that this is inconsistent with the requirement to have reasonable timelines for progressing and finalising negotiations under section 5.7(c) of the Access Code, and inconsistent with the requirement of section 5.7(a) of the Access Code as it does not accommodate the interests of parties to the application as far as reasonably practicable.

1708. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 142

Western Power to amend proposed applications and queuing policy clause 15.3 (If applicant rejects access offer) to reproduce model applications and queuing policy clause A2.109 without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1709. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1710. Western Power has incorporated revisions in the relevant clause of the revised applications and queuing policy (now clause 5.3) as follows.

5.3 If applicant rejects access offer

If the applicant rejects an access offer and requests amendments to the application under clause ~~5.2(b)~~^{15.2(b)}, Western Power must:

- (a) prioritise the amended application in accordance with clause ~~24.139.3~~^{24.139.3}; and
- (b) ~~address process~~ the amended application in accordance with this applications and queuing policy; and
- (c) make a further access offer to the applicant as soon as practicable in accordance with this applications and queuing policy.

1711. Western Power submitted:

Western Power does not agree that the insertion of clause A2.109(b) of the model AQP would be reasonable, as it appears to require Western Power to automatically incorporate whatever amendments to the access offer that the applicant requires through its amended application, without due processing of the amendments under the AQP. Therefore, Western Power has replaced this clause with clause 5.3(b) of the AQP, which requires Western Power to 'address' the amended application under the AQP. Western Power considers that this is not a material variation from the model provision, but provides clearer drafting.

Final Decision

1712. Western Power has not incorporated Draft Decision Amendment 142 into the revised applications and queuing policy, submitting that it would not be reasonable for the applications and queuing policy to require the further access offer to incorporate any amendments requested by the applicant.

1713. The Authority notes that while clause A2.109 of the model applications and queuing policy requires the further access offer to incorporate amendments requested by the applicant, this requirement is subject to the requested amendments being consistent with the Code objective and reasonable. The Authority further notes that the process established by the revised applications and queuing policy for determining the terms of an access offer (at clause 4.3) requires that terms of an access offer be reasonable and as similar as practical to the terms requested in the application. The Authority considers that the processing of a request for amendment of an access offer in accordance with

the general provisions established by the revised applications and queuing policy is materially the same as the process contemplated by clause A2.109 of the model applications and queuing policy for processing a request for amendments to the access offer. Accordingly, the Authority accepts that clause 5.2(b) of the revised applications and queuing policy is not materially different from the relevant provisions of the model applications and queuing policy, and the Authority does not persist in the requirement of Draft Decision Amendment 142.

Definitions of Terms

Proposed Access Arrangement

1714. The proposed applications and queuing policy included a section of definitions of terms (clause 1.1). A number of these definitions differed materially from corresponding definitions under the model applications and queuing policy, or introduced terms that are not used in the model applications and queuing policy.

1715. This section of the Final Decision addresses the differences in definitions from the model applications and queuing policy where they are not otherwise addressed in sections dealing with substantive terms of the applications and queuing policy.

Draft Decision

Definition of Access Offer

1716. An “access offer” was not defined in clause 1.1 of the proposed applications and queuing policy, but rather was described in clause 13.1 as:

13.1 Access offer to be signed by Western Power

Western Power must present the “access offer” in such a form that it can, without anything else being required, become an access contract or contracts when signed by an applicant.

1717. The definition of “access offer” in the model applications and queuing policy is broadly similar to this provision under the proposed applications and queuing policy, but also indicates that the access offer must be able to become an access contract “which complies with clause A2.103 or A2.105 as applicable”. Clauses A2.103 and A2.105 of the model applications and queuing policy describe the terms of access offers for reference services and non-reference services.

1718. The Authority determined that the absence in the proposed applications and queuing policy of specific reference to the terms of an access offer for reference service or non-reference service is a material variation from the model applications and queuing policy and is inconsistent with the requirement of section 5.7(b) of the Access Code for the operation of the applications and queuing policy to be able to be understood in advance.

1719. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 151

Western Power to amend the definition of “access offer” in proposed applications and queuing policy clause 2.1 to reproduce the definition of that term in model applications and queuing policy clause 1.1 without material omission or variation.

Definition of Capacity

1720. The proposed applications and queuing policy included a definition of “capacity”. The Authority noted that there is a typographical error in this definition.

1721. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 152

Western Power to amend the definition of “capacity” in proposed applications and queuing policy clause 1.1 to correct a typographical error by amending the word “thought” to “through” in the second line.

Definition of Connection Contract and Interconnection Works Agreement

1722. In its Draft Decision, the Authority determined that the proposed connection access contract and interconnection works agreement do not meet the requirements for a standard access contract under the Access Code and, accordingly, the Authority required the proposed access arrangement to be amended to remove these two proposed standard access contracts. As a consequential amendment to the proposed access arrangement, the Authority required that the definitions of connection contract and interconnection works agreement be deleted from the proposed applications and queuing policy.

1723. The Authority required the following amendments to the proposed applications and queuing policy before the proposed access arrangement would be approved.

Draft Decision Amendment 153

Western Power to delete the definition of “connection contract” in proposed applications and queuing policy clause 1.1.

Draft Decision Amendment 156

Western Power to delete the definition of “interconnection works agreement” in proposed applications and queuing policy clause 1.1.

Definition of Contracted Point

1724. In its proposed access arrangement, including in the proposed applications and queuing policy, Western Power used the term “contracted point” instead of “connection point”, but maintained the same definition for contracted point as exists for connection point under the model standard access contract and model applications and queuing policy. In its Draft Decision, the Authority determined that Western Power’s proposed use of the term contracted point rather than connection point was not justified by the objective of clarity in the use of terms, as submitted by Western Power, and that the use of the term “contracted point” could lead to confusion. The Authority required Western

Power to adopt the term “connection point” throughout its proposed access arrangement.

1725. The Authority required the following amendment to the proposed electricity transfer access contract before the proposed access arrangement would be approved.

Draft Decision Amendment 154

Western Power to amend proposed applications and queuing policy by replacing all references to “contracted point” with “connection point” and reproducing model applications and queuing policy definition of “connection point” without material omission or variation.

Submissions from Interested Parties on the Draft Decision

1726. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1727. Western Power has incorporated into the revised applications and queuing policy revisions to definitions of “access offer” and “capacity”, as follows.

2.14.4 Definitions

...

“access offer” means a form of contract developed under this applications and queuing policy which has been signed by Western Power and is in such a form that it can, without anything else being required, become an access contract when signed by an applicant ~~has the meaning given in clause 13.1.~~

...

“capacity”, with regards to a part of the network (including a connection ~~contracted~~ point), refers to the maximum rate at which electricity can be transported through ~~through~~ that part of the network in accordance with good electricity industry practice.

...

1728. Western Power has deleted definitions of connection contract and interconnection works agreement, and has changed the term “contracted point” to “connection point”.

Final Decision

1729. Western Power has revised the definition of access offer, but has not included explicit reference to the terms of an access contract for a reference service or a non-reference service as required by Draft Decision Amendment 151. The Authority notes, however, that the specific requirements of an access offer for a reference service or non-reference service are set out at clauses 4.2 and 4.3 of the revised applications and queuing policy. As such, the Authority considers that the absence of explicit reference to these requirements in the definition of an access offer in the revised applications and queuing policy is not a material difference from the model applications and queuing policy.

1730. The Authority is satisfied that, by the revisions to the definition of capacity, deletion of definitions of connection contract and interconnection works agreement, and the use of the term connection point rather than contracted

point, Western Power has incorporated Draft Decision Amendments 152, 153, 154 and 156 into the revised applications and queuing policy.

11. Capital Contributions Policy

11.1. Introduction

1731. A “capital contribution” is defined in section 1.3 of the Access Code as a contribution made, or to be made, in respect of an augmentation.

1732. Section 5.1(h) of the Access Code requires that an access arrangement include a capital contributions policy, defined in section 1.3 of the Access Code as a policy in an access arrangement under section 5.1(h) dealing with capital contributions by users in respect of augmentations.

1733. The particular requirements for a capital contributions policy are set out in sections 5.12 to 5.17 of the Access Code.²¹⁶

5.12 The objectives for a capital contributions policy must be that:

- (a) in respect of a required augmentation, it strikes a balance between the interests of:
 - (i) the contributing user; and
 - (ii) other users; and
 - (iii) consumers; and
- (b) it does not constitute an inappropriate barrier to entry.

5.13 A capital contributions policy must facilitate the operation of this Code, including:

- (a) section 2.9; and
- (b) the new facilities investment test; and
- (c) the regulatory test.

5.14 Subject to section 5.14A, a capital contributions policy must not require a user to make a capital contribution in respect of any part of new facilities investment which meets the new facilities investment test.

5.14A A capital contributions policy may provide for a user to make a capital contribution in respect of a new facility whether or not the new facilities investment meets the new facilities investment test, if an approved extension and expansion policy requires that the user pay in respect of the new facility an amount specified in, or determined under, the policy.

5.15 A capital contributions policy must set out:

- (a) the circumstances in which a contributing user may be required to make a capital contribution in respect of a required augmentation; and
- (b) the method for calculating any capital contribution a contributing user may be required to make towards the required augmentation; and
- (c) for any capital contribution:

²¹⁶ Access Code as amended in December 2006 (Western Australian Government Gazette No. 206, 8 December 2006, pages 5400 – 5402)

- (i) the terms on which a contributing user must make the capital contribution; or
- (ii) a description of how the terms on which a contributing user must make the capital contribution are to be determined.

5.16 A capital contributions policy may:

- (a) be based in whole or in part upon the model capital contributions policy, in which case, to the extent that it is based on the model capital contributions policy, any matter which in the model capital contributions policy is left to be completed in the access arrangement, must be completed in a manner consistent with:
 - (i) any instructions in relation to the matter contained in the model capital contributions policy; and
 - (ii) sections 5.12 to 5.15; and
 - (iii) the Code objective; and
- (b) be formulated without any reference to the model capital contributions policy and is not required to reproduce, in whole or in part, the model capital contributions policy.

{Note: The intention of this section 5.16(b) is to ensure that the service provider is free to formulate its own capital contributions policy which complies with sections 5.12 to 5.15 but is not based on the model capital contributions policy.}

5.17 The Authority:

- (a) must determine that a capital contributions policy is consistent with sections 5.12 to 5.15 and the Code objective to the extent that it reproduces without material omission or variation the model capital contributions policy; and
- (b) otherwise must have regard to the model capital contributions policy in determining whether the capital contributions policy is consistent with sections 5.12 to 5.15 and the Code objective.

1734. Western Power included a capital contributions policy in its proposed access arrangement²¹⁷ (**proposed capital contributions policy**) and has included a revised capital contributions policy in its revised proposed access arrangement²¹⁸ (**revised capital contributions policy**).

1735. The Authority's considerations and determinations in respect of the proposed and revised capital contribution policies are set out in the following sections of the Final Decision.

11.2. Approach to Assessment

1736. In this Final Decision the Authority has assessed the revised capital contributions policy against the requirements of sections 5.12 to 5.17 of the Access Code. In accordance with the requirements of clause 5.17 of the Access Code, the Authority has determined that the revised capital contributions policy is consistent with sections 5.12 to 5.15 of the Access Code and the Code objective to the extent that it reproduces the model capital

²¹⁷ Proposed access arrangement, Appendix 3.

²¹⁸ Revised proposed access arrangement, Appendix 3.

contributions policy without material omission or variation. Otherwise, the Authority has had regard to the model capital contributions policy in determining whether the revised capital contributions policy is consistent with sections 5.12 to 5.15 of the Access Code and the Code objective.

1737. In this Final Decision, the assessment of the revised capital contributions policy addresses in turn:

- the application of the revised capital contributions policy;
- assessment against the specific requirements of the Access Code; and
- other material variations from the model capital contributions policy.

11.3. Application of the Capital Contributions Policy

Proposed Access Arrangement

Application

1738. Clause 2 of the proposed capital contributions policy dealt with the application of the policy.

1739. Clause 2.1 of the proposed capital contributions policy indicated that the capital contributions policy applies where:

- an applicant has applied under the applications and queuing policy for a new covered service or an increase in contracted capacity of an existing covered service; and
- a provision in the user's access contract calls upon the capital contributions policy; and
- when a person has applied to the Western Australian Planning Commission for approval to subdivide a property, and does not intend to become a user or an applicant.

1740. Clause 2.2 indicated that the capital contributions policy applies differently to three classes of persons:

- Applicants who are, or act on behalf of, consumers consuming, or expected to consume greater than 50 MWh per year for which the amount of capital contributions were to be determined as an amount for works that do not meet the new facilities investment test under the Access Code and with the amount to be determined taking into account a range of considerations of forecast costs and revenues from the augmentation, for which capital contributions may be made under a range of terms, and for which the rebates of contributions may apply.
- Applicants who are, or act on behalf of, consumers consuming, or expected to consume less than 50 MWh per year – for which the amount of capital contributions were to be determined without regard to the extent to which any works would meet the new facilities investment test under the Access Code, and for which capital contributions are required to be made as upfront payments.

- Persons that have applied to the Western Australian Planning Commission for approval to subdivide a property (hereafter referred to in this Final Decision as “developers”), and do not intend to become a user or an applicant, for which contributions are established at an amount equal to the full forecast costs of any works necessary to provide the augmentation, and for which the contribution may comprise either a monetary contribution or a vesting of assets in Western Power.

Draft Decision

1741. In its Draft Decision, the Authority determined that the application of the proposed capital contributions policy would differ materially from the application of the model capital contributions policy, clause 4.4 of which indicates that the capital contributions policy would apply where it is necessary for the service provider to undertake an augmentation (or, due to the regulatory test, an alternative option) in order to provide a covered service to an applicant.
1742. The Authority considered that clause 2.1 of the proposed capital contributions policy would cause the capital contributions policy to apply in situations where it may not be necessary to seek a capital contribution, such as:
- where a user has applied for a new service or increase of capacity but the network does not require augmentation; and
 - where the new facilities investment test is satisfied, such as for subdivisions.
1743. The Authority determined that application of the capital contributions policy in this manner would be contrary to the requirements of sections 5.12 to 5.15 of the Access Code.
1744. The Authority also determined that the application of the capital contributions policy to persons other than users (in particular to developers) is not contemplated by the Access Code and would be contrary to the requirements of section 5.12 of the Access Code for the capital contributions policy to balance the interests of users and consumers.
1745. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 157

Western Power to amend proposed capital contributions policy clause 2.1 (Application of Proposed Capital Contributions Policy) to reproduce model capital contributions policy clause A4.4 without material omission or variation.

1746. The Authority also determined that the proposed treatment of different classes of applicants and users under clause 2.2 of the proposed capital contributions policy is a material variation from the model capital contributions policy, which does not contemplate any differential treatment. The Authority determined that the differential treatment would be inconsistent with the requirements of section 5.12 of the Access Code for the capital contributions policy to balance the interests of users and consumers.

1747. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 158

Western Power to delete proposed capital contributions policy clause 2.2 (Application of particular clauses).

Submissions from Interested Parties on the Draft Decision

1748. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1749. Western Power has incorporated revisions into clause 2 of the revised capital contributions policy as follows.

2. Application

[This capital contributions policy applies if it is necessary for Western Power to perform works to provide covered services.](#)

~~2.1 Application of this capital contributions policy~~

~~This capital contributions policy applies:~~

~~(a) when an applicant has applied for:~~

~~(i) a new covered service; or~~

~~(ii) an increase in contracted capacity of an existing covered service;~~

~~under the applications and queuing policy; and~~

~~(b) when a provision in a user's access contract calls upon this capital contributions policy; and~~

~~(c) when a person has applied to the Western Australian Planning Commission for approval to subdivide a property, and does not intend to become a user or an applicant.~~

~~2.2 Application of particular clauses~~

~~(a) Clauses 10 and 11 of this capital contributions policy do not apply to applicants who are, or who act on behalf of, consumers consuming, or expected to consume, greater than 50 MWh per year and generators.~~

~~(b) Clauses 5 to 9 and clause 11 of this capital contributions policy do not apply to applicants who are, or who act on behalf of, consumers consuming, or expected to consume, less than 50 MWh per year.~~

~~(c) Clauses 5 to 10 of this capital contributions policy do not apply to any person who has applied to the Western Australian Planning Commission for approval to subdivide a property, and who does not intend to become a user or an applicant.~~

Final Decision

1750. Western Power has incorporated revisions into clause 2 of the revised capital contributions policy to indicate that the policy applies if it is necessary for Western Power to perform works to provide covered services. The Authority is satisfied that this clause is materially the same as clause 4.4 of the model capital contributions policy, although the latter indicates that the capital contributions policy would apply where it is necessary for the service provider to undertake an "augmentation" or an "alternative option", rather than simply to

perform works. Accordingly, the Authority is satisfied that the revised capital contributions policy incorporates Draft Decision Amendment 157.

1751. Western Power has not included clause 2.2 of the proposed capital contributions policy in the revised capital contributions policy. While this notionally incorporates Draft Decision Amendment 158 in the revised capital contributions policy, Western Power has maintained provisions in the revised capital contributions policy for users to be differentially treated in terms of payment of capital contributions where the relevant works may meet the new facilities investment test, and the terms of payment. These matters are further considered below.

11.4. Assessment against Specific Requirements of the Access Code

Circumstances in Which a Capital Contribution May be Required

Requirements of the Access Code

1752. Section 5.15(a) of the Access Code requires that a capital contributions policy must set out the circumstances in which a contributing user may be required to make a capital contribution in respect of a required augmentation.

1753. At the time the Authority issued its Draft Decision, section 5.14 of the Access Code prevented a service provider from requiring a capital contribution in respect of works that would meet the new facilities investment test. Subsequent to issue of the Draft Decision, section 5.14 of the Access Code has been amended, and a new section 5.14A of the Access Code has been added, to provide for exceptions to this.²¹⁹

5.14 Subject to section 5.14A, a capital contributions policy must not require a user to make a capital contribution in respect of any part of new facilities investment which meets the new facilities investment test.

5.14A A capital contributions policy may provide for a user to make a capital contribution in respect of a new facility whether or not the new facilities investment meets the new facilities investment test, if an approved extension and expansion policy requires that the user pay in respect of the new facility an amount specified in, or determined under, the policy.

1754. Also, subsequent to the Authority's Draft Decision, the Coordinator of Energy has approved an extension and expansion policy for the SWIN under section 62 of the *Electricity Industry Act 2004*.²²⁰ This extension and expansion policy includes provision for users to pay capital contributions in respect of:

- connections under supply extension schemes;
- pole to pillar connections;
- streetlights;

²¹⁹ Western Australian Government Gazette No. 206, 8 December 2006, pages 5400 – 5402

²²⁰ Western Power Extension and Expansion Policy (approved by the Coordinator of Energy on 28 February 2007).

- unmetered connections;
 - temporary connections;
 - relocation of network assets;
 - undergrounding of network assets;
 - connection of network assets in excess of standard requirements;
 - subdivision of land; and
 - development of buildings.
1755. The model capital contributions policy does not include any provisions that explicitly set out the circumstances in which a capital contribution will be payable. Clause A4.5(a) of the model capital contributions policy indicates, consistent with section 5.14 of the Access Code, that the capital contribution for a required augmentation is:

... the forecast new facilities investment in the required augmentation, less the amount of the forecast new facilities investment which, if the new facilities investment test was applied to the required augmentation, would satisfy the test.

1756. This clause of the model capital contributions policy relates, however, to the amount of a capital contribution rather than, directly, the circumstances in which a capital contribution may be required.
1757. Clause 4.8 of the model capital contributions policy indicates that, where a capital contribution amount of greater than zero is determined, the service provider is not required to undertake the required augmentation of the network until the applicant agrees to provide the capital contribution.
1758. At the same time as amendments were made to the provisions of the Access Code dealing with the capital contribution policy, the preamble to the model capital contributions policy was amended to include the following text:²²¹

This model capital contributions policy does not provide for a user to make a capital contribution under section 5.14A. If the capital contributions policy in the access arrangement is to provide for capital contributions under section 5.14A, then the Authority should consider how the capital contributions policy should differ from this model capital contributions policy.

Proposed Access Arrangement

1759. Clause 4.1 of the proposed capital contributions policy addressed the requirement for an applicant to make a capital contribution indicating that, if application of the capital contributions policy produces an amount of a capital contribution that is greater than zero, then Western Power is not required to undertake any necessary works to provide the service until:
- an interconnection works agreement is signed by the applicant; and
 - where the forecast costs of works are greater than \$50,000, the applicant provides a guarantee for the payment of “new revenue” that is expected to come from providing the reference service.

²²¹ Western Australian Government Gazette No. 206, 8 December 2006, pages 5400 – 5402.

1760. Clause 5.1 of the proposed capital contributions policy further indicated that:

A contribution is required in respect of any works which are necessary to provide services to an applicant, and the costs of which do not meet the new facilities investment test or the alternative option test, as applicable, in part or in whole, and is calculated under clause 5.2.

1761. Other clauses of the proposed capital contributions policy set out the determination of amounts of capital contributions, indicating that values of capital contributions greater than zero may occur, or contributions are otherwise payable:

- in respect of the full forecast costs of any works to provide dedicated connection assets where the provision of such works is subject to effective competition (clause 5.5);
- in respect of alternative options costs, requiring payment of the full amount of any non-capital costs that Western Power incurs in providing covered services to the applicant and that Western Power reasonably determines to be payable by the applicant (clause 5.6);
- where works are required to meet requirements of an applicant for a connection that is better in some respect than that described in the Technical Rules, or an applicant requires a reference service at a standard better than that specified by Western Power for the reference service in its access arrangement (clause 5.7);
- where a user deletes a contracted point from the user's access contract or reduces the contracted capacity at a contracted point or terminates the user's access contract within a "cost recovery period" for works (clause 8.1);
- in respect of costs of dedicated connection assets for transmission-connected generators within an area of the greater Perth metropolitan area referred to as the "urban shared network" (clause 9.2);
- in respect of costs of all required works, except augmentation to the urban shared network, for transmission-connected generators outside of the urban shared network (clause 9.3);
- where works are required to provide reactive power support to generating plant connected to the transmission network (clause 9.4);
- by commercial customers seeking a new connection on an existing lot, primary producers, residential customers qualifying for a pole to pillar connection, unmetered supplies, public-road street lighting and other customers consuming less than 50 MWh per year (clause 10); and
- by a developer who seeks to augment the network to service a subdivision (clause 11).

Draft Decision

1762. In its Draft Decision, the Authority addressed the general requirement under clause 4.1 of the proposed capital contributions policy for an applicant to pay a capital contribution. The Authority did not take issue with the (implied) provision of clause 4.1 of the proposed capital contributions policy for a capital contribution to be payable where application of the capital contributions policy produces an amount of a capital contribution that is greater than zero. The

Authority considered that this provision was consistent with clause 4.8 of the model capital contributions policy.

1763. The Authority did, however, take issue with the particular requirements of clause 4.1 of the proposed capital contributions policy for the applicant to enter into an interconnection works agreement with Western Power and for provision of guarantee under a signed access contract. There are no corresponding provisions under the model capital contributions policy, and the Authority considered the requirements to be a material variation from the model capital contributions policy.
1764. The Authority determined that the requirements of clause 4.1 do not strike a reasonable balance between the interests of applicants and Western Power. Also, as the Authority required elsewhere in the Draft Decision the deletion of the proposed interconnection works agreement, the Authority determined that the requirement under the proposed capital contributions policy for an interconnection works agreement to be entered into should also be deleted as a consequential amendment.
1765. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 160

Western Power to amend proposed capital contributions policy clause 4.1 (Applicant must make contribution) to reproduce model capital contributions policy clause A4.8 without material omission or variation.

1766. As a consequential amendment to the amendment of clause 4.1 of the proposed capital contributions policy, the Authority further required amendment of the proposed capital contributions policy to delete clause 4.2, which provided for the applicant to provide security in respect of “new revenue” from the sale of covered services that Western Power may take into account in determining the value of a capital contribution.
1767. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 161

Western Power to delete proposed capital contributions policy clause 4.2 (Applicant may provide security for new revenue).

1768. In its Draft Decision, the Authority also addressed five circumstances in which the proposed capital contributions policy indicated that a capital contribution (or other payments under the capital contributions policy) may be required:
- connection assets;
 - payment of non-capital costs;
 - payments for works in excess of standard works;
 - reduced demand payments; and
 - payments made by transmission-connected generators.
1769. The Authority's deliberations and determinations on each of these matters were as follows.

Connection Assets

1770. Clause 5.5 of the proposed capital contributions policy made provision for the payment by an applicant of the full forecast costs of any works to provide dedicated connection assets where the provision of such works is subject to effective competition. There is no equivalent provision in the model capital contributions policy and the Authority determined that the provision is a material variation from the model capital contributions policy.
1771. The Authority determined that, as “effective competition” is not defined, the provision for payment of capital contributions in respect of connection assets does not provide sufficient certainty for an applicant in determining whether payment of a capital contribution will be required. Accordingly, the Authority determined that clause 5.5 of the proposed capital contributions policy is inconsistent with the requirements of section 5.15 of the Access Code.
1772. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 164

Western Power to delete proposed capital contributions policy clause 5.5 (Connection assets).

Non-capital costs

1773. Clause 5.6 of the proposed capital contributions policy referred to the situation in which an applicant pays a contribution in respect of alternative option costs. This clause required that an applicant pay the full amount of non-capital costs that Western Power incurs in providing covered services to the applicant and that Western Power reasonably determines is payable by the applicant.
1774. This clause broadly corresponds to clauses A4.16 to A4.19 of the model capital contributions policy that provide for a “non-capital contribution” to be required where the covered service is to be provided to the applicant by use of an “alternative option”, but some of the non-capital costs associated with the alternative option are not recoverable as part of the “total revenue” determined for the purposes of establishing the price control under chapter 6 of the Access Code.
1775. The Authority determined that clause 5.6 of the proposed capital contributions policy was materially different to clauses A4.16 to A4.19 of the model capital contributions policy as clause 5.6 of the proposed capital contributions policy provided substantially less detail on the requirement for payments in respect of non-capital costs.
1776. The Authority noted that clause 5.6 of the proposed capital contributions policy did not limit payments in respect of non-capital costs to the amount of non-capital costs that would not be recoverable as part of the “total revenue” determined for the purposes of establishing the price control under chapter 6 of the Access Code. The Authority determined that the absence of this limitation would result in the capital contributions policy not clearly setting out the circumstances in which a contribution in respect of non-capital costs would be required and, accordingly, that clause 5.6 is inconsistent with the requirements of section 5.15 of the Access Code.

1777. The Authority also determined that the absence of the limitation on payments in respect of non-capital costs and an absence of provision for relevant non-capital costs to be allocated across multiple users (as provided for under clause A4.19 of the model capital contributions policy) would potentially allow for Western Power to “over-recover” non-capital costs through payments made under the capital contributions policy and made in respect of charges for covered services. The Authority determined that this would be inconsistent with the requirements of sections 5.12 to 5.15 of the Access Code and the Code objective.
1778. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 165

Western Power to amend proposed capital contributions policy clause 5.6 (Non-capital costs) to be replaced with model capital contributions policy clauses A4.16-A4.19 without material omission or variation.

Works over and above standard works

1779. Clause 5.7 of the proposed capital contributions policy provided for an applicant to pay for the full cost of works necessary to provide a connection that is better in some respect than that described in the Technical Rules or to provide a reference service at a service standard better than that specified by Western Power for the reference service in its access arrangement.
1780. There are no equivalent provisions in the model capital contributions policy and the Authority determined that clause 5.7 is a material variation from the model capital contributions policy.
1781. The Authority noted that the provisions of clause 5.7 do not provide for the allocation of costs to multiple applicants or users where other applicants or users gain benefit from the higher standard of service provided to the requesting applicant. Accordingly, the Authority determined that clause 5.7 does not strike a reasonable balance of interests between the contributing user and other users and is therefore inconsistent with the requirements of section 5.12 of the Access Code.
1782. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 166

Western Power to delete proposed capital contributions policy clause 5.7 (Works over and above standard works).

Reduced demand payment

1783. Clause 8 of the proposed capital contributions policy provided for a payment to be made to Western Power where a user deletes a contracted point from the user’s access contract or reduces the contracted capacity at a contracted point or terminates the user’s access contract within a “cost recovery period”.
1784. There are no equivalent provisions in the model capital contributions policy and the Authority determined that clause 8 is a material variation from the model capital contributions policy.

1785. The Authority determined that a reduced demand payment as proposed by Western Power is not a capital contribution and should not be dealt with under the capital contribution policy. The Authority considered that a recovery of any expected revenue that Western Power took into account in determining a capital contribution should appropriately be dealt with under an access contract.
1786. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 173

Western Power to delete proposed capital contributions policy clause 8 (Reduced demand payment).

Transmission-Connected Generators

1787. Clauses 9.2 and 9.3 of the proposed capital contributions policy provided for the capital contributions to be made in respect of a new transmission-connected generator to vary depending upon whether the connection is within or outside of the urban shared network.
1788. There are no equivalent provisions in the model capital contributions policy and the Authority determined that clauses 9.3 and 9.4 are a material variation from the model capital contributions policy.
1789. The Authority took the view that the determination of the costs that should be recovered by capital contributions should be determined by application of the new facilities investment test rather than by a distinction between users based on the location of the transmission-connected generation. Accordingly, the Authority determined that the distinction between users based on the location of the transmission-connected generation would be contrary to the requirements of section 5.14 of the Access Code and to the Code objective to the extent that the distinction would not perfectly align with the new facilities investment test.
1790. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 174

Western Power to delete proposed capital contributions policy clause 9 (Transmission-connected generators).

Submissions from Interested Parties on the Draft Decision

1791. Alinta Sales Pty Ltd submitted:

- (a) Transmission-connected generators: shallow vs. deep approach (clause 9 of the Proposed CCP)

Alinta is disappointed that the ERA has not taken the opportunity to bring the proposed CCP in line with the approach taken in other jurisdictions (nationally and internationally), by adopting a “shallow approach” to connection charges for new generating plant seeking connection to the network.

Alinta considers that the ERA’s views raise a broader policy issue in relation to the role of capital contributions in the access regime. In Alinta’s view, the position adopted in the Access Code (and by the ERA to date) is unsupportable

when reference is had to the position taken by other regulators, and to the advantages inherent in a “shallow” charging approach. To this end, Alinta notes the concerns set out in Alinta Limited’s Submissions, and supports them. Some of Alinta’s key concerns about the “deep” charging approach are briefly summarised below.

- Alinta is concerned that the approach to capital contributions that is adopted under the Access Code and the Model Capital Contributions Policy (Model CCP) will effectively result in barriers to entry in markets upstream and downstream of the network, which will have a negative impact on competition in those markets and potentially result in non-compliance with the Code objective.
- In Alinta’s view, it is fundamental that there should be recognition of the net benefit to users provided through the connection of new generating plant to the network, and accordingly that the capital contributions of new generating plant should be limited to the forecast costs of dedicated connection assets only. In many (if not all) cases, it is not reasonable to require an applicant to contribute to augmentation of the wider network, and therefore a shallow approach to connection charges should be applied generally in relation to the network.
- Capital contributions can impose a significant financial burden on new generating plants. If consumer demand is sufficient to justify a new generating plant, then the costs associated with reactive power works should be shared among all network users. Moving the cost of shared assets into common infrastructure benefits competition in generation, because it removes some of the risk associated with sharing assets. This makes it easier for generators to enter and exit the market, and simplifies charging arrangements.
- Shallow charging is also disadvantageous because a new user can readily identify the connection assets and hence costs. This means that shallow charging is ultimately more transparent.

1792. Newmont Australia Limited submitted:

Required Amendment 174, Transmission Connected Generators – The Authority has required the deletion of clause 9 of Western Power’s proposal. While this acknowledges the Authority’s support of industry participants’ views regarding the inequity of the Urban Shared Network proposal, it falls short of recommending a more appropriate course to address the key issue of recognising the system-wide benefits of new entrant investment in deep network assets. The investment tests in the Code should recognise that transmission network charges represent a small percentage of customers’ bills, but the transmission network is critical to enabling the benefits of electricity market reforms to be realised. Therefore, the economically efficient amount of transmission is that which maximises the value of the electricity system as a whole, reflected in delivered electricity costs, not that which minimises use of network rate impacts.

Revised Proposed Access Arrangement

General Requirement for Capital Contributions

1793. Western Power has maintained in the revised capital contributions policy a general requirement for an applicant to make a capital contribution where application of the capital contributions policy in relation to the works produces a contribution amount that is greater than zero. The relevant clauses 4.1 and 4.2 of the revised capital contributions policy does, however, include revisions from the proposed capital contributions policy, as follows.

4.1 Applicant must make contribution

~~Western Power is not required to undertake works in respect of an application for a covered service until:~~

~~(a) If the application of this capital contributions policy in relation to the works produces a contribution amount that is greater than zero, Western Power is not required to undertake works in respect of an application for a covered service until the applicant enters into a contract with Western Power under which the applicant agrees to provide the contribution to Western Power in accordance with this capital contributions policy the applicant signs and interconnection works agreement to provide the contribution to Western power in accordance with this capital contributions policy; and.~~

4.2 Applicant ~~must~~ may provide security for new revenue

~~(a) Where the forecast costs are greater than \$50,000, Western Power may require the applicant to procure before the commencement of the works, and maintain for a period of 12 months after the commencement of the associated exit service or entry service, an unconditional, irrevocable bank guarantee, or equivalent financial instrument, in terms acceptable to Western Power (acting as a reasonable and prudent person), guaranteeing the portion of new revenue that is expected to come from providing an exit service or entry service using the works, and that was used to calculate the contribution.~~

~~(b) Where an applicant has provided security under clause 4.2(a), then after 12 months, Western Power may:~~

~~(i) redetermine the contribution under this capital contributions policy, and recover from, or rebate, to the applicant any difference from the amount of the original contribution; or~~

~~(ii) require the applicant to maintain the bank guarantee or equivalent financial instrument for a further 12 months before redetermining the contribution in accordance with clause 4.2(b)(i).~~

~~Clause 4.1(b) is satisfied if the applicant procures and at all times maintain an unconditional, irrevocable bank guarantee in terms acceptable to western power (acting as a reasonable and prudent person) guaranteeing the portion of new revenue referred to in clause 4.1(b).~~

1794. The revised capital contributions policy does not include clause 5.1 of the proposed capital contributions policy, which indicated that a contribution would be required where the whole or part of the costs of works does not meet the new facilities investment test or alternative option test.

1795. The determination of the amount of a capital contribution is dealt with by clauses 5 to 7 of the revised capital contributions policy that provide generally for:

- the amount of a capital contribution to be determined as an amount of forecast costs of the relevant works, minus any part of those forecast costs that meets the requirements of the new facilities investment test, minus any amount that is likely to be recovered in the form of additional revenue from the provision of covered services (clauses 5 and 6); unless
- a modified test under section 6.53 of the Access Code applies to the works (as an adjunct to the new facilities investment test), in which case amounts to be paid for particular types of works are described in clause 7 of the proposed capital contributions policy and these amounts

apply regardless of whether or not the costs of the works would meet the new facilities investment test.

1796. Clause 7 of the revised capital contributions policy, which is derived from clause 10 of the proposed capital contributions policy and which indicates the particular types of works to which the modified test would apply, is as follows.

7.40. Calculation of contribution where modified test applies ~~Consumers consuming less than 50 MWh per year~~

~~10.1—Definitions~~

~~In this clause 10, the following terms have the following meanings.~~

~~“commercial consumer” means a person who consumes, or is expected to consume, less than 50 MWh per year of electricity for the purpose of:~~

- ~~(a) a commercial or industrial business (including units, but excluding subdivisions); or~~
- ~~(b) a primary producer with on-site secondary processing.~~

~~“residential consumer” means a person who consumes electricity for a non-commercial purpose.~~

~~“pole to pillar connection” means an underground 415 V connection from the underground service pillar located at the front of a residential consumer’s property to the nearest 415 V power pole.~~

~~“primary producer” means a person who carries out or is engaged in the business of farming or grazing on land that is~~

- ~~(a) zoned for rural purposes under a town planning scheme; and~~
- ~~(b) used solely or principally for agricultural or grazing purposes or for a combination of those purposes.~~

~~“SES contribution”, or “supply extension scheme contribution”, means a contribution calculated under clause 10.4.~~

~~10.2—Method of payment~~

~~Any contribution to be made by an applicant under this clause 10 shall be made as an upfront payment.~~

~~10.3—Commercial consumers~~

~~(a) The contribution to be paid by an applicant who is, or acts on behalf of, a commercial consumer seeking a new connection service on an existing lot, is the forecast costs less a subsidy based on estimated retail revenue.~~

~~(b) The subsidy is equal to the forecast retail revenue for the first year of operation of the commercial consumer up to 80% of the forecast cost. The forecast retail revenue is based on the appropriate Western Power Retail published retail tariff (excluding GST).~~

7.140.4 Supply extension scheme applicants ~~Primary producers including rural domestic~~

The contribution to be paid by an applicant who is, or acts on behalf of, a primary producer or residential customer seeking to establish a new exit point within a scheme is an amount calculated under section 61 of the Energy Operators (Powers) Act 1979 plus any rebate due to previous applicants who have paid a contribution in respect of the scheme ~~a primary producer seeking a new connection service (an “SES contribution”) is calculated as the forecast costs x 1.77 x 0.57 plus any rebate due to previous applicants who have paid an SES contribution.~~

~~7.2~~40.5 Residential customers qualifying for a pole to pillar connection

The contribution to be paid by an applicant who is, or acts on behalf of, an individual residential customer qualifying for a pole to pillar connection is the amount published by Western Power on its website for a pole to pillar connection.

40.6 Unmetered supplies

~~The contribution to be paid by an applicant who seeks a connection to a facility where the location or the size or nature of the load makes the installation of meters inappropriate is an amount equal to the full forecast costs of any works required to provide the connection.~~

~~7.3~~40.7 Public road street lighting

The contribution to be paid by an applicant who seeks a [modified or](#) connection to a new streetlight is an amount equal to the full forecast costs of [the required](#) any works, [including the provision of the streetlight asset](#) required to provide the connection.

~~40.8~~ Miscellaneous

~~The contribution to be paid by an applicant who is, or acts on behalf of, a consumer seeking any covered service not described in clauses 10.2 to 10.6 is an amount equal to the full forecast costs of any works required to provide the covered service.~~

~~7.4~~4 Subdivisions

A [developer](#) person who seeks to augment the distribution system to service a subdivision, [and who does not qualify for a pole to pillar connection](#), may, at the [developer's](#) person's election:

- (a) [if the subdivision is a greenfield development](#), procure the augmentation itself, in which case the [developer shall vest the network assets comprised in that augmentation](#) network assets comprised in that augmentation shall be vested in Western Power upon commissioning of the network assets; or
- (b) request Western Power to build the augmentation, in which case the contribution to be paid is an amount equal to the full forecast costs of any works required to provide the augmentation, to be paid as an upfront payment, [and](#)
- (c) [clauses 9 and 10 of this capital contributions policy do not apply](#).

1797. In addition to the general provisions that establish the circumstances in which a capital contribution is payable, clause 8 of the revised capital contributions policy indicates the manner in which capital contributions will be applied to particular types of works or in particular circumstances. Clause 8 includes a number of revised provisions from the proposed capital contributions policy as well as a number of new provisions, indicated as follows.

~~8.1~~5.5 Connection assets

The applicant must pay the full forecast costs of any works to provide connection assets ~~where the provision of such works is subject to effective competition~~.

~~8.2~~5.6 The applicant must pay to Western Power [the full amount of any non-capital costs that Western Power incurs in performing works, which in any case must not exceed such costs that would be incurred by a prudent service provider acting efficiently in accordance with good electricity industry practice](#) any contribution regarding alternative options costs calculated under this capital contributions policy, and the full amount of any other non-capital costs that

~~Western Power incurs in providing covered services to the applicant that Western Power reasonably determines is payable by the applicant.~~

~~{Note: these costs might include, for example, adjusting protection settings, reprogramming computer equipment and so on.}~~

8.35-7 Works over and above standard works

~~If an applicant seeks a covered service that is better or different in some respect than an equivalent service in the technical rules or an equivalent reference service in the access arrangement.~~

~~(a) a connection that is better in some respect than that described in the technical rules; or~~

~~(b) a reference service at a service standard better than that specified by Western Power for the reference service in its access arrangement,~~

~~then the applicant must pay to Western Power:~~

~~(a) a contribution calculated under this capital contributions policy for the equivalent service; and~~

~~(b) the difference between the forecast costs of the works required to provide the equivalent service and the forecast costs of the works required to provide the better or different service, to the extent that the better or different service does not otherwise meet those parts of the new facilities investment test dealing with net benefit, safety or reliability.~~

~~{Note: this could be, for example, a design philosophy delivering increased security of supply}~~

~~then the applicant must pay to Western Power the full forecast costs of any works needed to comply with that request.~~

8.4 Costs related to technical rules compliance

~~(a) The applicant must pay a contribution calculated under this capital contributions policy in respect of any works required to upgrade the fault level ratings of network assets, or any other works required to ensure that Western Power complies with the technical rules with respect to the network assets.~~

~~(b) The applicant must pay all of its own costs in relation to ensuring that its facilities and equipment comply with the technical rules.~~

8.5 Temporary supplies

~~The contribution to be paid by an applicant who seeks a temporary supply is, if no applicable amount is published on Western Power's website, an amount equal to the full forecast costs of the required works.~~

8.6 Relocation or underground of network assets

~~Subject to clause 7.2, the contribution to be paid by an applicant who seeks to have existing network assets relocated, including the undergrounding of overhead network assets, is an amount equal to the full forecast costs of the required works.~~

1798. In relation to clause 8.2 of the revised capital contributions policy, Western Power has also provided a new definition of non-capital costs in the revised capital contributions policy:

~~"non-capital costs" means the non-capital costs (as defined in the Code), but excluding alternative option costs), to be incurred by Western Power with regards to works.~~

1799. Western Power has incorporated revisions in the revised capital contributions policy that have removed the provisions of clause 8 of the proposed capital

contributions policy, which related to reduced demand payments, and clause 9 of the proposed capital contributions policy, which related to capital contributions in respect of transmission-connected generators.

Final Decision

1800. Western Power has incorporated revisions in the revised capital contributions policy to address required amendments under the Draft Decision that related to the circumstances in which capital contributions may be payable, as well as revisions that were unrelated to any amendments required under the Draft Decision. The revisions incorporated into the revised capital contributions policy are addressed below under the headings of:

- the general requirement for payment of a capital contribution; and
- explicit requirements for payment of a capital contribution in respect of particular types of works.

General requirement for payment of a capital contribution

1801. Draft Decision Amendment 160 required replacement of clause 4.1 of the proposed capital contributions policy with clauses A4.5 to A4.8 of the model capital contributions policy, for reason that the Authority considered that particular requirements for the applicant to enter into an interconnection works agreement and to provide a guarantee were inconsistent with the requirements of the Access Code.

1802. Western Power has retained clause 4.1 of the proposed capital contributions policy in the revised capital contributions policy, establishing a general requirement for payment of a capital contribution where application of the capital contribution policy produces a value of a capital contribution greater than zero.

1803. Western Power has removed provisions from clause 4.1 that require the applicant to enter into an interconnection works agreement and to provide a guarantee. Accordingly, the Authority is satisfied that clause 4.1 of the revised capital contributions policy is materially the same as clause 4.8 of the model capital contributions policy and, accordingly, that the revised capital contributions policy incorporates Draft Decision Amendment 160.

1804. Draft Decision Amendment 161 required that Western Power delete clause 4.2 of the proposed capital contributions policy, relating to a requirement for security in respect of “new revenue” from the provision of covered services to the applicant that is taken into account in determining the amount of a capital contribution.

1805. Western Power has maintained in the revised capital contributions policy (still as clause 4.2) the requirement for an applicant to provide security in respect of revenue from provision of covered services that is taken into account in determining a capital contribution. Western Power has also made revisions to this clause that provide for security to only be necessary where the forecast costs of works is greater than \$50,000, and for the security to only be required for a period of 12 months, subject to provision for Western Power to extend this requirement for a further 12 months. Clause 4.2 of the revised capital contributions policy is related to the provisions of clause 3.7 of the revised

electricity transfer access contract that would provide for Western Power to recover from a user, in the event that contracted capacity is reduced at a connection point, the amount of the cost of works that Western Power expected to recover from the component charges of reference tariffs.

1806. Western Power submitted:

Western Power has modified clause 4.2 of the CCP to allow Western Power the discretion to require the applicant to provide security for 12 months for the new revenue used in calculating a contribution where the forecast costs are greater than \$50,000. Western Power's experience is that consultants working for applicants will tend to purposely overestimate their client's future consumption or generation to drive down the amount of the contribution. A person who 'games' the CCP in this manner adversely affects all other users, from whom additional revenue must be sourced. Therefore, Western Power considers the requirement to provide security reasonable, as it will encourage consultants and applicants to act more ethically.

After 12 months, Western Power will examine the actual revenue that has resulted from the applicant's application, and either calculate what the contribution should have been and provide a rebate or require an additional contribution as the case may be, or negotiate with the applicant to provide a further 12 months security. This latter case would apply if the applicant can show that its business is ramping up, such that it will meet its forecast use of the network in the coming year. This system currently operates successfully.

By limiting the requirement for the security to be held for 12 months only and not for the full 'reasonable period' used during the calculation of the contribution, which could be up to 15 years, Western Power considers that this provision does not constitute a barrier to entry.

This provision is additional to the reduced demand payment provision in the ETAC. That provision will not operate if Western Power has recovered the cost of the works elsewhere, which is intended to prevent Western Power from 'double dipping' with clause 4.2 of the CCP. It will also not operate in cases where the reduced charges are not because the user has applied to reduce contracted capacity, but rather because the user has selected a metered demand or energy based reference service and has simply consumed less than expected.

It is also additional to clause 9.2 of the AQP, which allows for a reconciliation between the retailer and a customer when the retailer first makes an application, as the services have not yet commenced,²²² and hence the actual consumption or generation of the applicant is not known.

1807. As discussed in relation to clause 3.7 of the revised electricity transfer access contract (paragraph 1034 and following of this Final Decision), Western Power has only a very limited exposure to risk where it finances part of the cost of new facilities investment on the basis that this investment is justified by forecast revenue from a new user. To the extent that Western Power's decision to finance part of the new facilities investment is justified by receipt of "new revenue" from the provision of covered services to the user, it is likely that the cost of the new facilities investment would be rolled into the capital base of the network under the new facilities investment test of the Access Code, in particular under section 6.52(b)(i) of the Access Code. Accordingly, if

²²² Western Power, Response to the Required Amendments in Part B of the Draft Decision (Detailed Response), section 5, pages 66 – 68.

the forecast provision of services to the new user (and the forecast revenue) is not subsequently realised:

- this amount is able to be recovered from users of the network generally, regardless of whether the access contract with the particular user remains as initially established – the only exception to this being if the value of the assets was, after becoming un-used, removed from the capital base under the redundant capital provisions of sections 6.61 and 6.62 of the Access Code; and
- under the revenue-cap form of price control that is to be applied under the access arrangement, if there is a reduction in demand for a service (and revenue from the service) during a year of an access arrangement period, there is a carryover of the revenue shortfall to the next year that allows the revenue shortfall to be recovered in higher reference tariffs (for the network generally) in the next year.

1808. The requirement for security under clause 4.2 of the revised capital contributions policy (and clause 3.7 of the revised electricity transfer access contract) is, therefore, not necessary to protect Western Power's commercial interests.

1809. The Authority does, however, consider that the requirements for security would give rise to benefits to users of the network generally by promoting the efficient financing of augmentations of the network. The requirement for security would provide new users with an incentive to make genuine forecasts of demand and for the value of a capital contribution to be determined in accordance with this forecast and the corresponding forecast of tariff revenue. The Authority further notes that, as the security is only required for a finite period of up to 24 months, it is likely that the security would be called on only where the user did not make a genuine forecast of demand rather than where demand is lower than originally forecast as a result of factors that could not reasonably have been foreseen at the time that the original forecast was made.

1810. Taking the above matters into account, the Authority considers that the requirement for security under clause 4.2 of the revised capital contributions policy serves to promote efficient investment in the SWIN and accordingly is consistent with the Code objective. As the requirement for security is limited to a maximum period of 24 months, the Authority considers that the requirement reasonably accommodates the interests of users and applicants. Accordingly, the Authority does not maintain the requirement of Draft Decision Amendment 161 for the removal of the provisions for security from the capital contributions policy.

Explicit requirements for payment of a capital contribution in respect of particular types of works

1811. In clauses 7 and 8 of the revised capital contributions policy, Western Power has retained provisions, and incorporated new provisions, that provide for Western Power to require payment of capital contributions for certain classes of works or costs.

1812. For the classes of works set out in clause 7 (rural supply extensions, residential pole to pillar connections, public road street lighting and subdivisions) capital contributions are required even though the costs of those works may, either in full or in part, meet the new facilities investment test, and

to allow Western Power to add the value of the relevant works to the capital base for the SWIN. These new provisions are intended to be consistent with Western Power's proposed treatment of new facilities investment financed by capital contributions.

1813. At the time that Western Power submitted its proposed access arrangement to the Authority, section 6.56 of the Access Code prevented any amount being added to the capital base in respect of any new facilities investment for which a capital contribution has been, or is to be, provided to the service provider. This section of the Access Code would have had effect to require that the value of any new facilities investment that is financed by capital contributions not be added to the capital base and, accordingly, for this value not to be reflected in the target revenue and reference tariffs for reference services.
1814. In its covering letter to the Authority at the time of submitting its proposed access arrangement and access arrangement information, Western Power foreshadowed an amendment of the Access Code. Western Power advised that it wished to adopt a methodology for the treatment of capital contributions from commencement of the initial access arrangement period whereby (i) capital contributions could be added to the capital base, and (ii) the amount of any capital contribution would be deducted from the approved total revenue in the year (or years) in which the capital contribution is made. Amendments to the Access Code occurred in November 2005 comprising, inter alia, deletion of section 6.56.
1815. During the course of assessing Western Power's revised proposed access arrangement, it has become apparent that the amendments to the Access Code in November 2005 were not sufficient to allow the treatment of capital contributions proposed by Western Power, despite this being the intent of the amendments.
1816. Under the regulatory scheme established by the Access Code and persisting until amendments to the Access Code in 2006,²²³ new facilities investment could only be rolled into the capital base if that new facilities investment passes a number of tests under section 6.52 of the Code (the "new facilities investment test"). Sections 2.9 and 5.14 of the Code (relating to capital contributions and the capital contributions policy) prevented a service provider from charging a capital contribution in respect of any new facilities investment that passes the new facilities investment test. As a consequence, a service provider could not charge a capital contribution for any new facilities investment that is to be rolled into the capital base, nor roll into the capital base any new facilities investment financed by capital contributions, effectively preventing the treatment of capital contributions that has been proposed by Western Power.
1817. In its revised capital contributions policy, Western Power has sought to remove this barrier to the desired treatment of capital contributions by reference to a modified test under section 6.53 of the Access Code. A modified test under section 6.53 would have the effect of allowing any certain classes of new facilities investment that are financed by capital contributions to be rolled into

²²³ Western Australian Government Gazette No. 159, 19 September 2006, page 3715; Western Australian Government Gazette No. 206, 8 December 2006, pages 5400 – 5402.

the capital base, despite some of that new facilities investment potentially not meeting the new facilities investment test.

1818. There are, however, difficulties with the approach taken by Western Power in utilising the modified test provisions of section 6.53 of the Access Code, including:

- while Western Power has referred to a modified test in the revised capital contributions policy, no modified test has actually been included as part of the revised proposed access arrangement;
- for some of the classes of works set out in clause 7 of the revised capital contributions policy, some or all of the cost would meet the new facilities investment test; however, provisions of sections 5.14 and 2.9 of the Access Code (as amended on 8 December 2006) would, to the extent to which this is the case, have effect to prevent Western Power from charging a capital contribution in respect of the works.

1819. Amendments to the Access Code subsequent to Western Power submitting the revised proposed access arrangement have addressed the barriers to implementing Western Power's desired treatment of capital contributions. These amendments provide for:

- a service provider to require payment of capital contributions for certain classes of new facilities investment that may otherwise meet the new facilities investment test, this is required under an approved extension and expansion policy under section 60 of the *Electricity Industry Act 2004* (sections 2.9, 2.9A, 5.14 and 5.14A of the Access Code as amended on 8 December 2006); and
- new facilities investment that is financed by capital contributions to be added to the capital base of a network, despite some or all of that new facilities investment not meeting the new facilities investment test under section 6.52 of the Access Code (section 6.56 of the Access Code as amended on 1 September 2006).

1820. These amendments to the Access Code result in redundancy of the provisions included in the revised capital contributions policy for calculation of capital contribution where a modified test applies. As the determination of capital contributions for the types of works set out in clause 7 of the revised capital contributions policy is now subject to an approved extension and expansion policy under section 60 of the Access Code, the determination of capital contributions for these works needs to be described in this context in order for the revised capital contributions policy to be consistent with the requirements of section 5.15(a) of the Access Code.

1821. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 22

The revised capital contributions policy should be amended so that the capital contributions policy is applied in accordance with the requirements of sections 5.14 and 5.14A of the Access Code for works associated with supply extension schemes, residential pole to pillar connections, public-road street lighting and subdivisions.

1822. Clause 8 of the revised capital contributions policy includes provisions that establish explicit requirements for payments of capital contributions in respect of particular types of works or costs including connection assets, non-capital costs associated with augmentations, works over and above standard works, costs related to compliance with the Technical Rules, works to provide temporary electricity supplies and works for the relocation or undergrounding of network assets.
1823. Several amendments required under the Draft Decision relate to provisions now incorporated in clause 8 of the revised capital contributions policy. These are addressed as follows.
1824. Draft Decision Amendment 164 required deletion of clause 5.5 of the proposed capital contributions policy, relating to capital contribution in respect of connection assets.
1825. Western Power has not incorporated this required amendment into the revised capital contributions policy. The relevant clause remains, in a revised form, at clause 8.1 of the revised capital contributions policy.
1826. The Authority's reason for requiring Draft Decision Amendment 164 was that clause 5.5 of the proposed capital contributions policy made the payment of capital contribution contingent upon there being effective competition in the provision of connection assets, and "effective competition" was undefined and ambiguous.
1827. Western Power has incorporated revisions in the revised capital contributions policy (clause 8.1) to maintain the requirement for capital contributions in respect of the full costs of connection assets, but to remove the condition that there must be effective competition in provision of those assets.
1828. Alinta Sales Limited and Newmont Australia Limited have submitted that capital contributions made in respect of connection works should be limited to the works necessary to establish the connection point (shallow connection costs) and not include any other works that are necessary for the new connection to be made, such as "strengthening" of the network to accommodate connection of a new generator (deep connection costs). These parties suggest that the connection of new generation and any associated strengthening of the network would have system-wide benefits that would require the cost of new facilities investment to be borne by Western Power rather than financed by capital contributions.
1829. The Authority notes that the general scheme established by the revised capital contributions policy is for the amount of capital contribution to be determined as the cost of an augmentation of the network or a connection, net of any part of that cost that meets the new facilities investment test. Customer-specific or

user-specific connection assets are unlikely to meet the new facilities investment test and a capital contribution for the costs of these assets would generally apply. The extent to which deep connection costs meet the new facilities investment test may potentially vary depending upon the nature of the investment and may need to be determined on a case by case basis. Investment of this type may potentially provide benefits to users of the network generally and provide net benefits relevant to the test of section 6.52(b)(ii) of the Access Code, which forms part of the new facilities investment test. Section 2.9 of the Access Code does, however, prevent Western Power from charging capital contributions where any such deep connection costs meet the new facilities investment test. This is an explicit requirement of the Access Code.

1830. Taking the above matters into account, the Authority accepts that clause 8.1 of the revised capital contributions policy is consistent with the requirements of section 5.12 to 5.15 of the Access Code and with the Code objective.
1831. Draft Decision Amendment 165 required amendment of clause 5.6 of the proposed capital contributions policy, relating to contributions in respect of non-capital costs associated with “alternative options”, to replace this clause with clauses A4.16 to A4.19 of the model capital contributions policy.
1832. Western Power has not incorporated Draft Decision Amendment 165 in the revised capital contributions policy. In revisions incorporated into the revised capital contributions policy at clause 8.2, Western Power has provided for payments under the capital contributions policy to include any non-capital costs incurred in performing works, but has explicitly excluded from any such amount any non-capital costs associated with alternative options.
1833. Under clause 8.2 of the revised capital contributions policy, contributions made in respect of non-capital costs may include some element of costs that have been included in the forecasts of non-capital costs taken into account in the determination of target revenue for the access arrangement period and reference tariffs. However, this would not result in Western Power over-recovering non-capital costs incurred in the undertaking of works and in the provision of covered services as any contributions made in respect of non-capital costs are accounted for under the revenue-cap price control applying under the revised proposed access arrangement.
1834. Taking this matter into account, together with the fact that the making of contributions of non-capital costs is contemplated by the model capital contributions policy, the Authority is satisfied that provisions under the revised capital contributions policy for contributions in respect of non-capital costs are consistent with the Access Code and the Code objective.
1835. The revised capital contributions policy does not explicitly provide for Western Power to require payments in respect of non-capital costs incurred in providing an alternative option. This may result in Western Power being unable to recover some non-capital costs, either through payments of charges for covered services under the price control established under chapter 6 of the Access Code, or through payments made under the capital contributions policy. The Authority notes, however, that this has been proposed by Western Power and, accordingly, the Authority accepts that this strikes a balance between the interests of Western Power and applicants, and is consistent with the Access Code.

1836. Draft Decision Amendment 166 required revision of the proposed capital contributions policy to delete clause 5.7 of the proposed capital contributions policy, relating to the costs of works to provide a connection better in some respects than required under the Technical Rules, or to provide a reference service at a service standard better than specified for that service in the access arrangement.
1837. This amendment was required for the reason that clause 5.7 of the proposed capital contributions policy did not recognise the potential for the relevant works to benefit other applicants or users, and the prospect for the costs to be shared in the event that this occurs.
1838. Western Power has incorporated revisions in clause 8.3 of the revised capital contributions policy so that a contribution in respect of the relevant works is set at the amount of costs that are in excess of any costs that meet those parts of the new facilities investment test dealing with net benefit, safety or reliability.
1839. The Authority reiterates its view expressed in the Draft Decision that, where costs are incurred for the reasons addressed by clause 8.3 of the revised capital contributions policy, these costs should be incurred by the applicant or user requesting the higher standard of connection or service, except to the extent that the works give rise to benefits to other users of the SWIN in such a manner that would justify the costs, or part of the costs, to be borne by the other users through higher reference tariffs. Western Power has addressed these matters by providing for a contribution to be required only to the extent that the costs of the relevant works do not meet the new facilities investment test.
1840. The Authority notes that section 5.14 of the Access Code would generally prevent Western Power from charging a capital contribution in respect of costs of works that meet the new facilities investment test, or to the extent that the costs of the works meet the new facilities investment test. As such, the limitation on a capital contribution required under clause 8.3 of the revised capital contributions policy is simply declaratory. The Authority considers, however, that expression of this requirement in the capital contributions policy would aid understanding of the policy by applicants and users.
1841. The Authority is therefore satisfied that the revisions incorporated in clause 8.3 of the revised capital contributions policy address the reasons for Draft Decision Amendment 166.
1842. Draft Decision Amendment 173 required deletion of clause 8 of the proposed capital contributions policy, relating to reduced demand payments. Western Power has not included this clause in the revised capital contributions policy and, accordingly, the Authority is satisfied that the revised capital contributions policy incorporates Draft Decision Amendment 173.
1843. Draft Decision Amendment 174 required deletion of clause 9 of the proposed capital contributions policy, relating to capital contributions in respect of transmission-connected generators. Western Power has not included this clause in the revised capital contributions policy and, accordingly, the Authority is satisfied that the revised capital contributions policy incorporates Draft Decision Amendment 174.

1844. In addition to revisions made in response to amendments required under the Draft Decision, Western Power has incorporated revisions in clause 8 of the revised capital contributions policy to provide for capital contributions to be made in respect of costs associated with works undertaken by Western Power to comply with the Technical Rules, and the full cost of works to establish temporary electricity supplies or to relocate or underground network assets.
1845. The Authority notes that these classes of works, as well as the other classes or works described in clause 8, would generally not meet the new facilities investment test and, as such, would generally need to be financed by capital contributions. However, this may not invariably be the case and, in such cases, requiring payment of capital contributions may be inconsistent with the requirements of section 5.14 and 5.14A of the Access Code.
1846. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 23

The revised capital contributions policy should be amended to clearly indicate that capital contributions under the terms of clause 8 of the revised capital contributions policy will only be required to the extent consistent with sections 5.14 and 5.14A of the Access Code.

1847. The provisions of clauses 7 and 8 of the revised capital contributions policy are further dealt with later in this Final Decision (paragraph 1877 and following) in relation to options for payment of the contributions.
1848. During the course of preparation of the Final Decision, the Authority received a submission from the Office of Energy addressing the matter of capital contribution payments for certain extensions and expansions of the SWIN at regional locations on the extremities of the existing network.²²⁴
1849. The Office of Energy submitted that Western Power's proposed capital contributions policy may limit opportunities for extensions and expansions of the network by potentially requiring a large part of the cost of a network enhancement to be incurred, at least in the first instance, by the individual new electricity customer that triggers a requirement for enhancement of the network. The Office of Energy proposed that opportunities for extensions and expansions of the network may be increased by the Access Arrangement including provision for a capital contribution charge that is in the nature of a "headworks charge" payable by new users in particular locations or regions.
1850. The Authority invited submissions from interested parties on the submission received from the Office of Energy.²²⁵ Parties that made submissions to the Authority presented a range of views on capital contributions implemented in the form of a headworks charge. Submissions in support of headworks

²²⁴ Letter from the Office of Energy to the Authority, 16 January 2007. This letter is available on the Authority's website.

²²⁵ Notice of 17 January 2007. Parties that made submissions in response to this notice are listed in Appendix A of this Final Decision.

charges drew attention to the potential effects of facilitating land development (due to the capital contributions being spread across both immediate and future electricity customers) and the locational signals provided for efficient extension of the network. Submissions against headworks charges raised concerns of higher costs of land development, higher costs of mining projects and equity issues in the sharing of costs of network augmentation between existing and new electricity customers.

1851. Neither the Access Code nor Western Power's revised proposed access arrangement explicitly contemplate capital contributions that are in the nature of the headworks charges contemplated by the Office of Energy. However, the Authority considers that the capital contributions made through such charges would be in accordance with the provisions of clauses 4 and 5 of Western Power's revised capital contributions policy that indicate a capital contribution to be payable in respect of the part of the cost of an augmentation that does not meet the new facilities investment test under section 6.52 of the Access Code.

1852. Accordingly, the Authority is of the view that there is nothing in either the Access Code or the capital contributions policy of Western Power's proposed access arrangement that would, in principle, prevent Western Power from levying capital contributions in the nature of the headworks charges as described in the submission from the Office of Energy. Whether capital contributions of this nature would be introduced by Western Power is a matter of policy for Western Power and the Western Australian Government. Submissions received by the Authority in the course of preparing this Final Decision may be relevant to Western Power and the Office of Energy in any future consideration of the introduction of headworks charges.

Calculation of Capital Contributions

Requirements of the Access Code

1853. Section 5.15(b) of the Access Code requires that a capital contributions policy must set out the method for calculating any capital contribution a contributing user may be required to make towards the required augmentation.

1854. The model capital contributions policy deals with the calculation of capital contributions in clauses A4.5 to A4.7, A4.9 and A4.10, indicating that:

- the capital contribution for a required augmentation is the forecast new facilities investment in the required augmentation, minus any amount of the new facilities investment that would meet the new facilities investment test under section 6.52 of the Access Code, plus a reasonable rate of return on the net amount (clause A4.5), with the rate of return determined over a reasonable time having regard to the purpose of the new services but up to a maximum of 15 years, and having regard to the risk associated with the required augmentation (clauses A4.9 and A4.10);
- a capital contribution must not exceed the amount that would be required by a prudent service provider, acting efficiently, in accordance with good electricity industry practice, seeking to achieve the lowest sustainable cost of providing the new services (clause A4.6); and

- an amount of a capital contribution must be apportioned between applicants where the required augmentation is necessary to provide covered services to multiple applicants (clause A4.7).

Proposed Access Arrangement

1855. The proposed capital contributions policy included provisions for determination of capital contributions. These provisions included:

- a requirement that the forecast cost of works not exceed the costs that would be incurred by a service provider efficiently minimising costs (clause 3);
- an indication that a contribution is calculated by determining the forecast costs of the works to allocate to the applicant and deducting any costs likely to be recovered by new revenue gained by providing the covered services over a reasonable time (clause 5.2), where the reasonable time is determined having regard to the anticipated commercial life of the works, up to a maximum of 15 years, and the purpose for which the applicant requires the services (clause 5.3);
- provision for the forecast costs of works allocated to an applicant to be determined as the full amount of the forecasts costs, an amount equal to the costs of minimum practical works in situations where Western Power undertakes works in excess of the minimum practical works, a part of the forecast costs allocated to the applicant taking into account expected use of the works by other applicants either at the same time or in the future (clauses 5.4(c) and (d)); and
- an amount less than the forecast costs if the works are expected to give rise to cost savings to Western Power (clause 5.4(e)).

1856. Other clauses of the proposed capital contributions policy set out the determination of amounts of capital contributions, for particular types of works or certain costs:

- the full forecast costs of any works to provide dedicated connection assets where the provision of such works is subject to effective competition (clause 5.5);
- the full amount of any non-capital costs, in respect of alternative options, that Western Power incurs in providing covered services to the applicant that Western Power reasonably determines to be payable by the applicant (clause 5.6);
- the full forecast costs where works are required to meet requirements of an applicant for a connection that is better in some respect than that described in the Technical Rules, or an applicant requires a reference service at a standard better than that specified by Western Power for the reference service in its access arrangement (clause 5.7);
- an amount of foregone revenue where a user reduced demand or terminates a contract (clause 8.2);
- particular factors taken into account in the determination of capital contributions in respect of commercial customers seeking a new connection on an existing lot, primary producers, residential customers qualifying for a pole to pillar connection, unmetered supplies, public-road

street lighting and other customers consuming less than 50 MWh per year (clause 10); and

- the full forecast costs of any augmentation to the network to service a subdivision (clause 11).

Draft Decision

1857. In its Draft Decision, the Authority addressed four elements of the proposed capital contributions policy that related to the calculation of capital contributions:

- requirements on Western Power to limit costs;
- apportioning costs between applicants or between Western Power and an applicant;
- explicit requirements for payment of a capital contribution in respect of particular types of works or costs; and
- reduced demand payments.

1858. The Authority's deliberations and determinations on each of these matters were as follows.

Requirements on Western Power to limit costs

1859. Clause 3 of the proposed capital contributions policy established a requirement that the forecast cost of works not exceed the costs that would be incurred by a service provider efficiently minimising costs. Clause 4.6 of the model capital contributions policy is similar, but uses slightly different terminology, indicating that a capital contribution must not exceed the amount that would be incurred by a prudent service provider, acting efficiently, in accordance with good electricity industry practice, seeking to achieve the lowest sustainable cost of providing the services.

1860. The Authority determined that the difference between clause 3 of the proposed capital contributions policy and clause 4.6 of the model capital contributions policy was material. The Authority further determined that, as clause 3 of the proposed capital contributions policy refers to the *forecast cost of works* rather than the *capital contribution*, the clause provides insufficient certainty for an applicant in terms of the value of the capital contribution and is inconsistent with the requirements of section 5.15 of the Access Code.

1861. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 159

Western Power to amend proposed capital contributions policy clause 3 (Lowest sustainable cost) to apply to a "capital contribution" rather than the "forecast cost of works".

Apportioning costs between applicants or between Western Power and an applicant

1862. Clause 5.4 of the proposed capital contributions policy provided for a capital contribution payable by an applicant to comprise the full forecast costs of an augmentation, for this cost to be apportioned between the applicant and

Western Power and/or other applicants. The provisions for apportioning costs included:

- where Western Power chooses to undertake works in excess of the minimum practical works, Western Power may determine the capital contribution to be only for the forecast cost of the minimum practical works and for Western Power to bear the remainder of the cost (clause 5.4(b));
- where Western Power expects that the works will lead to additional applicants being provided with services within a period of five years, Western Power may apportion the forecast costs between the original and future applicants (clause 5.4(c));
- where Western Power has received multiple applications requiring the same works, Western Power may apportion the costs across all applicants (clause 5.4(d));
- where Western Power will accrue cost savings as a result of the works, Western Power may bear an amount of the forecast costs equal to the expected cost saving (clause 5.4(e)); and
- for Western Power to apportion costs in any other way required to meet the Code objective (clause 5.4(a)(iii)).

1863. The model capital contributions policy does not contemplate any apportioning of costs in determination of a capital contribution and the Authority determined that the provisions of clause 5.4 of the proposed capital contributions policy are a material variation from the model capital contributions policy.

1864. The Authority determined that some of the provisions of clause 5.4 are inconsistent with the requirements of the Access Code, in particular:

- the provisions of clauses 5.4(b) to (e) for apportioning costs provide Western Power with discretion in determining any apportionment, which the Authority considered to provide insufficient certainty in the calculation of capital contributions and to be inconsistent with the requirements of sections 5.12 to 5.15 of the Access Code and the Code objective; and
- the general provision of clause 5.4(a)(iii) for Western Power to apportion costs to meet the Code objective would appear to be redundant as the Authority could not envisage a reason for apportioning costs other than as contemplated by clauses 5.4(b) to (e).

1865. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 162

Western Power to delete proposed capital contributions policy clause 5.4(a)(iii) (Amount of forecast costs).

Draft Decision Amendment 163

Western Power to amend proposed capital contributions policy clauses 5.4(b), (c) and (e) (Amount of forecast costs) to remove discretionary elements.

Capital contributions for particular types of works or costs

1866. Clause 5.5 to 5.7 of the proposed capital contributions policy included provisions that establish explicit requirements for payments of capital contributions in respect of the full costs for particular types of works or costs including connection assets, non-capital costs associated with augmentations and works over and above standard works. The Authority determined that some provisions of these clauses were inconsistent with the requirements of the Access Code and required certain amendments of the proposed capital contributions policy (Draft Decision Amendments 164, 165 and 166). The Authority has addressed these matters at paragraph 1752 and following of this Final Decision.,k

Reduced demand payments

1867. Clause 8 of the proposed capital contributions policy provided for Western Power to require contributions where a user decreases contracted demand or terminates a contract, in order to recover forecast revenue that was taken into account at the time of calculating the capital contribution. The Authority determined that the provisions for reduced demand payments under clause 8 of the proposed capital contributions policy are not appropriately part of the capital contributions policy and required amendment of the proposed capital contributions policy to remove clause 8 (Draft Decision Amendment 173). The Authority has addressed this matter at paragraph 1752 and following of this Final Decision.

Submissions from Interested Parties on the Draft Decision

1868. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1869. Western Power has incorporated the following revisions in the revised capital contributions policy that deal with the calculation of capital contributions.

3. Lowest sustainable cost

A contribution with respect to covered services sought by an applicant must not exceed the amount that would be required by a prudent service provider acting efficiently, in accordance with good electricity industry practice seeking to achieve the lowest sustainable cost of providing the covered services.~~The forecast cost of works required to provide covered services sought by an applicant, must not exceed the costs that would be incurred by a service provider efficiently minimising costs~~

...

5. Amount of contribution

(a) Where the modified test does not apply in respect of the forecast costs of any works, the contribution for that part of the forecast costs which does not meet the new facilities investment test or the alternative option test, as applicable, in part or in whole, is calculated under clause 6 and clause 8.

(b) Where the modified test applies in respect of the forecast costs of any works, the contribution is calculated under clause 7 and clause 8.

~~6.5-~~ Where modified test does not apply Contribution

~~5.1~~ Amount of contribution

~~A contribution is required in respect of any works which are necessary to provide covered services to an applicant, and the costs of which do not meet the new facilities investment test or the alternative option test, as applicable, in part or in whole, and is calculated under clause 5.2.~~

~~6.1~~5.2 Calculation of contribution

The contribution ~~Where a contribution is required under this capital contribution policy, it is calculated by:~~

- (a) determining the appropriate portion of the forecast costs of the works to allocate to the applicant under clause ~~6.3~~5.4; and
- (b) deducting the amount ~~determining any costs likely to be recovered in the form of~~ by new revenue gained from providing the covered services to the applicant, or, if the applicant is a customer, to the customer's retailer, as calculated over the reasonable time, at the contributions rate of return.

~~6.2~~5.3 Reasonable time

For the purposes of this clause ~~6.2~~, the reasonable time is to be determined by Western Power, as a reasonable and prudent person, having regard to:

- (a) the anticipated commercial life of the works, up to a maximum of 15 years; and
- (b) the purpose for which the applicant requires the covered services.

{Note: For example, if the applicant is proposing to build a plant with an expected 5 year operating life, then the reasonable time might be 5 years.}

~~6.3~~5.4 Amount of forecast costs

- (a) Western Power may, acting as a reasonable and prudent person, determine that the amount of the forecast costs to be allocated to the applicant for the purposes of clause 6.1(a) is:
 - (i) the full amount of the forecast costs; or
 - (ii) an amount determined under clauses ~~6.3(b)~~5.4(b) to ~~6.3(e)~~5.4(e); or
 - ~~(iii) an amount determined in any other way required to meet the Code objective.~~
- (b) If Western Power chooses to undertake works in excess of the minimum practical works to provide covered services sought by an applicant, then Western Power will ~~may~~ determine that the amount of costs allocated to the applicant are the forecast costs of the minimum practical works.
- (c) If Western Power reasonably expects to receive tariff income from future applicants, because of works to provide covered services sought by an applicant, within a period of 5 years of the original applicant's application, then Western Power will ~~may~~ apportion the forecast costs based on the relative use of the works by the applicant compared to the relative use of the works expected to be sought by those future applicants ~~contracted capacity sought by the applicant relative to total contracted capacity expected to be sought by those future applicants.~~
- (d) If Western Power has received more than one application requiring the same works ~~to provide similar covered services~~, then Western Power may negotiate with the applicants under the applications and queuing policy to apportion the forecast costs of the works between the

applicants, based on the relative use of the works sought by each applicant.

- (e) If works to provide covered services to an applicant provide specific savings to Western Power in performing its legal obligations, then Western Power ~~may~~ will determine that the costs to be allocated to the applicant are the forecast costs less the amount saved.

1870. Additional revisions have been incorporated in the revised capital contributions policy at clauses 7 (calculation of contribution where modified test applies) and clause 8 (general provisions dealing with explicit requirements for payment of a capital contribution in respect of particular types of works or costs). These clauses and the relevant provisions dealing with the calculation of capital contributions, have been dealt with at paragraph 1811 and following of this Final Decision.

Final Decision

1871. Western Power has incorporated amendments into the revised capital contributions policy at clauses 3, 5 and 6 to address the requirements of Draft Decision Amendments 159, 162 and 163, and to incorporate the concept of a modified test to allow new facilities investment financed by capital contributions to be added to the capital base. The revisions made to address required amendments are considered below. The revisions made for the purposes of introducing the concept of the modified test have been addressed at paragraph 1811 and following of this Final Decision.

1872. Draft Decision Amendment 159 required that Western Power amend proposed capital contributions policy clause 3 of the proposed capital contributions policy so that the “lowest sustainable cost” limit on capital contributions applies to capital contributions rather than forecast costs.

1873. Western Power has incorporated revisions into the revised capital contributions policy so that clause 3 is materially the same as the corresponding clause A4.6 of the model capital contributions policy. The Authority is satisfied that this revision incorporates Draft Decision Amendment 159.

1874. Draft Decision Amendment 162 required that Western Power delete clause 5.4(a)(iii) of the proposed capital contributions policy. Western Power has not included this clause in the revised capital contributions policy and the Authority is, therefore, satisfied that the revised capital contributions policy incorporates Draft Decision Amendment 162.

1875. Draft Decision Amendment 163 required that Western Power amend clauses 5.4(b), (c) and (e) of the proposed capital contributions policy to remove the discretion for Western Power to apportion costs in the relevant circumstances. Western Power has incorporated revisions into the revised capital contributions policy to change the term “may” to “will” in the relevant clauses. The Authority is, therefore, satisfied that the revised capital contributions policy incorporates Draft Decision Amendment 163.

1876. Taking into account the revisions incorporated in the revised capital contributions policy, the Authority is satisfied that the revised capital contributions policy meets the requirements of section 5.15(b) of the Access Code.

Terms of Capital Contributions

Requirements of the Access Code

1877. Section 5.15(c) of the Access Code requires that a capital contributions policy must set out the terms on which a contributing user must make the capital contribution (section 5.15(c)(i)), or a description of how the terms on which the contributing user must make the capital contribution are to be determined (section 5.15(c)(ii)).

1878. The model capital contributions policy deals with the terms of capital contributions by clauses setting out some broad terms for capital contributions, consistent with the approach contemplated by clause 5.15(c)(i) of the Access Code, and providing for detailed terms of capital contributions to be determined by negotiation, subject to resolution as an access dispute, consistent with the approach contemplated by clause 5.15(c)(ii) of the Access Code. The broad terms for capital contributions set out in the model capital contributions policy address:

- the manner in which a contribution may be made by an applicant, contemplating in-kind contributions, periodic financial payments or an up-front financial payment (clause A4.11(a));
- provision for a capital contribution to be made by the State under the Regional Electricity Supply Scheme or otherwise (clause A4.11(b));
- provision for an applicant to elect to make the capital contribution by way of periodic financial payments, subject to a minimum total value of the capital contribution, a minimum amount of periodic payments and provision of reasonable security to the service provider (clause A4.12);
- provision for an applicant to make the capital contribution by an in-kind contribution, subject to the service provider's agreement, and subject to terms set out in an access contract or another contract (clauses A4.13(a) and (b));
- provision for the terms for any up-front or periodic payment to be subject to the terms of an access contract or another contract (clause A4.14(a));
- provision for title to the required augmentation to pass to the service provider upon commissioning (clauses A4.13(c) and 4.14(b));
- provision for the service provider to recoup from other users who subsequently benefit from the required augmentation, and rebate to the relevant applicant, an appropriate amount to reflect the benefit the other users receive from the augmentation (clauses A4.13(d) and A4.14(c)), subject to materiality provisions on the capital cost of the augmentation, a minimum amount to be recouped from or rebated to a user, or a maximum period over which the rebate and recoupment provision may operate (clause A4.15); and
- provision for an applicant to make a contribution of non capital costs by an upfront payment or periodic payments, subject to the service provider's agreement, and subject to terms set out in an access contract or another contract (clauses A4.20 and A4.21).

Proposed Access Arrangement

1879. The proposed capital contributions policy included provisions relating to the terms of a capital contribution. These provisions included:

- provision for capital contributions made in respect of subdivisions to be made as up-front financial payments or in-kind contributions (clause 11);
- a general provision for capital contributions to be made by an applicant as either an up-front financial payment or periodic payments (clause 6.1(a));
- provision for a capital contribution to be made by the Western Australian Government under any appropriate policy (clause A6.1(b));
- a limitation on use of periodic payments to situations where a material portion of the works involve transmission assets and the total value of the contribution exceeds \$1,000,000 (clause 6.2);
- terms for periodic payments indicating a maximum term of five years, a minimum amount for each periodic payment of \$200,000 per annum and an interest rate of 15 per cent per annum (clause 6.3);
- requirements for Western Power to provide rebates where subsequent users benefit from the works within a five year period, the total contribution paid was greater than \$1,000,000, and the amount to be rebated is greater than \$100,000 (clause 7.1);
- provision for rebates to be made as a reduction of periodic payments being made by the user making the original capital contribution (clause 7.2);
- provision for Western Power to recoup costs of augmentations from new applicants for the purposes of making rebates to a user that made an original capital contribution (clause 7.3);
- provision for amounts to be recouped and rebated to be calculated on the basis of relative values of contracted capacity of the relevant users (clause 7.4);
- requirements for upfront payment of any contribution made by an applicant who is, or who acts on behalf of a customer consuming less than 50 MWh (clause 10); and
- provision for capital contributions made in respect of augmentations of the network to support a subdivision to be made as an in-kind contribution of assets to Western Power or an upfront payment (clause 11).

Draft Decision

1880. In its Draft Decision, the Authority addressed the following elements of the proposed capital contributions policy relating to the terms for contributions:

- options for payment;
- minimum requirements for contribution by periodic payments; and
- terms of recoupment and rebates.

1881. The determinations under the Draft Decision on each of these elements are indicated as follows.

Options for payment

1882. Clause 6.1 of the proposed capital contributions policy provided for users generally to make capital contributions by periodic payments or up-front payments, but not by in-kind payments. Clause 10 established a requirement for upfront payment of any contribution made by an applicant who is, or who acts on behalf of a customer consuming less than 50 MWh. Clause 11 provided for an applicant seeking to augment the network to service a subdivision to make a contribution by an upfront payment or in-kind contribution, but not by periodic payments.

1883. The proposed capital contributions policy did not make any general provision for payment of capital contributions by in-kind contributions (as contemplated by clause A4.20 of the model capital contributions policy), or for contributions in respect of non-capital costs to be made by either upfront or periodic payments (clauses A4.20 and A4.21 of the model capital contributions policy).

1884. The Authority determined that the restriction of options for the form of payments of capital contributions were a material variation from the model capital contributions policy and inconsistent with a reasonable balance of interests between Western Power and applicants, contrary to the requirements of section 5.12 of the Access Code.

1885. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 167

Western Power to amend proposed capital contributions policy clause 6.1 (Options for payment) to reproduce model capital contributions policy clause A4.11 without material variation or omission.

Draft Decision Amendment 175

Western Power to delete proposed capital contributions policy clause 10 (Consumers consuming less than 50 MWh per year).

Draft Decision Amendment 176

Western Power to delete proposed capital contributions policy clause 11 (Subdivisions).

Draft Decision Amendment 177

Western Power to amend proposed capital contributions policy to reproduce model capital contributions policy clause A4.13 (Provision of capital contribution in-kind) without material omission or variation.

Draft Decision Amendment 178

Western Power to amend proposed capital contributions policy to reproduce model capital contributions policy clause A4.20 (Manner of contribution) without material omission or variation.

Draft Decision Amendment 179

Western Power to amend proposed capital contributions policy to reproduce model capital contributions policy clause A4.21 (Manner of contribution) without material omission or variation.

Minimum Requirements for Contribution by Periodic Payments

1886. Clause 6.2 of the proposed capital contributions policy limited use of periodic payments to situations where a material portion of the works involve transmission assets and the total value of the contribution exceeds \$1,000,000. Clause 6.3 further required that the maximum term over which periodic payments may be made is five years; the minimum amount for each periodic payment is \$200,000 and interest would be charged for periodic payments at a rate of 15 per cent per annum.
1887. The Authority determined that limitation of use of periodic payments to situations where a material portion of the works involve transmission assets was a material variation from the model capital contributions policy. The Authority further determined that this requirement, and hence the unavailability of periodic payments for capital contributions in respect of distribution assets, was inconsistent with a reasonable balance of interests between Western Power and applicants and contrary to the requirements of section 5.12 of the Access Code.
1888. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 168

Western Power to amend proposed capital contributions policy clause 6.2 (When applicant may choose periodic payment) by reproducing model capital contributions policy clause A4.12 without material omission or variation, and propose a materiality threshold which would provide periodic payment options to a substantial number of those contributing.

1889. The Authority considered that the maximum term of five years for periodic payments is consistent with the Code objective and sections 5.12 to 5.15 of the Access Code. The Authority noted in this regard that users are able to seek alternative forms of finance that may offer longer periods of repayment that better meet that user's needs.
1890. The Authority determined, however, that the minimum value of \$1,000,000 for a capital contribution to be made by periodic payments, and correspondingly the minimum periodic payments of \$200,000 per annum, would limit the use of periodic payments to only a very small number of applicants and is inconsistent with a reasonable balance of interests between Western Power and applicants and contrary to the requirements of section 5.12 of the Access Code. The Authority further determined that the rate of interest applied to arrangements for periodic payments should be a matter for negotiation between Western Power and an applicant, rather than being specified as a term of access to the SWIN.
1891. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 169

Western Power to amend proposed capital contributions policy to allow clauses 6.3(a)(ii) and 6.3(a)(iii) (Terms and amount of periodic payment) to be left for negotiation between the parties.

Rebates and Recoupment

1892. Clause 7 of the proposed capital contributions policy set out general terms for Western Power to recoup costs from new users of the network and rebate these amounts to a user that made an original capital contribution in respect of works that are used to provide services to the new users. These terms included:

- requirements for Western Power to provide rebates where subsequent users benefit from the works within a five year period, the total contribution paid was greater than \$1,000,000, and the amount to be rebated is greater than \$100,000 (clause 7.1);
- provision for rebates to be made as a reduction of periodic payments being made by the user making the original capital contribution (clause 7.2);
- provision for Western Power to recoup costs of augmentations from new applicants for the purposes of making rebates to a user that made an original capital contribution (clause 7.3); and
- provision for amounts to be recouped and rebated to be calculated on the basis of relative values of contracted capacity of the relevant users (clause 7.4).

1893. The Authority determined that specification in the capital contributions policy of minimum values of capital projects, minimum values to be recouped and rebated and maximum periods for rebates to apply is consistent with the model capital contributions policy. However, the Authority determined that the minimum values of capital projects and minimum values to be recouped and rebated as set out in the proposed capital contributions policy did not strike a reasonable balance between the interests of Western Power, users paying capital contributions and other users.

1894. The Authority also determined that the terms for rebates should provide for rebates to be paid to the current owner of the interests of the party that made the original capital contribution, rather than the latter party, and that the terms should be revised to clearly indicate that the values recouped and rebated are calculated on the basis of the actual costs, rather than forecast costs, of the augmentation to which the original capital contribution related.

1895. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 170

Western Power to amend proposed capital contributions policy clause 7 (Rebates and recoupment) by reproducing model capital contributions policy clauses A4.15(a) and (b) without material omission or variation, leaving the variables for negotiation between the parties.

Draft Decision Amendment 171

Western Power to amend proposed capital contributions policy clause 7 to apply rebates and recoupment to the current owner, rather than the original owner.

Draft Decision Amendment 172

Western Power to propose a rebate and recoupment provision to address the variances between forecast and actual cost of augmentation within its capital contributions policy.

Submissions from Interested Parties on the Draft Decision

1896. Alinta Sales Pty Ltd submitted:

(b) Options for payment (clauses 6.1, 6.2 and 6.3 of the Proposed CCP)

Alinta supports the ERA's approach in maintaining the ability for users to make their contributions "in-kind", or by means of periodic payments. In particular, Alinta agrees that the threshold for periodic payments should be lower, because it is likely that the users who are required to make contributions at the smaller end of the scale will be the same entities that will need the option of periodic payments.

However, for the reasons given below in relation to the Electricity Transfer Access Contract, Alinta does not consider it appropriate for the variables in relation to the terms and amount of periodic payment (clause 6.3 of the Proposed CCP) to be left open for negotiation between the parties.

(c) Rebates and recoupment (clause 7 of the Proposed CCP)

For the reasons given below in relation to the Electricity transfer Access Contract, Alinta does not consider it appropriate for the variables in the rebates and recoupment clause of the Proposed CCP to be left open for negotiation between the parties.

1897. Newmont Australia Limited submitted:

Required Amendment 169, Terms and Amount of Periodic Payment – We are of the view that the specified interest rate of 15% appears to be unnecessarily high. This should be reduced to a similar rate to that applied for overdue payments in the access Contracts, of 3 percentage points above the Business Indicator Rate. However, the Authority has again taken the view that this is a commercial issue and best left for negotiation with Western Power. The Authority has required Western Power to delete the clauses dealing with the specified rate and term.

1898. The Office of Energy submitted:

Terms and amounts of periodic payment

Western Power had proposed five year terms with 15% interest and minimum payment amounts of \$200,000.

The Authority has accepted a five year term and required Western Power to amend its policy to provide for interest to be negotiated between the parties. The amount of each payment is also to be negotiated.

The Office has a concern that five years may be too short a period and notes that in paragraph 1797 the Authority observes that the standard period elsewhere is seven years. The option of a term up to seven years may be more manageable for some users and the Office believes the payment term should be re-considered.

The Office notes the Authority's views in paragraph 1798 that:

The Authority also notes that users are able to seek alternative forms of finance that may offer longer periods of repayments that better meet the user's needs.

It is true that if users were able to obtain alternative forms of finance, the need for periodic payments would be greatly obviated. However, for many users this

is not the case. As the users do not actually own the asset they are paying for, it cannot be used as security, meaning financing is either unavailable or requires security against some other asset. The Office has been made aware of a number of instances where businesses claim to be unable to secure finance to fund customer contributions and believes these may not be isolated cases.

The Office also has a concern with requiring interest to be negotiated between the parties. While this may be appropriate for large business users, smaller businesses are unlikely to have the commercial leverage to effectively negotiate interest rates and will in practice be in a position of “take it or leave it” with whatever interest rate Western Power proposes. Small businesses do not have much bargaining power with other finance lenders and it is unlikely the position would be different with Western Power.

While the disadvantages of a completely prescriptive approach to interest rates are accepted, the Office believes it may be more appropriate to provide some guidance as to what an appropriate interest rate could be, especially for small and medium enterprises and residential customers. This could be based upon the 90 day bank bill rate combined with some reasonable allowance for risk and administrative costs.

The Office understands that from the network operator’s perspective, some connections may be quite high risk, associated with the relatively high risk of failure of small businesses, particularly in the first five years after start-up. If the business fails, it is not clear what security might be available to Western Power to recover the outstanding balance. This is in addition to the risk that should the property be sold for a different use, the revenue predictions on which the original capital contribution was based may not be achieved.

The Office also believes that it would not be appropriate for Western Power to be in competition with financial institutions on interest rates offered for what is effectively a loan. It would therefore be reasonable that the interest rate applied to periodic payments would slightly exceed general bank rates for business and personal loans. This would also encourage applicants to exhaust other borrowing options before seeking the periodic payment mechanism.

Rebates for subsequent users

Western Power proposed that rebates be limited to where the original amount was greater than \$1 million, the rebate in excess of \$100,000 and new users emerge within five years.

The Authority has determined that a five year period is appropriate but that the threshold amounts and rebate amounts should be negotiated between the parties. This period is probably somewhat short in rural areas where the pace of development may be slow, but the Office accepts that there must be a balance with administrative convenience.

While the Office notes the Authority’s view that negotiation makes provision for “payment of rebates or recoupment [to be] relevant to the size and nature of the capital contribution provided”, it would be concerned if purely negotiated outcomes led to only larger users being able to access this facility. The Office believes that the issues are similar to those in considering the threshold for periodic payment and requests that the Authority consider whether it would be appropriate to provide indicative amounts for thresholds and rebate amounts to guide negotiated outcomes.

Revised Proposed Access Arrangement

1899. Western Power has incorporated revisions into clause 9 of the revised capital contributions policy, dealing with options for payment, as follows.

~~9.6.~~ Manner of contribution

~~9.16.4~~ Options for payment

A contribution may be made:

- (a) by the applicant by way of a financial payment comprising either:
 - (i) periodic financial payments, subject to clause ~~9.26.2~~; or
 - (ii) an upfront financial payment;

or

- (b) by the Western Australian Government under any appropriate [government](#) policy.

9.2 When applicant may choose periodic payment

~~(a)~~—The applicant may not elect under clause ~~9.1(a)(i)6.2(a)~~ to make the contribution by way of a periodic financial payment unless [the total amount of the contribution exceeds \\$30,000](#).

~~(i)~~—~~a material proportion of the works will involve transmission assets; and~~

~~(ii)~~—~~the total amount of the contribution exceeds \$1,000,000.~~

9.3 Terms and amount of periodic payment

(a) If the applicant elects to make a contribution by way of periodic financial payment under clause ~~9.26.2(a)~~, then:

(i) the maximum term over which the periodic payments may be made is 5 years; [and](#)

~~(ii)~~—~~the minimum amount for each periodic payment is \$200,000 per annum; and~~

~~(ii)(iii)~~ [interest will be payable on each periodic payment, at a reasonable commercial rate to be negotiated between Western Power and the applicant](#) ~~interest of 15% per annum, calculated each month, will be added to each periodic payment.~~

1900. Western Power has maintained provisions in clause 7 of the revised capital contributions policy that limit the options for payment of capital contributions where these contributions are made in respect of certain types of works or costs. This clause has been revised from the corresponding clauses 10 and 11 of the proposed capital contributions policy as follows.

~~7.40.~~ [Calculation of contribution where modified test applies](#) ~~Consumers consuming less than 50 MWh per year~~

~~10.1~~ Definitions

~~In this clause 10, the following terms have the following meanings.~~

~~“commercial consumer” means a person who consumes, or is expected to consume, less than 50 MWh per year of electricity for the purpose of:~~

~~(a)~~—~~a commercial or industrial business (including units, but excluding subdivisions); or~~

~~(b)~~—~~a primary producer with on-site secondary processing.~~

~~“residential consumer” means a person who consumes electricity for a non-commercial purpose.~~

~~“pole to pillar connection” means an underground 415 V connection from the underground service pillar located at the front of a residential consumer’s property to the nearest 415 V power pole.~~

~~“primary producer” means a person who carries out or is engaged in the business of farming or grazing on land that is~~

- ~~(a) zoned for rural purposes under a town planning scheme; and~~
- ~~(b) used solely or principally for agricultural or grazing purposes or for a combination of those purposes.~~

~~“SES contribution”, or “supply extension scheme contribution”, means a contribution calculated under clause 10.4.~~

~~10.2 Method of payment~~

~~Any contribution to be made by an applicant under this clause 10 shall be made as an upfront payment.~~

~~10.3 Commercial consumers~~

- ~~(a) The contribution to be paid by an applicant who is, or acts on behalf of, a commercial consumer seeking a new connection service on an existing lot, is the forecast costs less a subsidy based on estimated retail revenue.~~
- ~~(b) The subsidy is equal to the forecast retail revenue for the first year of operation of the commercial consumer up to 80% of the forecast cost. The forecast retail revenue is based on the appropriate Western Power Retail published retail tariff (excluding GST).~~

~~7.1~~10.4 Supply extension scheme applicants~~Primary producers including rural domestic~~

~~The contribution to be paid by an applicant who is, or acts on behalf of, a primary producer or residential customer seeking to establish a new exit point within a scheme is an amount calculated under section 61 of the Energy Operators (Powers) Act 1979 plus any rebate due to previous applicants who have paid a contribution in respect of the scheme a primary producer seeking a new connection service (an “SES contribution”) is calculated as the forecast costs x 1.77 x 0.57 plus any rebate due to previous applicants who have paid an SES contribution.~~

~~7.2~~10.5 Residential customers qualifying for a pole to pillar connection

~~The contribution to be paid by an applicant who is, or acts on behalf of, an individual residential customer qualifying for a pole to pillar connection is the amount published by Western Power on its website for a pole to pillar connection.~~

~~10.6 Unmetered supplies~~

~~The contribution to be paid by an applicant who seeks a connection to a facility where the location or the size or nature of the load makes the installation of meters inappropriate is an amount equal to the full forecast costs of any works required to provide the connection.~~

~~7.3~~10.7 Public road street lighting

~~The contribution to be paid by an applicant who seeks a modified or connection to a new streetlight is an amount equal to the full forecast costs of the required any works, including the provision of the streetlight asset required to provide the connection.~~

10.8—Miscellaneous

~~The contribution to be paid by an applicant who is, or acts on behalf of, a consumer seeking any covered service not described in clauses 10.2 to 10.6 is an amount equal to the full forecast costs of any works required to provide the covered service.~~

7.414 Subdivisions

A developer person who seeks to augment the distribution system to service a subdivision, and who does not qualify for a pole to pillar connection, may, at the developer's ~~person's~~ election:

- (a) if the subdivision is a greenfield development, procure the augmentation itself, in which case the developer shall vest the network assets comprised in that augmentation ~~network assets comprised in that augmentation shall be vested in Western Power upon commissioning of the network assets;~~ or
- (b) request Western Power to build the augmentation, in which case the contribution to be paid is an amount equal to the full forecast costs of any works required to provide the augmentation, to be paid as an upfront payment, and
- (c) clauses 9 and 10 of this capital contributions policy do not apply.

1901. Western Power has incorporated revisions into clause 10 of the revised capital contributions policy, previously clause 7 of the proposed capital contributions policy and dealing with rebates and recoupment, as follows.

10.7- Rebates and recoupment

~~7.1—Where Western Power must provide rebate~~

- ~~(a)—Western Power must provide a rebate equal to a portion of a contribution paid by a user for works where:

 - ~~(i)—a subsequent user benefits from the works or a part of the works within 5 years of the date that the original user paid the contribution; and~~
 - ~~(ii)—the total contribution paid by the original user was greater than \$1,000,000; and~~
 - ~~(iii)—the amount to be rebated to the original user as determined under clause 7.4 is greater than \$100,000.~~~~
- ~~(b)—Western Power is not under any obligation to pay any rebate for a contribution to any user under any circumstance other than that expressly provided for under clause 7.1(a).~~

~~7.2—Western Power must adjust periodic payment~~

~~Western Power must adjust the periodic payments made by a user under clause 6.1(a)(i) such that the user is relieved of the obligation to pay a portion of a contribution for works where:~~

- ~~(a)—a subsequent user benefits from the works within 5 years of the date that the original user paid the first period payment of the contribution; and~~
- ~~(b)—the amount to be rebated to the original user as determined under clause 7.4 is greater than \$100,000.~~

10.1 Parties may negotiate rebate

- (a) Subject to clause 10.1(c), where:
 - (i) an applicant has paid a contribution, or is paying a contribution in the form of periodic payments, for works with respect to a

connection point for which the full forecast costs of the works were allocated to the applicant under clause 6.3; and

- (ii) a subsequent applicant associated with a different connection point benefits from the works or a part of the works within 5 years of the date that the contribution was paid in respect of the original connection point,

then Western Power and the applicant may negotiate to require Western Power to provide a rebate.

- (b) Any negotiated rebate will be payable to the customer or the user associated with that connection point at the time of the rebate being payable.

- (c) A rebate under clause 10.1(a) will not be payable to a developer.

- (d) ~~7.4~~ The amount of a rebate given to a user or customer under clause 10.1(a) clauses 7.1 or 7.2 and an amount to be recouped from an applicant under clause 7.3 is determined by apportioning the amortised original contribution paid in respect of the original connection point between the original user or customer associated with the original connection point and each subsequent applicant based on the relative contracted capacity of each party, where the contribution is amortised completely in a straight line over 5 years.

- (e) Where:

- (i) an applicant paid a contribution in respect of an exit point within a scheme; and

- (ii) a person who is, or acts on behalf of, a primary producer or a residential customer, associated with a different exit point within the scheme, subsequently benefits from the works,

then Western Power must provide a rebate to the customer associated with the original exit point calculated under section 61 of the Energy Operators (Powers) Act 1979.

- (f) ~~(b)~~ Western Power is not under any obligation to pay any rebate for a contribution to any user or customer under any circumstance other than that expressly provided for under clauses 10.1(a) and 10.1(e) clause 7.1(a).

10.27.3 New applicants must pay rebate

Where Western Power must pay a rebate to a user or a customer in respect of a connection point under clause 10.1 ~~under clauses 7.1 or 7.2~~, each subsequent applicant that triggers such a rebate ~~benefits from works within 5 years of the date that the original user paid the contribution~~ must pay to Western Power an upfront amount equivalent to the rebate.

Final Decision

1902. In its Draft Decision, the Authority required amendments to the provisions of the proposed capital contributions policy dealing with the terms of capital contributions in relation to:

- options for payment of capital contributions;
- minimum requirements for payment of capital contributions by periodic payments; and
- rebates and recoupment.

1903. Western Power has incorporated revisions into the revised capital contributions policy in respect of each of these matters. The Authority's consideration of these revisions is set out below.

Options for Payment

1904. Draft Decision Amendments 167 and 175 to 178 required amendment of the proposed capital contributions policy to remove restrictions on the options for payment of capital contributions and non-capital contributions and to provide, generally, for the payment of capital contributions by upfront payments, periodic payments or in-kind contributions.

1905. Western Power has incorporated revisions in the revised capital contributions policy that remove constraints on the manner in which contributions may be paid for particular types of works and costs. Apart from this, however, Western Power has not incorporated these required amendments into the revised capital contributions policy. Rather, Western Power has:

- maintained the general provision at clause 9.1 of the revised capital contributions policy for contributions to be made only by either upfront payment or periodic payments, and not by in-kind contributions; and
- maintained a requirement at clause 7.4 for contributions made in respect of subdivisions to be made by either upfront payment or in-kind contributions, and not by periodic payments.

1906. In regard to the absence of a general provision in the revised capital contributions policy for capital contributions to be made by in-kind contributions, Western Power has submitted:

Western Power acknowledges the Authority's concerns in respect of Western Power's omission of the provision in-kind provisions from its proposed CCP. However, Western Power submits that to include such provisions of general application to all users would place Western Power in great risk of breaching its duty of care obligations to users of its network. Given Western Power's continuing liability for the safety and security of the network, Western Power chooses not to take on the technical compliance risk of allowing other parties to construct part of the covered network. Western Power is simply not currently set up to ensure that sufficient safeguards and reliability procedures are in place to allow any user to supply its own network assets to be incorporated into the network.

While maintaining that it is not feasible to require Western Power to allow provision in-kind contributions from all users, Western Power notes that it has allowed provision in-kind contributions for land developers (ie subdivisions), and a limited number of extensions to individual customers (eg mines). Such allowances cover more than 50% of extensions to the distribution network (in value).

Western Power notes that clause A4.13 of the model CCP states that Western Power 'may agree' to an applicant providing an augmentation. Western Power considers that by agreeing to allow developers the provision in-kind option, it does in fact adhere to the intent of the model policy. In addition, it notes that sections 5.12 to 5.15 of the Code do not require Western Power to offer a provision in-kind option in its capital contributions policy.

Western Power therefore considers that its position in relation to these required amendments is consistent with the Code requirements.

1907. The Authority notes that neither the Access Code nor the model capital contributions policy require, nor contemplate, that a service provider will be obliged to accept capital contributions by in-kind contributions. Clauses A4.11 and A4.13 of the model capital contributions policy contemplate only that capital contributions *may* be made by in-kind contributions, subject to the agreement of the service provider.
1908. The Authority accepts Western Power's contention that allowing for in-kind contributions requires Western Power to develop systems and devote resources to ensuring that any contributed assets meet necessary technical standards and, accordingly, it is not necessarily efficient for there to be a general provision for in-kind contributions for all types of augmentations or works.
1909. The Authority is not in a position to determine the scope of assets or works for which it may be efficient to allow in-kind contributions. However, the Authority is of the view that the scope for augmentations of the network to be efficiently achieved by in-kind contributions may extend beyond augmentations relating to subdivisions and may include, for example, other discrete additions to the transmission or distribution networks. The Authority therefore considers that the absence of provision for negotiation and agreement for in-kind contributions is contrary to the Code objective and section 5.12(a) of the Access Code.
1910. The Authority requires the following amendment to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 24

The revised capital contributions policy should be amended to include a general provision for capital contributions to be made by provision in-kind, subject to agreement by Western Power.

1911. Western Power has maintained provisions in the revised capital contributions policy that only allow for capital contributions in respect of augmentations for subdivisions to be made by upfront payments or in-kind contributions.
1912. The Authority has given further consideration to the options for payment that should apply to capital contributions made in respect of subdivisions. The Authority acknowledges that augmentations for subdivisions would commonly be characterised by the absence of an ongoing association of the original contributor (the developer of the subdivision) with either the use of network services or consumption of electricity at the location of the subdivision. As such, the Authority accepts that arrangements for periodic payments for capital contributions made in respect of subdivisions could present a particular risk to Western Power if arrangements for periodic payments were entered into. Furthermore, the Authority is of the view that capital markets are likely to be accustomed to financing land developments, including finance for the payment of capital contributions in respect of utility services. In these circumstances, the Authority is satisfied that the absence of provision for periodic payments for capital contributions made in respect of subdivisions is consistent with the Code objective and section 5.12(a) of the Access Code.

1913. Subject to amendment in accordance with Required Amendment 24, above, the Authority is satisfied that the provisions of the revised capital contributions policy dealing with options for payment of contributions are consistent with the relevant requirements of the Access Code.

Minimum Requirements for Contribution by Periodic Payments

1914. Draft Decision Amendment 168 required that the proposed capital contributions policy be revised to have less restrictive requirements for the making of capital contributions by periodic payments. In requiring this amendment, the Authority was particularly concerned with:

- allowing for periodic payments for distribution as well as transmission assets;
- reducing the minimum total value of the contribution for which an arrangement of periodic payments may be entered into; and
- reducing the minimum amount of each periodic payment.

1915. Western Power has incorporated revisions into clause 9.2 of the revised capital contributions policy to indicate that an applicant may elect to make a contribution by way of periodic payments if the total amount of the contribution exceeds \$30,000, changed from \$1,000,000 under the proposed capital contributions policy. No minimum values of periodic payments are stated in the revised capital contributions policy. Western Power submitted that this threshold ensures that a large number of applicants, including many rural customers, will be eligible to seek periodic payments.²²⁶

1916. The Authority is satisfied that the lower threshold for the total value of the contribution is consistent with striking a balance of interests between the contributing user and Western Power, and is consistent with the requirements of section 5.12(a) of the Access Code.

1917. Draft Decision Amendment 169 required revision of the proposed capital contributions policy to provide for the terms of periodic payments – in particular the rate of interest – to be determined by negotiation between Western Power and the contributing party.

1918. Western Power has incorporated revisions in clause 9.3 of the revised capital contributions policy to indicate that interest is to be payable at a reasonable commercial rate negotiated between Western Power and the applicant.

1919. The Authority is satisfied that the revised capital contributions policy incorporates Draft Decision Amendment 169.

1920. The Authority notes the submissions from Alinta Sales Pty Ltd, Newmont Limited and the Office of Energy that contend that the terms of periodic payment arrangements should be set out in the capital contributions policy rather than left for negotiation between the contributing party and Western Power. In particular, these parties have contended that the capital

²²⁶ Western Power, Response to the Required Amendments in Part B of the Draft Decision (Detailed Response), section 5, pages 74, 75.

contributions policy should establish the rate of interest payable under periodic payment arrangements.

1921. The Authority has considered these submissions but maintains the view expressed in the Draft Decision that the terms of periodic payment arrangements, including the rate of interest payable, should be determined by negotiation. Such arrangements are in the nature of a financing arrangement, and the contributing party has the opportunity to make alternative financing arrangements if an agreement with Western Power cannot be reached. Moreover, the Authority recognises that the terms of arrangements will need to take into account the particular circumstances of an augmentation, including any risk to Western Power of a default on payments by the contributing party. The Authority is not in a position to anticipate the particular circumstances, nor to specify terms that appropriately take the different possible circumstances into account.

Rebates and Recoupment

1922. Draft Decision Amendment 170 required revision of the proposed capital contributions policy to allow the terms of any provisions for recoupment and rebates to be negotiated between Western Power and the contributing user. In requiring this amendment, the Authority was particularly concerned with:

- having a less restrictive minimum value of the original contribution (\$1,000,000 under the proposed capital contributions policy); and
- having a less restrictive minimum value of a rebate (\$100,000 under the proposed capital contributions policy).

1923. Draft Decision Amendments 171 and 172 required revision of the proposed capital contributions policy to explicitly provide for rebates to apply to the current owner of the interests of the party that made the original capital contribution, rather than the latter party, and for the values recouped and rebated to be calculated on the basis of the actual costs, rather than forecast costs, of the augmentation to which the original capital contribution related.

1924. Western Power has incorporated revisions in clause 10 of the revised capital contributions policy to provide for:

- arrangements for rebates, other than the maximum term of which rebates are payable, to be negotiated between an applicant paying a contribution and Western Power, with the exception of any applicant or contribution paid in respect of a subdivision (i.e. by a developer);
- any rebate to be payable to the customer or user associated, at the time the rebate is paid, with the connection point to which the original contribution related; and
- the amount of any rebate to be determined on the basis of the amount of the contribution.

1925. Western Power has maintained provision for rebates to be payable only where a subsequent applicant associated with a different connection point benefits from the works or a part of the works within five years of the date that the contribution was paid in respect of the original connection point.

1926. The Authority is satisfied that the revisions incorporated in clause 10 of the revised capital contributions policy incorporate Draft Decision Amendments 170 to 172. However, taking into account the submission from the Office of Energy, the Authority has given further consideration to the provision for a fixed five year horizon on the period over which a new applicant may trigger a rebate.
1927. Subsequent to the Draft Decision, the Authority has become aware that large capital contributions may be made for augmentations of the transmission network and that the nature of rebate provisions may, for some augmentations, be an important consideration in a decision of an applicant or user as to whether to make the capital contribution. The Authority accepts that the administrative costs of managing a rebate scheme for a period of longer than five years may outweigh the benefits of the rebate scheme in encouraging efficient investment in the network where capital contributions of a relatively small value are made. However, the Authority considers that the ability of the applicant or user to negotiate terms of rebates, including the period over which a rebate scheme may operate, may be an important element of investment decisions where capital contributions are of a large value. Accordingly, the Authority considers that a set horizon of five years on the operation of a rebate is inconsistent with the Code objective where capital contributions are of a large value.
1928. The Authority also notes that the extension and expansions policy approved by the Coordinator of Energy requires Western Power to provide rebates for up to 10 years after an initial capital contribution, where the initial capital contribution is made in respect of a supply extension scheme. The revised capital contributions policy does not contemplate a requirement on Western Power to pay rebates in respect of contributions made in respect of a supply extension scheme. Also, the 10-year period established under the extension and expansion policy is inconsistent with the five-year limit on the period of rebates contemplated under clauses 10.1(a) and (d) of the revised capital contributions policy.
1929. The Authority considers that, by virtue of these inconsistencies with the approved extension and expansion policy, the revised capital contributions policy does not meet the requirements of section 5.14A of the Access Code.
1930. The Authority requires the following amendments to be made to the revised proposed access arrangement before it will be approved.

Required Amendment 25

The revised capital contributions policy should be amended so that rebate provisions applying to capital contributions made in respect of a supply extension scheme are consistent with the extension and expansion policy for the SWIN.

Required Amendment 26

The revised capital contributions policy should be amended to provide for the period over which rebate provisions to be consistent with any relevant provisions of the extension and expansion policy, or otherwise to be negotiated between Western Power and the contributing applicant or user where the value of the contribution is in excess of \$100,000.

11.5. Definitions of Terms

Proposed Access Arrangement

1931. The proposed capital contributions policy included a section of definitions of terms (clause 1.1). A number of these definitions differed materially from corresponding definitions under the model capital contributions policy, or introduced terms that are not used in the model capital contributions policy.
1932. This section of the Final Decision addresses the differences in definitions from the model capital contributions policy where they are not otherwise addressed in sections dealing with substantive terms of the capital contributions policy.

Draft Decision

Definition of Capacity

1933. Western Power defined “capacity” in its proposed capital contributions policy but did not use this term in the proposed capital contributions policy which makes reference only to “contracted capacity”, which is otherwise defined. In its Draft Decision, the Authority determined that providing a definition of a term that is not actually used in the capital contributions policy is inconsistent with a clear specification of the circumstances, calculation and terms of capital contributions as required by section 5.15 of the Access Code.
1934. The Authority indicated that the following amendments would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 180

Western Power to delete the definition of “capacity” from its proposed capital contributions policy.

Definition of “Contracted Point”

1935. In its proposed access arrangement, including in the proposed capital contributions policy, Western Power used the term “contracted point” instead of “connection point”. In its Draft Decision, the Authority determined that Western Power’s proposed use of the term contracted point rather than connection point was not justified by the objective of clarity in the use of terms, as submitted by Western Power, and that the use of the term “contracted point” could lead to confusion. The Authority required Western Power to adopt the term “connection point” throughout its proposed access arrangement.

1936. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 181

Western Power to delete the definition of “contracted point” from its proposed capital contributions policy.

Definition of “Cost Recovery Period”

1937. Western Power defined “cost recovery period” in its proposed capital contributions policy. In its Draft Decision, the Authority required deletion of clause 8 of the proposed capital contributions policy where this term is used (Draft Decision Amendment 173) and as a consequence required deletion of the definition of cost recovery period from the proposed capital contributions policy.

1938. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 182

Western Power to delete the definition of “cost recovery period” from its proposed capital contributions policy.

Definition of “Forecast Costs”

1939. Western Power defined “forecast costs” in its proposed capital contributions policy to include alternative option costs, which would comprise non-capital costs. In its Draft Decision, the Authority required replacement of clause 5.6 of the proposed capital contributions policy (dealing with non-capital costs) with the corresponding clauses A4.16 to A4.19 of the model capital contributions policy (Draft Decision Amendment 165). As a consequence of this amendment, it would not be necessary for the definition of “forecast costs” to include reference to non-capital costs.

1940. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 183

Western Power to delete the definition of “forecast costs” from its proposed capital contributions policy.

Definition of “Interconnection Works Agreement”

1941. In its Draft Decision, the Authority determined that the proposed interconnection works agreement does not meet the requirements for a standard access contract under the Access Code and, accordingly, the Authority required the proposed access arrangement to be amended to remove this proposed standard access contract. As a consequential amendment to the proposed access arrangement, the Authority required that the definition of interconnection works agreement be deleted from the proposed capital contributions policy.

1942. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 184

Western Power to delete the definition of “interconnection works agreement” from its proposed capital contributions policy.

Definition of “Non-Capital Contribution”

1943. Western Power did not include in the proposed capital contributions policy a definition for “non-capital contribution”. In its Draft Decision, the Authority required replacement of clause 5.6 of the proposed capital contributions policy (dealing with non capital costs) with the corresponding clauses A4.16 to A4.19 of the model capital contributions policy (Draft Decision Amendment 165). As a consequence of this amendment, it would be necessary for the definition of “non-capital contribution” to be included in the capital contributions policy.

1944. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 185

Western Power to amend the proposed capital contributions policy to include the model capital contributions policy definition of “non-capital contribution” without material variation or omission.

Definition of “Payment Contract”

1945. Western Power did not include in the proposed capital contributions policy a definition for “payment contract”. In its Draft Decision, the Authority required amendments to provisions of the proposed capital contributions policy relating to the manner of contributions (Draft Decision Amendments 167 to 169) that could require that the capital contributions policy include a definition for payment contract.

1946. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 186

Western Power to amend the proposed capital contributions policy to include the model capital contributions policy definition of “payment contract” without material variation or omission.

Definition of “Provision In-Kind”

1947. Western Power did not include in the proposed capital contributions policy a definition for “provision in-kind”. In its Draft Decision, the Authority required amendments to provisions of the proposed capital contributions policy relating to the manner of contributions (Draft Decision Amendments 167 to 169) that could require that the capital contributions policy include a definition for provision in-kind.

1948. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 187

Western Power to amend the proposed capital contributions policy to include the model capital contributions policy definition of “provision in-kind” without material variation or omission.

Definition of “Reduced Demand Payment”

1949. Western Power defined “reduced demand payment” in its proposed capital contributions policy. In its Draft Decision, the Authority required deletion of clause 8 of the proposed capital contributions policy where this term is used (Draft Decision Amendment 173) and as a consequence required deletion of the definition of reduced demand payment from the proposed capital contributions policy.

1950. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 188

Western Power to delete the definition of “reduced demand payment” from its proposed capital contributions policy.

Definition of “Transmission Asset”

1951. Western Power defined “transmission asset” in its proposed capital contributions policy. In its Draft Decision, the Authority required amendments to provisions of the proposed capital contributions policy relating to the manner of contributions (Draft Decision Amendments 167 to 169) that would make a definition of transmission asset obsolete for the purposes of the capital contributions policy.

1952. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 189

Western Power to delete the definition of “transmission asset” from its proposed capital contributions policy.

Definition of “Urban Shared Network”

1953. Western Power defined “urban shared network” in its proposed capital contributions policy. In its Draft Decision, the Authority required an amendment to provisions of the proposed capital contributions policy relating transmission connected generators (Draft Decision Amendment 174) that would make a definition of urban shared network obsolete for the purposes of the capital contributions policy.

1954. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 190

Western Power to delete the definition of “urban shared network” from its proposed capital contributions policy.

Submissions from Interested Parties on the Draft Decision

1955. No submissions were received from interested parties.

Revised Proposed Access Arrangement

1956. Western Power has incorporated revisions to definitions of terms into the revised capital contributions policy, as follows.

1.1 Definitions

In this capital contributions policy, unless the contrary intention is apparent:

[“access contract” means an agreement between Western Power and another person for that person to have access to covered services.](#)

“access arrangement” means the current access arrangement approved in respect of the network under the Code.

[“Act” means the Electricity Industry Act 2004.](#)

“alternative option contribution” means a contribution made, or to be made, by an applicant in respect of an alternative option.

“alternative option test”, in respect of the network, means the test set out in section 6.41 of the Code.

[“applicant” means a person \(who may be a user, a customer or a developer\) who has lodged, or intends to lodge, a connection application.](#)

“applications and queuing policy” means the applications and queuing policy in the access arrangement.

~~“capacity”, with regards to a part of the network (including a contracted point), means the maximum rate at which electricity can be transported through that part of the network in accordance with good electricity industry practice.~~

“Code” means the Electricity Networks Access Code 2004.

[“Code of Conduct” means the Code of Conduct for the Supply of Electricity to Small Use Customers 2004, made under section 79 of the Act.](#)

[“connection application” means an application lodged with Western Power under the applications and queuing policy that has the potential to require a modification to the network, including an application to:](#)

[\(a\) connect facilities and equipment at a new connection point; or](#)

[\(b\) increase consumption or generation at an existing connection point; or](#)

[\(c\) materially modify facilities and equipment connected at an existing connection point; or](#)

[\(d\) augment the network for any other reason.](#)

[{Note: this might be, for example, to service a subdivision.}](#)

[and includes any additional information provided by the applicant in regard to the application.](#)

[“connection point” means an exit point or an entry point identified or to be identified as such in an access contract.](#)

[“consumption”, for a connection point, means the amount of electricity consumed at the connection point, and is measured in Watt-hours.](#)

“contracted capacity” means the maximum rate at which a user is permitted to transfer electricity at a connection point under the user’s access contract.

“contribution” means a capital contribution or an alternative option contribution, or both as applicable.

“contributions rate of return” means the rate of return most recently approved by the Authority for use in price control for the network.

~~“cost recovery period” has the meaning given to it in clause 8.2(b).~~

“customer” has the meaning given to it in the Act.

“developer” means a person who has applied to the Western Australian Planning Commission for approval to subdivide a property.

“entry point” has the meaning given to it in the applications and queuing policy.

“exit point” has the meaning given to it in the applications and queuing policy.

~~“forecast costs” means, with regards to works, the forecast new facilities investment or the alternative option costs, or both, as applicable,~~ to be incurred by Western Power with regards to works.

“generation”, for a connection point, means the amount of electricity generated at the connection point, and is measured in Watt-hours.

“greenfield development” means a new installation of network assets without the requirement of significant integration with the existing network.

~~“interconnection works agreement” means a type of contract under which a user agrees to pay a contribution to Western Power for the performance of works, and which includes terms dealing with Western Power’s and the user’s rights and obligations in relation to the contribution and the works.~~

“Metering Code” means the code made under Section 39(1) of the Act in respect of a matter referred to in Section 39(2)(a) of the Act, and includes any service level agreement, metering data agency agreement, communications rules, metrology procedure, mandatory link criteria and registration process developed under that code.

~~“minimum practical works” with regard to covered services sought by an applicant, means the minimum works Western Power must undertake, acting efficiently in accordance with good electricity industry practice, to provide only those covered services required by that applicant.~~

“modified test” means the modified test (as defined in the Code) approved in respect of the access arrangement.

~~“network” means those parts of the SWIS that are owned, operated or owned and operated by Western Power in respect of which access is given or sought under Western Power’s access arrangement.~~

~~“new revenue” means the anticipated incremental revenue or additional revenue or both, as applicable, with respect to works.~~

“non-capital costs” means the non-capital costs (as defined in the Code), but excluding alternative option costs, to be incurred by Western Power with regards to works.

“pole to pillar connection” means the provision of an underground 415 V or 240 V supply to a residential customer in an area otherwise serviced by an overhead network.

“primary producer” means a person assessed as a primary producer under the Income Tax Assessment Act 1997 or equivalent enactment, and includes a person who carries out or is engaged in the business of farming or grazing on land that is

(a) zoned for rural purposes under a town planning scheme; and

(b) used solely or principally for agricultural or grazing purposes or for a combination of those purposes.

~~“reasonable time” means the time determined in accordance with clause 5.36.2.~~

~~“reduced demand payment” has the meaning given to it in clause 8.1.~~

~~“transmission asset” means a network asset operated at 66 kV or above.~~

~~“urban shared network” means the part of the network that consists of all transmission assets located within a 50 km radius of the Perth GPO, as shown in Figure 1 and Figure 2.~~

“residential customer” has the meaning given to it in the Code of Conduct.

“retailer” has the meaning given to it in the Act.

“scheme”, means an extension of the network beyond the normal range of the network under section 61 of the Energy Operators (Powers) Act 1979.

“technical rules” means the technical rules (as defined in the Code) applying from time to time to the network under Chapter 12 of the Code, as modified in accordance with the Code.

“unmetered connection”, with respect to a connection point, has the same meaning as the term “type 7 connection point” when that term is used in the Metering Code.

“user” has the meaning given to it in the Code.

“works” means all works that Western Power is required to undertake to provide the covered services sought by an applicant to the applicant, including works associated with:

- (a) augmentation of connection assets; and
- (b) augmentation of shared assets; and
- (c) alternative options; and
- (d) other non-capital works.

Final Decision

1957. The Authority has reviewed the changes to definitions incorporated in the revised capital contributions policy and is satisfied that, with four exceptions, the changes made to definitions incorporate the relevant Draft Decision Amendments or otherwise address the reasons for these amendments given the nature of other revisions incorporated in the revised capital contributions policy. The four exceptions are discussed further as follows.

1958. Draft Decision Amendment 183 required deletion of the definition of “forecast costs” for reason that this definition included alternative option costs and the Authority otherwise required amendment of the proposed capital contributions policy to remove clause 5.6 dealing with alternative option costs. Western Power has maintained the definition of forecast costs, with only immaterial revisions. Western Power has submitted to the Authority that the definition has been retained for the purposes of clarity in the capital contributions policy, and the term alternative option costs has been included to mean the same as non-capital contribution as defined in the model capital contributions policy, but with a different term used to avoid confusion with the more general term non-capital costs under the Access Code. The Authority accepts that this term and definition adds clarity to the revised capital contributions policy and is consistent with the Access Code.

1959. Draft Decision Amendment 185 required the term “non-capital contribution” to be defined and used in the capital contributions policy. As indicated above in relation to Draft Decision Amendment 183, Western Power has used the alternative term “alternative option cost”. The Authority accepts that this term and definition adds clarity to the revised capital contributions policy and hence is consistent with the Access Code. Accordingly, the Authority accepts that the

revised capital contributions policy adequately addresses the reasons for Draft Decision Amendment 183,

1960. Draft Decision Amendment 186 required the term “payment contract” to be defined and used in the capital contributions policy. Western Power has not incorporated this term into the revised capital contributions policy, but rather refers generally to an applicant entering into a contract with Western Power for the provision of contributions (clause 4.1 of the capital contributions policy). The Authority accepts that this reference to a contract for the payment of contributions is materially the same as the payment contract contemplated by the model capital contributions policy and is therefore consistent with the Access Code.
1961. Draft Decision Amendment 187 required the term “provision in-kind” to be defined and used in the capital contributions policy. Western Power has not incorporated this term into the revised capital contributions policy. Where the revised capital contributions policy provides for the making of capital contributions by in-kind contributions (at clause 7.4), this is described as the applicant procuring the augmentation itself and vesting the assets comprised in that augmentation in Western Power. The Authority accepts that in-kind contributions may appropriately be described in this manner and that it is not necessary to use “provision in-kind” as a defined term.
1962. The Authority has reviewed the changes to definitions made by Western Power other than in response to amendments required under the Draft Decision and is satisfied that these changes are consistent with the revised proposed access arrangement and the use of the relevant terms in the capital contributions policy. The Authority notes, however, that some of the amendments to the revised capital contributions policy under this Final Decision may require consequential changes to the definitions of terms.

12. Transfer and Relocation Policy

Requirements of the Access Code

1963. Section 5.1(i) of the Access Code requires that an access arrangement include a transfer and relocation policy. The particular requirements for a transfer and relocation policy are set out in sections 5.18 to 5.24 of the Access Code:
- 5.18 A transfer and relocation policy:
- (a) must permit a user to make a bare transfer without the service provider's consent; and
 - (b) may require that a transferee under a bare transfer notify the service provider of the nature of the transferred access rights before using them, but must not otherwise require notification or disclosure in respect of a bare transfer.
- 5.19 For a transfer other than a bare transfer, a transfer and relocation policy:
- (a) must oblige the service provider to permit a user to transfer its access rights and, subject to section 5.20, may make a transfer subject to the service provider's prior consent and such conditions as the service provider may impose; and

- (b) subject to section 5.20, may specify circumstances in which consent will or will not be given, and conditions which will be imposed, under section 5.19(a).
- 5.20 Under a transfer and relocation policy, for a transfer other than a bare transfer, a service provider:
- (a) may withhold its consent to a transfer only on reasonable commercial or technical grounds; and
- (b) may impose conditions in respect of a transfer only to the extent that they are reasonable on commercial and technical grounds.
- 5.21 A transfer and relocation policy:
- (a) must permit a user to relocate capacity at a connection point in its access contract to another connection point in its access contract, (a 'relocation') and, subject to section 5.22, may make a relocation subject to the service provider's prior consent and such conditions as the service provider may impose; and
- (b) subject to section 5.22, may specify in advance circumstances in which consent will or will not be given, and conditions which will be imposed, under section 5.21(a).
- 5.22 Under a transfer and relocation policy, for a relocation a service provider:
- (a) must withhold its consent where consenting to a relocation would impede the ability of the service provider to provide a covered service that is sought in an access application; and
- (b) may withhold its consent to a relocation only on reasonable commercial or technical grounds; and
- (c) may impose conditions in respect of a relocation only to the extent that they are reasonable on commercial and technical grounds.
- 5.23 An example of a thing that would be reasonable for the purposes of sections 5.20 and 5.22 is the service provider specifying that, as a condition of its agreement to a transfer or relocation, the service provider must receive at least the same amount of revenue as it would have received before the transfer or relocation, or more revenue if tariffs at the destination point are higher.
- 5.24 Section 5.23 does not limit the things that would be reasonable for the purposes of sections 5.20 and 5.22.

1964. The Access Code does not provide a model transfer and relocation policy.

Proposed Access Arrangement

1965. Western Power included a transfer and relocation policy in its proposed access arrangement ("proposed transfer and relocation policy").

1966. The proposed transfer and relocation policy addressed:

- the application of the policy in respect of access contracts, but not in respect of customer transfer requests;
- bare transfers;
- assignments other than bare transfers; and
- relocation of entry and exit points.

Draft Decision

1967. The Authority assessed the proposed transfer and relocation policy against the requirements of sections 5.18 to 5.24 of the Access Code and the Code objective. In forming a view on whether the proposed policy meets those requirements, the Authority has also had regard to the requirements of the model standard access contract, which includes provisions on how a transfer and relocation policy should operate.
1968. As an initial matter, the Authority indicated in its Draft Decision that a number of amendments were required to be made to the proposed electricity transfer access contract that would require consequential amendments to the transfer and relocation policy.
1969. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 191

Western Power to make consequential amendments to the transfer and relocation policy resulting from the Authority's required amendments to the electricity transfer access contract.

1970. The Authority also required a number of other amendments to the proposed transfer and relocation policy after determination that certain provisions of the proposed policy do not comply with the requirements of the Access Code.
1971. First, the Authority addressed the provision under clause 4.1 of the proposed transfer and relocation policy for a user's election to exercise a bare transfer to be conditional on the user acting as a reasonable and prudent person. The Authority considered that this provision implied scope for Western Power to prevent a bare transfer if the user is considered to not be acting as a reasonable and prudent person. The Authority determined that this provision contravenes the requirement of section 5.18(a) of the Access Code for a user to be able to make a bare transfer without the service provider's consent.
1972. The Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 192

Western Power to amend proposed clause 4.1 of the transfer and relocation policy to remove the requirement for a user to operate as a "reasonable and prudent person" when effecting a bare transfer.

1973. Second, the Authority addressed the provision under clause 4.4 of the proposed transfer and relocation policy for an assignee of any access rights under a bare transfer to be unable to re-assign those rights to any person, other than the user from whom it took the benefit of the assigned access rights. The Authority determined that this provision would potentially limit competition in the electricity market and therefore be inconsistent with the Code objective. The Authority also determined this provision to be unnecessary to protect the interests of Western Power as the original holder of the rights remains liable, responsible and obligated to Western Power for any obligations under the original access contract.
1974. Third, the Authority addressed the requirement under clause 5.1(b)(ii) of the proposed transfer and relocation policy for an assignee under a transfer other

than a bare transfer to provide security to Western Power in a form that complies with the requirements of the access contract. The Authority noted that any such assignee would be entering into an access contract with Western Power and, as such, the requirements for security would be dealt with as part of the access contract. Accordingly, the Authority determined that requirements for security should not be dealt with under the transfer and relocation policy.

1975. Fourth, the Authority addressed the provisions under clause 5.3 of the proposed transfer and relocation policy dealing with assigning rights under an access contract by way of security, mortgaging, charging or otherwise creating a security (as principal or surety) in favour of an Australian bank. The Authority determined that assignments of the nature contemplated by clause 5.3 did not constitute a transfer or relocation under the Access Code and, hence, the inclusion of these matters in a transfer and relocation policy is inconsistent with the requirements of sections 5.18 to 5.24 of the Access Code.

1976. Fifth, the Authority addressed the provision under clause 5.4(a) of the proposed transfer and relocation policy for Western Power to withhold consent to an assignment on the basis of the user and assignee being severally liable for obligations under the access contract. The Authority interpreted this provision as unnecessary given that clause 5.4(b) allows Western Power to refuse consent to a transfer that would have the effect of increasing its commercial or technical risk.

1977. Sixth, the Authority addressed the provisions under clause 6.2 of the proposed transfer and relocation policy (relating to relocations) that require a user to make an access application to Western Power in the event that the capacity at the contracted point to be relocated (the destination point) is less than the capacity that the user seeks. The Authority determined that clause 6.2 implies a user having a degree of knowledge about another user's access contract (that relates to the destination point), therefore imposing an obligation upon the first user to decide whether to make application under the applications and queuing policy or under its existing access contract. The Authority determined that it is not appropriate for the transfer and relocation policy to seek to impute knowledge of other users' access contracts on a user and that clause 6.2 is inconsistent with the requirements of section 5.22 of the Access Code in that it seeks to impose conditions on a relocation that are not reasonable on commercial or technical grounds.

1978. In respect of the second to sixth matters set out above, the Authority indicated that the following amendment would have to be made to the proposed access arrangement before it would be approved.

Draft Decision Amendment 193

Western Power to delete proposed clauses 4.4, 5.1(b)(ii), 5.3, 5.4(a) and 6.2 from its transfer and relocation policy.

Submissions from Interested Parties on the Draft Decision

1979. Verve Energy submitted:

12. ref DD Para 1919: ERA concludes that the TRP will not affect a user's ability to subcontract because the TRP only affects access rights and not performance

under the contract. Verve Energy submits that this is incorrect. Clause 30.3 of the ETA imports the whole TRP as terms of the contract. ERA has not required an amendment to clause 30.3.

1980. Alinta Sales Pty Ltd submitted:

Alinta supports the approach taken by the ERA to the issues raised under the proposed Transfer and Relocation Policy (TRP).

In relation to the issue of capacity at the destination point (clause 6.2 of the proposed TRP), Alinta observes that Western Power is the entity that is in a position to determine the question of available capacity. Accordingly, Western Power should be required to advise the relevant user about this on request.

Revised Proposed Access Arrangement

1981. Western Power has incorporated revisions into the substantive clauses of the revised transfer and relocation policy as follows.

2. Application of this transfer and relocation policy
 - 2.1 Application in respect of an access contract

Unless otherwise expressly stated in an access contract, this transfer and relocation policy applies in its entirety to each access contract.
 - 2.2 Application in respect of a customer transfer request

This transfer and relocation policy does not in any way apply to a customer transfer request.
3. Assignment only under this transfer and relocation policy

A user must not, except as expressly permitted by this transfer and relocation policy:

 - (a) assign, novate, declare itself a trustee of, or otherwise dispose of, any of its rights under an access contract; or
 - (b) subcontract the performance of its obligations under an access contract; or
 - (c) create an encumbrance over any of its rights or obligations under an access contract.
4. Bare transfers

The provisions in this clause 4 apply to a bare transfer.

 - 4.1 User may make bare transfer
 - (a) Subject to clause 4.2, a user may, ~~acting as a reasonable and prudent person,~~ make a bare transfer without Western Power's prior consent.
 - (b) For the avoidance of doubt, a bare transferee does not become a user by virtue of any bare transfer.
 - 4.2 User must notify Western Power of the details of the bare transfer

If the user makes a bare transfer, the user must notify Western Power of:

 - (a) the identity of the assignee; and
 - (b) the nature of the assigned access rights,

before the assignee may commence using the assigned access rights.
 - 4.3 Bare transfer does not release the user
 - (a) A bare transfer does not constitute a novation, and does not result in:

- (i) the release of the user in any way from any of its obligations to Western Power under the access contract; or
 - (ii) the release of any provider of any bank guarantee under the access contract from any liability to Western Power under that bank guarantee.
- (b) The user remains wholly liable to Western Power for any default under the access contract in accordance with its terms, whether caused by the user, the assignee or any other person.
- (c) The provider of any bank guarantee under the access contract remains wholly liable to Western Power in accordance with the terms of that bank guarantee.

~~4.4 Assignee may not effect a bare transfer~~

- ~~(a) An assignee taking the benefit of any assigned access rights under a bare transfer may not itself effect or purport to effect any assignment of those access rights to any person other than by way of re-assignment to the user from whom it took the benefit of the assigned access rights, and any attempt by the assignee to effect such an assignment is of no force or effect.~~
- ~~(b) Nothing in clause 4.4(a) is to be taken to prevent the user from effecting another bare transfer of the assigned access rights following a re-assignment to it of those rights.~~

5. Assignments other than bare transfers

The provisions in this clause 5 apply to an assignment other than a bare transfer.

5.1 Western Power's consent required

For an assignment other than a bare transfer, the following provisions apply.

- (a) A user may not assign all or any access rights without Western Power's prior written consent.
- (b) Western Power is not required to give its consent to the assignment unless, under the proposed assignment, the assignee is bound to Western Power under terms that are identical to the terms of the access contract between Western Power and the user.
- ~~(c)(b) (i) Western Power's consent shall not be unreasonably withheld or delayed where the user can satisfy Western Power (acting on reasonable commercial and technical grounds) that the proposed assignee is financially and technically capable of performing the user's obligations in respect of the assigned access rights.~~
- ~~(ii) the proposed assignee provides security to Western Power in a form which complies with the requirements of the relevant access contract.~~

5.2 Deed of novation

- (a) The assignor and the assignee must enter into a deed of novation with Western Power in such reasonable form as Western Power requires, pursuant to which, on and from the effective date of the novation:
- (i) the assignee acknowledges Western Power's rights under the relevant access contract in respect of the assigned access rights, and undertakes to observe, perform and be bound by the user's obligations and to meet the user's liabilities in respect of the assigned access rights under the relevant access contract; and
 - (ii) subject to any limitations and exclusions of liability in the relevant access contract, the assignor indemnifies the assignee and

Western Power against, and agrees to defend and hold them harmless from, all liabilities and costs either of them may suffer as a result of any default by the assignor under the relevant access contract in respect of the assigned access rights occurring prior to the effective date of the novation, including any default whose effects do not crystallise until after the effective date of the novation; and

- (iii) Western Power releases the assignor from that part of the user's obligations and liabilities under the relevant access contract as relate to the assigned access rights.

~~5.3 Assignment to an Australian Bank~~

- ~~(a) Western Power will not unreasonably withhold or delay its consent to a user's assigning by way of security, mortgaging, charging or otherwise creating a security (as principal or surety) in favour of an Australian Bank over the user's access rights under an access contract for the purposes contemplated by clause 5.3(b), subject to the execution by the Australian Bank of such agreements between the Australian Bank, the user and Western Power as are required to be negotiated under clause 5.3(c).~~
- ~~(b) The user shall supply to Western Power full conformed copies of all charges, mortgages or other instruments of security executed by the user in favour of the Australian Bank, or in relation to any transaction with the Australian Bank, which are the subject of any consent granted under clause 5.3, no later than 5 business days after their execution, together with certified extracts of all provisions of any other relevant agreements as are necessary properly to construe and interpret those charges, mortgages or other instruments of security.~~
- ~~(c) Western Power may withhold its consent under clause 5.3 until the Australian Bank, Western Power and the user have agreed on the terms of any consent deed or tripartite deed by which the rights of Western Power and the Australian Bank against the user are regulated and ordered.~~
- ~~(d) Western Power and the user must negotiate any such deed with the Australian Bank under clause 5.3(c) in good faith.~~
- ~~(e) The terms of the deed negotiated under clause 5.3(c) must not materially diminish Western Power's rights, liabilities and obligations under the access contract.~~
- ~~(f) The user must meet Western Power's reasonable costs, including legal costs, incurred in negotiating and documenting the deed negotiated under clause 5.3(c).~~

5.3.4 ~~Assignment to financially and technically competent persons~~

- ~~(a) Western Power is not required to give its consent to an assignment under clause 5.1 if it can reasonably demonstrate that such an assignment would have the effect of materially increasing its financial or technical risk under the relevant access contract.~~
- ~~(b) Western Power is not required to give its consent to an assignment under clause 5.1 if it can reasonably demonstrate that such an assignment would have the effect of materially increasing its financial or technical risk under the relevant access contract.~~

6. Relocation
- 6.1 Occurrence of relocation

A “relocation” occurs when a user:

 - (a) decreases its contracted capacity at a [connection](#) ~~contracted~~ point (a “retiring point”); and
 - (b) makes a corresponding increase in its contracted capacity at another [connection](#) ~~contracted~~ point (a “destination point”).
- 6.2 [Access contract](#) provisions in respect of a destination point

[Western Power and the user must comply with any provisions in the access contract with respect to an increase of contracted capacity at a connection point, or an additional connection point, relating to a destination point.](#)

 - (a) ~~If a user requests a destination point at a location:~~
 - (i) ~~where there was not previously a contracted point; or~~
 - (ii) ~~that was a contracted point (of the user’s or of another person) up to the date that the user requests the relocation, and the previous contracted capacity at the contracted point is less than the capacity the user seeks at the destination point, then the user must make an access application under the applications and queuing policy to add or modify the destination point to or under its access contract.~~
 - (b) ~~If a user requests a destination point:~~
 - (i) ~~at a location that was a contracted point (of the user or of another person) up to the date that the user requests the relocation, and the previous contracted capacity at the contracted point is greater than or equal to the contracted capacity the user seeks at the destination point; and~~
 - (ii) ~~where any technical characteristics of the facilities and equipment to be connected at the destination point are materially the same as the technical characteristics of the facilities and equipment that were connected at the destination point prior to the relocation, then the user may notify Western Power to add or modify the destination point to or under its access contract, and Western Power must consent to the addition or modification.~~
- 6.3 Access contract provisions in respect to a retiring point

Western Power and the user must comply with any provisions in the access contract with respect to a decrease of contracted capacity at, or a deletion of, a [connection](#) ~~contracted~~ point, relating to a retiring point.
- 6.4 Western Power’s costs

A user who requests any assignment or relocation under this transfer and relocation policy shall reimburse Western Power for any cost incurred by Western Power, acting as a reasonable and prudent person, in processing such request.

Final Decision

1982. Western Power has incorporated revisions in the revised transfer and relocation policy to replace the term “contracted point” with “connection point”. The Authority has reviewed the revised transfer and relocation policy and is satisfied that the revised policy is consistent with the revised electricity transfer access contract, as required to be amended under this Final Decision.

Accordingly, the Authority is satisfied that the revised transfer and relocation policy incorporates Draft Decision Amendment 191.

1983. Western Power has incorporated revisions in clause 4.1 of the revised transfer and relocation policy to delete the condition on an entitlement to make a bare transfer that the user must act as a reasonable and prudent person. Accordingly, the Authority is satisfied that the revised transfer and relocation policy incorporates Draft Decision Amendment 193.
1984. Western Power has not included the provisions of clauses 4.4, 5.1(b)(ii), 5.3, 5.4(a) and 6.2 of the proposed transfer and relocation policy in the revised transfer and relocation policy. Accordingly, the Authority is satisfied that the revised transfer and relocation policy incorporates Draft Decision Amendment 193.
1985. Taking into account the revisions incorporated in the revised transfer and relocation policy, the Authority is satisfied that the revised transfer and relocation policy is consistent with the requirements of sections 5.18 to 5.24 of the Access Code and the Code objective.
1986. Verve Energy's submission to the Authority, when read in conjunction with an earlier decision from Western Power Generation on the proposed access arrangement, contends that clause 3(b) and (c) of the proposed transfer and relocation policy (which are also clauses 3(b) and (c) under the revised relocation and transfer policy) potentially affect a user's ability to sub-contract performance or encumber rights or obligations under an access contract, and that this occurs as a result of clause 30.3 of the electricity transfer access contract importing the whole of the transfer and relocation policy as terms of the access contract. In its Draft Decision, the Authority determined that this would not be the case as the transfer and relocation policy does not add to or detract from a user's rights under the access contract on matters other than the transfer or relocation of the rights. The Authority maintains this view.
1987. Alinta Sales Pty Ltd's submission to the Authority suggests that the Authority's concerns with clause 6.2 of the proposed transfer and relocation policy (refer to paragraph 1977, above) are unjustified. On reconsideration of this matter, the Authority concurs with Alinta Sales Pty Ltd that the requirement under clause 6.2 of the proposed transfer and relocation policy, for a user to submit an access application to Western Power in the event that an increase in contracted capacity at a destination point is required, would not impute knowledge of other users' access contracts on a user. The Authority notes, however, that this clause has been excluded from the revised transfer and relocation policy, and that the revised transfer and relocation policy otherwise meets the requirements of the Access Code. As such, the Authority has not given further consideration to the provisions of clause 6.2 of the proposed transfer and relocation policy.

APPENDICES

Appendix A: Parties that made submissions to the Authority during the course of preparation of the Final Decision

Submissions pursuant to the Notice of 6 October 2006

Alinta
Landfill Gas and Power
Perth Energy
Synergy
Verve

Submissions pursuant to the Notice of 17 January 2007

Alinta
Anglo Estates
Aquaculture Council of WA
Aviva
Ayton Taylor Burrell
Ayton Taylor Burrell – Brocklebank Submission
Bunbury Wellington Economic Alliance
Chamber of Commerce and Industry WA
Department of Industry and Resources
ERM Power
Gindalbie Metals
Great Southern Development Commission (Confidential)
Great Southern Development Commission - Wellstead Submission
Griffin Energy
Landcorp
Mid West Development Commission (Confidential)
Mr David Rourke
Mr Ian Barlow
Mr Paul Llewellyn MLC
Newmont
Office of Energy
Shire of Brookton
Shire of Busselton
Shire of Cranbrook
Shire of Dardanup
Shire of Denmark
Shire of Harvey
Shire of Kellerberrin
Shire of Manjimup
Shire of York
South West Area Consultative Committee WA
Sun Land Pty Ltd
Synergy
Thompson McRobert Edgeloe
Transfield Services

Verve Energy
Western Australian Abalone
Western Australian Farmers Federation
Western Australian Local Government Association
Western Power
Wheatbelt Development Commission
Yaran Pty Ltd

Appendix B: Target Revenue Calculation

Western Power Corporation FD Real Pre-tax Model

Ref	2	3	4	5	6
3	Asset Value		Distribution	Transmission	Total
4	Opening Asset Value 2007		1,594.515	1,386.564	2,981.078
5	Closing Asset Value 2009		2,162.613	1,840.160	4,002.773
6	Working Capital 2009		19.133	15.105	34.238
7	PV of Gross Cost of Service				
8	Opex		507.010	181.295	688.304
9	Depreciation		271.252	139.678	410.930
10	Redundant Assets (Accelerated Depreciation)		9.797	-	9.797
11	Return on Assets		313.083	275.378	588.461
12	Return on Working Capital		3.566	1.877	5.443
13	Cost of Service		1,104.708	598.228	1,702.936
14	PV of Gross Regulatory Revenue				
15	Opex		507.010	181.295	688.304
16	Capex		776.886	540.765	1,317.651
17	Asset Opening Value		1,594.515	1,386.564	2,981.078
18	Asset Residual Value		-1,777.269	-1,512.272	-3,289.541
19	Working Capital Variation		3.566	1.877	5.443
20	Gross Regulatory Revenue		1,104.708	598.228	1,702.936
21	Check		OK	OK	OK
22	PV of Net Reference Service Revenue				
23	Gross CoS		1,104.708	598.228	1,702.936
24	Non Reference Service Revenue		-38.814	-48.465	-87.279
25	Tariff Equalisation		177.747	-	177.747
26	Capital Contribution		-279.977	-50.090	-330.068
27	Net Reference Service Revenue		963.664	499.672	1,463.336
28	PV of Net Cash Flow				
29	Revenue		963.664	499.672	1,463.336
30	Opex		-507.010	-181.295	-688.304
31	Capex		-776.886	-540.765	-1,317.651
32	Non Reference Service Revenue		38.814	48.465	87.279
33	Tariff Equalisation		-177.747	-	-177.747
34	Capital Contribution		279.977	50.090	330.068
35	Asset Opening Value		-1,594.515	-1,386.564	-2,981.078
36	Asset Residual Value		1,777.269	1,512.272	3,289.541
37	Working Capital Variation		-3.566	-1.877	-5.443
38	Net Cash Flow		-	-	-
39	Check		OK	OK	OK
40	PV of Declared Revenue Cap				
41	Smoothed Allowable Annual Reference Service Revenue		963.664	499.672	1,463.336
42	Non Reference Service Revenue		38.814	48.465	87.279
43	Tariff Equalisation		-177.747	-	-177.747
44	Capital Contribution		279.977	50.090	330.068
45	Revenue Cap		1,104.708	598.228	1,702.936
46	Revenue Cap Including Tariff Equalisation		1,282.456	598.228	1,880.683
47	Internal Rate of Return				Pre-tax WACC
48	Real		6.76%	6.76%	6.76%
49	Nominal		10.07%	10.07%	10.07%
50	Check		OK	OK	
51	Check		OK	OK	

Western Power Corporation FD Real Pre-tax Model

Ref	2	Western Power					ERA				
		3	5	6	7	8	9	11	12	13	14
Determination of the Weighted Average Cost of Capital (WACC)		WPC	WPC	WPC	WPC	WPC	ERA	ERA	ERA	ERA	ERA
Date of Risk Free Rates		Lo	Hi	Lo + 10%	Hi - 10%	Proposed	Lo	Hi	Lo + 10%	Hi - 10%	Proposed
4											
5											
6		12-May-06	12-May-06	12-May-06	12-May-06	12-May-06	28-Feb-07	28-Feb-07	28-Feb-07	28-Feb-07	28-Feb-07
7		5.71%	5.71%	5.71%	5.71%	5.71%	5.81%	5.81%	5.81%	5.81%	5.81%
8		2.55%	2.55%	2.55%	2.55%	2.55%	2.63%	2.63%	2.63%	2.63%	2.63%
9		3.08%	3.08%	3.08%	3.08%	3.08%	3.10%	3.10%	3.10%	3.10%	3.10%
10		60%	60%				60%	60%			
11		40%	40%				40%	40%			
12		1.100%	1.300%				1.100%	1.300%			
13		0.125%	0.125%				0.125%	0.125%			
14		1.225%	1.425%				1.225%	1.425%			
15		5.00%	6.00%				5.00%	6.00%			
16		0.25	0.24				0.25	0.24			
17		0.80	1.00				0.80	1.00			
18		0.47	0.54				0.47	0.54			
19		30%	30%	30%	30%	30%	30%	30%	30%	30%	30%
20		60%	30%				60%	30%			
21		79.5%	88.6%				79.5%	88.6%			
22		Debt									
23		6.94%	7.14%				7.04%	7.24%			
24		3.74%	3.93%				3.82%	4.01%			
25		Equity									
26		11.03%	14.82%				11.15%	14.95%			
27		7.71%	11.39%				7.81%	11.49%			
28		9.71%	11.71%				9.81%	11.81%			
29		6.43%	8.37%				6.51%	8.45%			
30		WACC; Pre-tax Officer (Market Practise or Forward Transformation)									
31		8.57%	10.21%	8.74%	10.05%	10.05%	8.68%	10.32%	8.84%	10.16%	10.07%
32		5.33%	6.92%	5.49%	6.76%	6.76%	5.41%	7.01%	5.57%	6.85%	6.76%
33		WACC; After-tax Officer									
34		6.00%	7.15%	6.12%	7.03%	7.03%	6.08%	7.22%	6.19%	7.11%	7.05%
35		2.83%	3.94%	2.94%	3.83%	3.84%	2.89%	4.00%	3.00%	3.89%	3.83%

Western Power Corporation FD Real Pre-tax Model

Ref	2	3	4	5	6	7	8	9	10	11	12	13
Western Power Corporation FD Real Pre-tax Model												
Year ending 30 June							2004	2005	2006	2007	2008	2009
Project Year							-2	-1	0	1	2	3
WPC's Inflation												
June CPI							144.8	148.4	152.7	157.0	161.1	165.2
Annual Inflation								2.49%	2.90%	2.80%	2.60%	2.60%
Inflation Factor									1.000	1.028	1.055	1.082
ICB												
Year ending 30 June												
Project Year												
ICB [m\$ 30/06/2006]												
Life as at 30 June 2006 [Years]												
Distribution												
Wooden Pole Lines					14.500				472.594			
Underground Cables					36.900				535.208			
Transformers					16.900				203.762			
Switchgear					13.500				108.608			
Street lighting					1.200				5.256			
Meters and Services					9.200				168.206			
IT&T					9.800				15.415			
SCADA & Communications					10.200				12.825			
Other Distribution Non-Network					11.300				51.221			
Distribution Land & Easements									21.419			
Total Distribution									1,594.515			
Capex												
Year ending 30 June												
Project Year												
Capex [m\$ OD]												
Life as at 30 June 2006 [Years]												
Distribution												
Wooden Pole Lines					41.000				54.603	76.367	88.805	
Underground Cables					60.000				104.641	124.841	127.582	
Transformers					35.000				28.697	36.677	40.561	
Switchgear					35.000				22.424	34.475	41.710	
Street lighting					20.000				11.563	13.768	14.964	
Meters and Services					25.000				4.540	9.085	10.178	
IT&T					10.160				19.244	17.000	15.400	
SCADA & Communications					10.160				2.180	1.800	1.900	
Other Distribution Non-Network					10.160				12.636	14.909	9.016	
Distribution Land & Easements					-				-	-	-	
Total Distribution									260.528	328.923	350.117	
Modelled Capex [m\$ 30/06/06]												
Life as at 30 June 2006 [Years]												
Distribution												
Wooden Pole Lines					41.000				53.1	72.4	82.1	
Underground Cables					60.000				101.8	118.4	117.9	
Transformers					35.000				27.9	34.8	37.5	
Switchgear					35.000				21.8	32.7	38.5	
Street lighting					20.000				11.2	13.1	13.8	
Meters and Services					25.000				4.4	8.6	9.4	
IT&T					10.160				18.7	16.1	14.2	
SCADA & Communications					10.160				2.1	1.7	1.8	
Other Distribution Non-Network					10.160				12.3	14.1	8.3	
Distribution Land & Easements					-				-	-	-	
Total Distribution									253.4	311.9	323.5	
Capex Contribution												
Year ending 30 June												
Project Year												
WPC's Capital Contribution [m\$ OD]												
Distribution												
Distribution Capacity									65.440	80.440	95.560	
Customer Driven									15.930	19.950	23.930	
Customer Driven-Vested Assets												
Asset Replacement												
Reliability Driven												
Safety, Environmental & Statutory												
SCADA & Communications												
IT (inc. Market Reform)												
Metering												
State Undergrounding Power Program (SUPP)									12.819	12.218	12.824	
Rural Power Improvement Program (RPIP)												
Support												
Total Distribution									94.189	112.608	132.314	
Modelled Capital Contribution [m\$ 30/06/06]												
Distribution												
Distribution Capacity									-	-	-	
Customer Driven									63.658	76.266	88.306	
Customer Driven-Vested Assets									15.496	18.915	22.113	
Asset Replacement									-	-	-	
Reliability Driven									-	-	-	
Safety, Environmental & Statutory									-	-	-	
SCADA & Communications									-	-	-	
IT (inc. Market Reform)									-	-	-	
Metering									-	-	-	
State Undergrounding Power Program (SUPP)									12.470	11.584	11.850	
Rural Power Improvement Program (RPIP)									-	-	-	
Support									-	-	-	
Total Distribution									91.624	106.765	122.269	

Redundant Assets						
Year ending 30 June	2004	2005	2006	2007	2008	2009
Project Year	-2	-1	0	1	2	3
Redundant Assets [m\$ OD]						
95	Distribution					
96	Wooden Pole Lines			2.936	2.936	2.936
97	Underground Cables			-	-	-
98	Transformers			0.783	0.783	0.783
99	Switchgear			0.196	0.196	0.196
100	Street lighting					
101	Meters and Services			-	-	-
102	IT&T			-	-	-
103	SCADA & Communications			-	-	-
104	Other Distribution Non-Network			-	-	-
105	Distribution Land & Easements			-	-	-
106	Total Distribution			3.915	3.915	3.915
Modelled Redundant Assets [m\$ 30/06/06]						
108	Distribution					
109	Wooden Pole Lines			2.856	2.784	2.713
110	Underground Cables			-	-	-
111	Transformers			0.762	0.742	0.724
112	Switchgear			0.191	0.186	0.181
113	Street lighting			-	-	-
114	Meters and Services			-	-	-
115	IT&T			-	-	-
116	SCADA & Communications			-	-	-
117	Other Distribution Non-Network			-	-	-
118	Distribution Land & Easements			-	-	-
119	Total Distribution			3.808	3.712	3.618
120						
Opex						
Year ending 30 June	2004	2005	2006	2007	2008	2009
Project Year	-2	-1	0	1	2	3
WPC's Opex [m\$ OD]						
125	Distribution					
126	Maintenance Strategy			6.271	7.068	7.147
127	Preventative Condition			22.972	23.310	22.767
128	Preventative Routine			30.281	31.294	32.130
129	Corrective Deferred			12.401	11.636	11.389
130	Corrective Emergency			27.371	25.890	25.431
131	Reliability			3.100	3.100	3.100
132	SCADA & Communications			0.900	0.900	0.900
133	Misc Network Services			2.000	2.000	2.100
134	Network Operations			8.800	9.300	9.700
135	IT&T			13.300	14.900	18.800
136	Metering			14.400	14.400	15.900
137	Call Centre			6.600	6.900	7.200
138	Network Support			45.800	50.100	53.500
139	Reliability Penalty Payments			1.400	1.400	1.400
140	Total Distribution			195.596	202.198	211.464
Modelled Opex [m\$ 30/06/06]						
142	Distribution					
143	Maintenance Strategy			6.100	6.701	6.604
144	Preventative Condition			22.346	22.100	21.039
145	Preventative Routine			29.456	29.670	29.691
146	Corrective Deferred			12.063	11.032	10.524
147	Corrective Emergency			26.625	24.547	23.500
148	Reliability			3.016	2.939	2.865
149	SCADA & Communications			0.875	0.853	0.832
150	Misc Network Services			1.946	1.896	1.941
151	Network Operations			8.560	8.817	8.964
152	IT&T			12.938	14.127	17.373
153	Metering			14.008	13.653	14.693
154	Call Centre			6.420	6.542	6.653
155	Network Support			44.553	47.500	49.439
156	Reliability Penalty Payments			1.362	1.327	1.294
157	Total Distribution			190.268	191.706	195.411
158						
Other Inputs						
Year ending 30 June	2004	2005	2006	2007	2008	2009
Project Year	-2	-1	0	1	2	3
Tariff Equalisation						
163	Nominal Value [m\$ OD]			69.700	71.600	72.000
164	Real Value [m\$ 30/06/06]			67.802	67.885	66.534
165						
Non Reference Service Revenue						
167	Nominal Value [m\$ OD]			15.138	15.531	15.935
168	Real Value [m\$ 30/06/06]			14.725	14.725	14.725
169						
Working Capital						
Days						
171	Receivables			45.0		
172	Inventory			-		
173	Prepayments			-		
174	Creditors			-20.0		

Western Power Corporation FD Real Pre-tax Model

Ref	2	3	4	5	8	9	10	11	12	13
Distribution, Real Calculations [m\$ 30/06/06]										
Year ending 30 June		2004	2005	2006	2007	2008	2009			
Project Year		-2	-1	0	1	2	3			
Asset Value [m\$ 30/06/06]										
7	Asset Value									
8	Opening Asset Value				1,594.515	1,746.912	1,953.196			
9	Capex				253.432	311.855	323.538			
10	Redundant Assets				-3.808	-3.712	-3.618			
11	Depreciation				-97.226	-101.860	-110.504			
12	Closing Asset Value			1,594.515	1,746.912	1,953.196	2,162.613			
13	Check	OK								
14	Asset & Working Capital Value									
15	Opening Asset Value				1,594.515	1,746.912	1,953.196			
16	Opening Working Capital				21.954	18.773	19.133			
17	Regulatory Opening Asset Value				1,616.468	1,765.685	1,972.329			
18										
Year ending 30 June		2004	2005	2006	2007	2008	2009			
Project Year		-2	-1	0	1	2	3			
Asset Account [m\$ 30/06/06]										
22	Opening Value									
23	Wooden Pole Lines				472.594	490.261	526.205			
24	Underground Cables				535.208	622.494	724.656			
25	Transformers				203.762	218.859	240.084			
26	Switchgear				108.608	122.185	146.033			
27	Street lighting				5.256	12.124	23.739			
28	Meters and Services				168.206	154.340	144.494			
29	IT&T				15.415	32.562	45.264			
30	SCADA & Communications				12.825	13.688	13.929			
31	Other Distribution Non-Network				51.221	58.980	67.373			
32	Distribution Land & Easements				21.419	21.419	21.419			
33	Total Distribution Capex				1,594.515	1,746.912	1,953.196			
34	Capex									
35	Wooden Pole Lines				53.116	72.405	82.064			
36	Underground Cables				101.791	118.363	117.896			
37	Transformers				27.915	34.774	37.482			
38	Switchgear				21.814	32.686	38.544			
39	Street lighting				11.248	13.053	13.828			
40	Meters and Services				4.417	8.614	9.405			
41	IT&T				18.720	16.118	14.231			
42	SCADA & Communications				2.121	1.707	1.756			
43	Other Distribution Non-Network				12.292	14.135	8.332			
44	Distribution Land & Easements				-	-	-			
45	Total Distribution Capex				253.432	311.855	323.538			
46	Redundant Assets									
47	Wooden Pole Lines				-2.856	-2.784	-2.713			
48	Underground Cables				-	-	-			
49	Transformers				-0.762	-0.742	-0.724			
50	Switchgear				-0.191	-0.186	-0.181			
51	Street lighting				-	-	-			
52	Meters and Services				-	-	-			
53	IT&T				-	-	-			
54	SCADA & Communications				-	-	-			
55	Other Distribution Non-Network				-	-	-			
56	Distribution Land & Easements				-	-	-			
57	Total Distribution Capex				-3.808	-3.712	-3.618			
58	Depreciation									
59	Wooden Pole Lines				-32.593	-33.677	-35.220			
60	Underground Cables				-14.504	-16.201	-18.174			
61	Transformers				-12.057	-12.807	-13.750			
62	Switchgear				-8.045	-8.653	-9.571			
63	Street lighting				-4.380	-1.438	-1.215			
64	Meters and Services				-18.283	-18.460	-18.805			
65	IT&T				-1.573	-3.415	-5.002			
66	SCADA & Communications				-1.257	-1.466	-1.634			
67	Other Distribution Non-Network				-4.533	-5.743	-7.134			
68	Distribution Land & Easements				-	-	-			
69	Total Distribution Capex				-97.226	-101.860	-110.504			
70	Closing Value									
71	Wooden Pole Lines			472.594	490.261	526.205	570.336			
72	Underground Cables			535.208	622.494	724.656	824.379			
73	Transformers			203.762	218.859	240.084	263.093			
74	Switchgear			108.608	122.185	146.033	174.825			
75	Street lighting			5.256	12.124	23.739	36.352			
76	Meters and Services			168.206	154.340	144.494	135.095			
77	IT&T			15.415	32.562	45.264	54.493			
78	SCADA & Communications			12.825	13.688	13.929	14.051			
79	Other Distribution Non-Network			51.221	58.980	67.373	68.570			
80	Distribution Land & Easements			21.419	21.419	21.419	21.419			
81	Total Distribution Capex			1,594.515	1,746.912	1,953.196	2,162.613			
82										

Year ending 30 June		2004	2005	2006	2007	2008	2009
Project Year		-2	-1	0	1	2	3
ICB [m\$ 30/06/06]		Life as at 30 June 2006 [Years]					
86	Opening Value						
87	Wooden Pole Lines				472.594	437.145	401.980
88	Underground Cables				535.208	520.704	506.199
89	Transformers				203.762	190.944	178.192
90	Switchgear				108.608	100.372	92.156
91	Street lighting				5.256	0.876	-
92	Meters and Services				168.206	149.923	131.640
93	IT&T				15.415	13.842	12.269
94	SCADA & Communications				12.825	11.568	10.310
95	Other Distribution Non-Network				51.221	46.688	42.155
96	Distribution Land & Easements				21.419	21.419	21.419
97	Total Distribution Capex				1,594.515	1,493.481	1,396.322
98	Redundant Assets						
99	Wooden Pole Lines				-2.856	-2.784	-2.713
100	Underground Cables				-	-	-
101	Transformers				-0.762	-0.742	-0.724
102	Switchgear				-0.191	-0.186	-0.181
103	Street lighting				-	-	-
104	Meters and Services				-	-	-
105	IT&T				-	-	-
106	SCADA & Communications				-	-	-
107	Other Distribution Non-Network				-	-	-
108	Distribution Land & Easements				-	-	-
109	Total Distribution Capex				-3.808	-3.712	-3.618
110	Depreciation	Total	Check	Life			
111	Wooden Pole Lines	-97.132	OK	14.500	-32.593	-32.381	-32.158
112	Underground Cables	-43.513	OK	36.900	-14.504	-14.504	-14.504
113	Transformers	-36.025	OK	16.900	-12.057	-12.009	-11.959
114	Switchgear	-24.088	OK	13.500	-8.045	-8.030	-8.014
115	Street lighting	-5.256	OK	1.200	-4.380	-0.876	-
116	Meters and Services	-54.850	OK	9.200	-18.283	-18.283	-18.283
117	IT&T	-4.719	OK	9.800	-1.573	-1.573	-1.573
118	SCADA & Communications	-3.772	OK	10.200	-1.257	-1.257	-1.257
119	Other Distribution Non-Network	-13.599	OK	11.300	-4.533	-4.533	-4.533
120	Distribution Land & Easements	-	OK	-	-	-	-
121	Total Distribution Capex	-282.955	OK		-97.226	-93.447	-92.282
122	Closing Value						
123	Wooden Pole Lines			472.594	437.145	401.980	367.109
124	Underground Cables			535.208	520.704	506.199	491.695
125	Transformers			203.762	190.944	178.192	165.510
126	Switchgear			108.608	100.372	92.156	83.962
127	Street lighting			5.256	0.876	-	-
128	Meters and Services			168.206	149.923	131.640	113.357
129	IT&T			15.415	13.842	12.269	10.696
130	SCADA & Communications			12.825	11.568	10.310	9.053
131	Other Distribution Non-Network			51.221	46.688	42.155	37.623
132	Distribution Land & Easements			21.419	21.419	21.419	21.419
133	Total Distribution Capex			1,594.515	1,493.481	1,396.322	1,300.422
134							
Year ending 30 June		2004	2005	2006	2007	2008	2009
Project Year		-2	-1	0	1	2	3
CAPEX [m\$ 30/06/06]							
138	Opening Value						
139	Wooden Pole Lines				-	53.116	124.225
140	Underground Cables				-	101.791	218.457
141	Transformers				-	27.915	61.892
142	Switchgear				-	21.814	53.877
143	Street lighting				-	11.248	23.739
144	Meters and Services				-	4.417	12.854
145	IT&T				-	18.720	32.995
146	SCADA & Communications				-	2.121	3.619
147	Other Distribution Non-Network				-	12.292	25.217
148	Distribution Land & Easements				-	-	-
149	Total Distribution Capex				-	253.432	556.874
150	Capex						
151	Wooden Pole Lines				53.116	72.405	82.064
152	Underground Cables				101.791	118.363	117.896
153	Transformers				27.915	34.774	37.482
154	Switchgear				21.814	32.686	38.544
155	Street lighting				11.248	13.053	13.828
156	Meters and Services				4.417	8.614	9.405
157	IT&T				18.720	16.118	14.231
158	SCADA & Communications				2.121	1.707	1.756
159	Other Distribution Non-Network				12.292	14.135	8.332
160	Distribution Land & Easements				-	-	-
161	Total Distribution Capex				253.432	311.855	323.538
162	Depreciation	Total	Check	Life			
163	Wooden Pole Lines	-4.357	OK	41.000	-	-1.296	-3.061
164	Underground Cables	-5.366	OK	60.000	-	-1.697	-3.669
165	Transformers	-2.589	OK	35.000	-	-0.798	-1.791
166	Switchgear	-2.180	OK	35.000	-	-0.623	-1.557
167	Street lighting	-1.777	OK	20.000	-	-0.562	-1.215
168	Meters and Services	-0.698	OK	25.000	-	-0.177	-0.521
169	IT&T	-5.271	OK	10.160	-	-1.843	-3.429
170	SCADA & Communications	-0.585	OK	10.160	-	-0.209	-0.377
171	Other Distribution Non-Network	-3.811	OK	10.160	-	-1.210	-2.601
172	Distribution Land & Easements	-	OK	-	-	-	-
173	Total Distribution Capex	-26.635	OK			-8.413	-18.222
174	Closing Value						
175	Wooden Pole Lines			-	53.116	124.225	203.227
176	Underground Cables			-	101.791	218.457	332.684
177	Transformers			-	27.915	61.892	97.583
178	Switchgear			-	21.814	53.877	90.864
179	Street lighting			-	11.248	23.739	36.352
180	Meters and Services			-	4.417	12.854	21.738
181	IT&T			-	18.720	32.995	43.797
182	SCADA & Communications			-	2.121	3.619	4.998
183	Other Distribution Non-Network			-	12.292	25.217	30.948
184	Distribution Land & Easements			-	-	-	-
185	Total Distribution Capex			-	253.432	556.874	862.191

Western Power Corporation FD Real Pre-tax Model

Ref	2	3	6	7	8	9	10	11	12	13
	Year ending 30 June				2004	2005	2006	2007	2008	2009
	Project Year				-2	-1	0	1	2	3
5	Modelled Inflation									
6	June CPI				144.8	148.4	153.0	157.7	162.6	167.7
7	Annual Inflation					2.49%	3.10%	3.10%	3.10%	3.10%
8	Inflation Factor						1.000	1.031	1.063	1.096
9	Pre-tax WACC									
10	Real						6.76%	6.76%	6.76%	6.76%
11	Nominal						10.07%	10.07%	10.07%	10.07%
12										
	Regulatory Period 1 & 2, Distribution , Real Calculations [m\$ 30/06/06]									
	Year ending 30 June				2004	2005	2006	2007	2008	2009
	Project Year				-2	-1	0	1	2	3
	Asset Value [m\$ 30/06/06]									
17	Asset Value									
18	Opening Asset Value							1,594.515	1,746.912	1,953.196
19	Capex							253.432	311.855	323.538
20	Redundant Assets (Accelerated Depreciation)							-3.808	-3.712	-3.618
21	Depreciation							-97.226	-101.860	-110.504
22	Closing Asset Value						1,594.515	1,746.912	1,953.196	2,162.613
23										
	Year ending 30 June				2004	2005	2006	2007	2008	2009
	Project Year				-2	-1	0	1	2	3
	Days							365	366	365
	Working Capital [m\$ 30/06/06]									
28	Gross Cost of Service (excluding Working Capital)									
29	Opex							190.268	191.706	195.411
30	Depreciation							97.226	101.860	110.504
31	Redundant Assets (Accelerated Depreciation)							3.808	3.712	3.618
32	Return on Assets							107.789	118.091	132.036
33	Cost of Service							399.092	415.369	441.569
34	Net Covered Service Revenue									
35	Gross CoS							399.092	415.369	441.569
36	Tariff Equalisation							67.802	67.885	66.534
37	Capital Contribution							-91.624	-106.765	-122.269
38	Net Covered Service Revenue							375.270	376.489	385.833
39	Expenses									
40	Opex							190.268	191.706	195.411
41	Capex							253.432	311.855	323.538
42	Total Expenses							443.700	503.562	518.949
43	Working Capital									
			Days	Base for Calculation						
44	Receivables		45.0	Net Covered Service Revenue				46.266	46.290	47.568
45	Inventory		-	Total Expenses				-	-	-
46	Prepayments		-	Total Expenses				-	-	-
47	Creditors		-20.0	Total Expenses				-24.312	-27.517	-28.436
48	Working Capital							21.954	18.773	19.133
49	Asset & Working Capital Value									
50	Opening Asset Value							1,594.515	1,746.912	1,953.196
51	Opening Working Capital							21.954	18.773	19.133
52	Regulatory Opening Asset Value							1,616.468	1,765.685	1,972.329
53										

Year ending 30 June		2004	2005	2006	2007	2008	2009
Project Year		-2	-1	0	1	2	3
Cost of Service [m\$ 30/06/06]							
57	Gross Cost of Service	PV 1					
58	Opex	507.010			190.268	191.706	195.411
59	Depreciation	271.252			97.226	101.860	110.504
60	Redundant Assets (Accelerated Depreciation)	9.797			3.808	3.712	3.618
61	Return on Assets	313.083			107.789	118.091	132.036
62	Return on Working Capital	3.566			1.484	1.269	1.293
63	Cost of Service	1,104.708			400.576	416.638	442.862
64	Gross Regulatory Revenue	PV 1					
65	Opex	507.010			190.268	191.706	195.411
66	Capex	776.886			253.432	311.855	323.538
67	Asset Opening Value	1,594.515		1,594.515	-	-	-
68	Asset Residual Value	-1,777.269			-	-	-2,162.613
69	Working Capital Variation	3.566		21.954	-3.181	0.360	-19.133
70	Gross Regulatory Revenue	1,104.708		1,616.468	440.519	503.922	-1,662.796
71	Check	OK					
72	Net Reference Service Revenue	PV 1					
73	Gross CoS	1,104.708			400.576	416.638	442.862
74	Non Reference Service Revenue	-38.814			-14.725	-14.725	-14.725
75	Tariff Equalisation	177.747			67.802	67.885	66.534
76	Capital Contribution	-279.977			-91.624	-106.765	-122.269
77	Net Reference Service Revenue	963.664			362.028	363.032	372.401
78							
Net Cash Flow [m\$ 30/06/06]							
82	Net Cash Flow						
83	Revenue	963.664			362.028	363.032	372.401
84	Opex	-507.010			-190.268	-191.706	-195.411
85	Capex	-776.886			-253.432	-311.855	-323.538
86	Non Reference Service Revenue	38.814			14.725	14.725	14.725
87	Tariff Equalisation	-177.747			-67.802	-67.885	-66.534
88	Capital Contribution	279.977			91.624	106.765	122.269
89	Asset Opening Value	-1,594.515		-1,594.515	-	-	-
90	Asset Residual Value	1,777.269			-	-	2,162.613
91	Working Capital Variation	-3.566		-21.954	3.181	-0.360	19.133
92	Net Cash Flow	-		-1,616.468	-39.943	-87.284	2,105.658
93	Check	OK					
94	Internal Rate of Return						
95	IRR						6.76%
96	Check	OK					
97	Nominal from Real	PV					
98	Net Cash Flow	-		-1,616.468	-41.181	-92.777	2,307.518
99	Check	OK					
100	Internal Rate of Return						
101	IRR						10.07%
102	Check	OK					
103							

Year ending 30 June		2004	2005	2006	2007	2008	2009
Project Year		-2	-1	0	1	2	3
Revenue Cap [m\$ 30/06/06]							
107	Declared Revenue Cap	PV					
108	Allowable Annual Reference Service Revenue	963.664			362.028	363.032	372.401
109	Non Reference Service Revenue	38.814			14.725	14.725	14.725
110	Tariff Equalisation	-177.747			-67.802	-67.885	-66.534
111	Capital Contribution	279.977			91.624	106.765	122.269
112	Revenue Cap	1,104.708			400.576	416.638	442.862
113	Revenue Cap (Including TEC)	1,282.456			468.377	484.523	509.396
114	Table For AAI						
115	Operating Costs				190.268	191.706	195.411
116	plus Depreciation				97.226	101.860	110.504
117	plus Redundant Assets				3.808	3.712	3.618
118	plus Return on Assets				107.789	118.091	132.036
119	plus Return on Working Capital				1.484	1.269	1.293
120	Target Revenue				400.576	416.638	442.862
121	plus Tariff Equalisation Contribution				67.802	67.885	66.534
122	less Non-Reference Services Revenue				-14.725	-14.725	-14.725
123	less Capital Contributions				-91.624	-106.765	-122.269
124	Net Reference Services Revenue				362.028	363.032	372.401
125	Smoothed Reference Services Revenue				362.028	363.032	372.401

Western Power Corporation FD Real Pre-tax Model

Ref	2	3	4	5	6	7	8	9	10	11	12	13
Year ending 30 June							2004	2005	2006	2007	2008	2009
Project Year							-2	-1	0	1	2	3
5	WPC's Inflation											
6	June CPI						144.8	148.4	152.7	157.0	161.1	165.2
7	Annual Inflation							2.49%	2.90%	2.80%	2.60%	2.60%
8	Inflation Factor								1.000	1.028	1.055	1.082
9												

ICB												
Year ending 30 June												
Project Year												
ICB [m\$ 30/06/2006] Life as at 30 June 2006 [Years]												
14	Transmission											
15	Transmission cables						38.100			12.087		
16	Transmission steel towers						41.300			365.188		
17	Transmission wood poles						20.900			172.741		
18	Transmission Metering						26.100			2.127		
19	Transmission transformers						25.500			154.910		
20	Transmission reactors						27.000			3.933		
21	Transmission capacitors						23.100			76.258		
22	Transmission circuit breakers						28.200			455.265		
23	SCADA and Communications						11.400			33.891		
24	IT&T						4.200			2.680		
25	Other Non-Network Assets						12.000			24.499		
26	Land & Easements									82.986		
27	Total Transmission								1,386.564			
28												

Capex												
Year ending 30 June												
Project Year												
WPC's Capex [m\$ OD] Life as at 30 June 2006 [Years]												
33	Transmission											
34	Transmission cables						55.000			4.939	6.853	0.460
35	Transmission steel towers						60.000			81.174	82.569	50.087
36	Transmission wood poles						45.000			4.885	6.227	24.326
37	Transmission Metering						40.000					
38	Transmission transformers						50.000			36.953	35.766	30.587
39	Transmission reactors						50.000			1.001	1.030	1.713
40	Transmission capacitors						40.000			4.882	15.146	10.056
41	Transmission circuit breakers						50.000			39.344	41.587	45.085
42	SCADA and Communications						34.150			5.722	1.500	3.401
43	IT&T						16.850			2.200	3.000	2.700
44	Other Non-Network Assets						16.850			14.280	17.343	10.610
45	Land & Easements						-			20.454	31.113	8.861
46	Total Transmission								215.835	242.133	187.886	

Modelled Capex [m\$ 30/06/06] Life as at 30 June 2006 [Years]												
48	Transmission											
49	Transmission cables						55.000			4.8	6.5	0.4
50	Transmission steel towers						60.000			79.0	78.3	46.3
51	Transmission wood poles						45.000			4.8	5.9	22.5
52	Transmission Metering						40.000			-	-	-
53	Transmission transformers						50.000			35.9	33.9	28.3
54	Transmission reactors						50.000			1.0	1.0	1.6
55	Transmission capacitors						40.000			4.7	14.4	9.3
56	Transmission circuit breakers						50.000			38.3	39.4	41.7
57	SCADA and Communications						34.150			5.6	1.4	3.1
58	IT&T						16.850			2.1	2.8	2.5
59	Other Non-Network Assets						16.850			13.9	16.4	9.8
60	Land & Easements						-			19.9	29.5	8.2
61	Total Transmission								210.0	229.6	173.6	
62												

Capex Contribution												
Year ending 30 June												
Project Year												
WPC's Capital Contribution [m\$ OD]												
67	Transmission											
68	System Capacity											
69	Customer Driven - Bulk Loads									16.546	28.900	14.450
70	Customer Driven - Generation											
71	Asset Replacement											
72	Safety, Environmental & Statutory											
73	Reliability Driven											
74	SCADA & Communications											
75	IT (inc. Market Reform)											
76	Support											
77	Total Transmission								16.546	28.900	14.450	

Modelled Capital Contribution [m\$ 30/06/06]												
79	Transmission											
80	System Capacity											
81	Customer Driven - Bulk Loads											
82	Customer Driven - Generation								16.095	27.400	13.353	
83	Asset Replacement											
84	Safety, Environmental & Statutory											
85	Reliability Driven											
86	SCADA & Communications											
87	IT (inc. Market Reform)											
88	Support											
89	Total Transmission								16.095	27.400	13.353	
90												

Redundant Assets						
Year ending 30 June	2004	2005	2006	2007	2008	2009
Project Year	-2	-1	0	1	2	3
Redundant Assets [m\$ OD]						
95	Transmission					
96	Transmission cables			-	-	-
97	Transmission steel towers			-	-	-
98	Transmission wood poles			-	-	-
99	Transmission Metering			-	-	-
100	Transmission transformers			-	-	-
101	Transmission reactors			-	-	-
102	Transmission capacitors			-	-	-
103	Transmission circuit breakers (and Site)			-	-	-
104	SCADA and Communications			-	-	-
105	IT&T			-	-	-
106	Other Non-Network Assets			-	-	-
107	Land & Easements			-	-	-
108	Total Transmission			-	-	-
Modelled Redundant Assets [m\$ 30/06/06]						
110	Transmission					
111	Transmission cables			-	-	-
112	Transmission steel towers			-	-	-
113	Transmission wood poles			-	-	-
114	Transmission Metering			-	-	-
115	Transmission transformers			-	-	-
116	Transmission reactors			-	-	-
117	Transmission capacitors			-	-	-
118	Transmission circuit breakers (and Site)			-	-	-
119	SCADA and Communications			-	-	-
120	IT&T			-	-	-
121	Other Non-Network Assets			-	-	-
122	Land & Easements			-	-	-
123	Total Transmission			-	-	-
124						
Opex						
Year ending 30 June	2004	2005	2006	2007	2008	2009
Project Year	-2	-1	0	1	2	3
WPC's Opex [m\$ OD]						
129	Transmission					
130	Maintenance Strategy			4.205	4.110	4.233
131	Preventative Condition			7.139	7.273	7.439
132	Preventative Routine			8.443	9.472	10.135
133	Corrective Deferred			4.633	3.970	4.432
134	Corrective Emergency			1.018	0.940	0.918
135	SCADA & Communications			5.400	5.600	5.700
136	Misc Network Services			4.310	4.517	4.647
137	Network Operations			10.000	11.000	10.900
138	IT&T			7.517	8.227	8.767
139	Network Support			13.625	15.170	15.483
140	Energy Safety Levy			2.830	2.504	2.979
141	Total Transmission			69.120	73.183	75.634
Modelled Opex [m\$ 30/06/06]						
143	Transmission					
144	Maintenance Strategy			4.090	3.897	3.912
145	Preventative Condition			6.945	6.896	6.874
146	Preventative Routine			8.213	8.981	9.366
147	Corrective Deferred			4.507	3.764	4.096
148	Corrective Emergency			0.990	0.891	0.848
149	SCADA & Communications			5.253	5.309	5.267
150	Misc Network Services			4.192	4.283	4.295
151	Network Operations			9.728	10.429	10.073
152	IT&T			7.312	7.800	8.101
153	Network Support			13.254	14.383	14.308
154	Energy Safety Levy			2.753	2.753	2.753
155	Total Transmission			67.237	69.386	69.892
156						
Other Inputs						
Year ending 30 June	2004	2005	2006	2007	2008	2009
Project Year	-2	-1	0	1	2	3
Tariff Equalisation						
161	Nominal Value [m\$ OD]			-	-	-
162	Modelled Real [m\$ 30/06/2005]			-	-	-
163						
Non Reference Service Revenue						
165	Nominal Value [m\$ OD]			18.902	19.393	19.897
166	Modelled Real [m\$ 30/06/2005]			18.387	18.387	18.387
167						
Working Capital						
Days						
169	Receivables			45.0		
170	Inventory			-		
171	Prepayments			-		
172	Creditors			-20.0		

Western Power Corporation FD Real Pre-tax Model

Ref	2	3	4	5	8	9	10	11	12	13
Transmission, Real Calculations [m\$ 30/06/06]										
Year ending 30 June										
Project Year										
Asset Value [m\$ 30/06/06]										
7	Asset Value									
8	Opening Asset Value									
9	Capex									
10	Redundant Assets									
11	Depreciation									
12	Closing Asset Value									
13	Check OK									
14	Asset & Working Capital Value									
15	Opening Asset Value									
16	Opening Working Capital									
17	Regulatory Opening Asset Value									
18										
Year ending 30 June										
Project Year										
Asset Account [m\$ 30/06/06]										
22	Opening Value									
23	Transmission cables									
24	Transmission steel towers									
25	Transmission wood poles									
26	Transmission Metering									
27	Transmission transformers									
28	Transmission reactors									
29	Transmission capacitors									
30	Transmission circuit breakers									
31	SCADA and Communications									
32	IT&T									
33	Other Non-Network Assets									
34	Land & Easements									
35	Total Distribution Capex									
36	Capex									
37	Transmission cables									
38	Transmission steel towers									
39	Transmission wood poles									
40	Transmission Metering									
41	Transmission transformers									
42	Transmission reactors									
43	Transmission capacitors									
44	Transmission circuit breakers									
45	SCADA and Communications									
46	IT&T									
47	Other Non-Network Assets									
48	Land & Easements									
49	Total Distribution Capex									
50	Redundant Assets									
51	Transmission cables									
52	Transmission steel towers									
53	Transmission wood poles									
54	Transmission Metering									
55	Transmission transformers									
56	Transmission reactors									
57	Transmission capacitors									
58	Transmission circuit breakers									
59	SCADA and Communications									
60	IT&T									
61	Other Non-Network Assets									
62	Land & Easements									
63	Total Distribution Capex									
64	Depreciation									
65	Transmission cables									
66	Transmission steel towers									
67	Transmission wood poles									
68	Transmission Metering									
69	Transmission transformers									
70	Transmission reactors									
71	Transmission capacitors									
72	Transmission circuit breakers									
73	SCADA and Communications									
74	IT&T									
75	Other Non-Network Assets									
76	Land & Easements									
77	Total Distribution Capex									
78	Closing Value									
79	Transmission cables									
80	Transmission steel towers									
81	Transmission wood poles									
82	Transmission Metering									
83	Transmission transformers									
84	Transmission reactors									
85	Transmission capacitors									
86	Transmission circuit breakers									
87	SCADA and Communications									
88	IT&T									
89	Other Non-Network Assets									
90	Land & Easements									
91	Total Distribution Capex									
92										

Year ending 30 June	2004	2005	2006	2007	2008	2009
Project Year	-2	-1	0	1	2	3
ICB [m\$ 30/06/06]	Life as at 30 June 2006 [Years]					
96	Opening Value					
97				12.087	11.769	11.452
98				365.188	356.346	347.503
99				172.741	164.476	156.211
100				2.127	2.045	1.964
101				154.910	148.835	142.760
102				3.933	3.787	3.642
103				76.258	72.957	69.656
104				455.265	439.121	422.977
105				33.891	30.918	27.945
106				2.680	2.042	1.404
107				24.499	22.458	20.416
108				82.986	82.986	82.986
109				1,386.564	1,337.739	1,288.915
110	Redundant Assets					
111				-	-	-
112				-	-	-
113				-	-	-
114				-	-	-
115				-	-	-
116				-	-	-
117				-	-	-
118				-	-	-
119				-	-	-
120				-	-	-
121				-	-	-
122				-	-	-
123				-	-	-
124				-	-	-
125	Depreciation	Total	Check	Life		
125		-0.952	OK	38.100	-0.317	-0.317
126		-26.527	OK	41.300	-8.842	-8.842
127		-24.795	OK	20.900	-8.265	-8.265
128		-0.244	OK	26.100	-0.081	-0.081
129		-18.225	OK	25.500	-6.075	-6.075
130		-0.437	OK	27.000	-0.146	-0.146
131		-9.904	OK	23.100	-3.301	-3.301
132		-48.432	OK	28.200	-16.144	-16.144
133		-8.919	OK	11.400	-2.973	-2.973
134		-1.914	OK	4.200	-0.638	-0.638
135		-6.125	OK	12.000	-2.042	-2.042
136		-	OK	-	-	-
137		-146.474	OK	-	-48.825	-48.825
138				-48.825	-48.825	-48.825
139	Closing Value					
139				12.087	11.769	11.135
140				365.188	356.346	338.661
141				172.741	164.476	147.945
142				2.127	2.045	1.882
143				154.910	148.835	136.685
144				3.933	3.787	3.496
145				76.258	72.957	66.355
146				455.265	439.121	406.833
147				33.891	30.918	24.972
148				2.680	2.042	0.766
149				24.499	22.458	18.375
150				82.986	82.986	82.986
151				1,386.564	1,337.739	1,240.090
152						

Year ending 30 June Project Year	2004	2005	2006	2007	2008	2009
	-2	-1	0	1	2	3
CAPEX [m\$ 30/06/06]						
156 Opening Value						
157 Transmission cables				-	4.804	11.214
158 Transmission steel towers				-	78.963	155.932
159 Transmission wood poles				-	4.752	10.551
160 Transmission Metering				-	-	-
161 Transmission transformers				-	35.947	69.138
162 Transmission reactors				-	0.974	1.931
163 Transmission capacitors				-	4.749	18.990
164 Transmission circuit breakers				-	38.273	76.936
165 SCADA and Communications				-	5.566	6.825
166 IT&T				-	2.140	4.857
167 Other Non-Network Assets				-	13.891	29.510
168 Land & Easements				-	19.897	49.395
169 Total Distribution Capex				-	209.956	435.279
170 Capex						
171 Transmission cables				4.804	6.497	0.425
172 Transmission steel towers				78.963	78.285	46.285
173 Transmission wood poles				4.752	5.904	22.479
174 Transmission Metering				-	-	-
175 Transmission transformers				35.947	33.910	28.265
176 Transmission reactors				0.974	0.976	1.583
177 Transmission capacitors				4.749	14.360	9.293
178 Transmission circuit breakers				38.273	39.429	41.662
179 SCADA and Communications				5.566	1.422	3.143
180 IT&T				2.140	2.844	2.495
181 Other Non-Network Assets				13.891	16.443	9.804
182 Land & Easements				19.897	29.498	8.188
183 Total Distribution Capex				209.956	229.569	173.623
184 Depreciation	Total	Check	Life			
185 Transmission cables	-0.293	OK	55.000	-	-0.087	-0.205
186 Transmission steel towers	-3.937	OK	60.000	-	-1.316	-2.621
187 Transmission wood poles	-0.342	OK	45.000	-	-0.106	-0.237
188 Transmission Metering	-	OK	40.000	-	-	-
189 Transmission transformers	-2.116	OK	50.000	-	-0.719	-1.397
190 Transmission reactors	-0.058	OK	50.000	-	-0.019	-0.039
191 Transmission capacitors	-0.596	OK	40.000	-	-0.119	-0.478
192 Transmission circuit breakers	-2.319	OK	50.000	-	-0.765	-1.554
193 SCADA and Communications	-0.368	OK	34.150	-	-0.163	-0.205
194 IT&T	-0.423	OK	16.850	-	-0.127	-0.296
195 Other Non-Network Assets	-2.625	OK	16.850	-	-0.824	-1.800
196 Land & Easements	-	OK	-	-	-	-
197 Total Distribution Capex	-13.078	OK		-	-4.246	-8.832
198 Closing Value						
199 Transmission cables				-	4.804	11.214
200 Transmission steel towers				-	78.963	155.932
201 Transmission wood poles				-	4.752	10.551
202 Transmission Metering				-	-	-
203 Transmission transformers				-	35.947	69.138
204 Transmission reactors				-	0.974	1.931
205 Transmission capacitors				-	4.749	18.990
206 Transmission circuit breakers				-	38.273	76.936
207 SCADA and Communications				-	5.566	6.825
208 IT&T				-	2.140	4.857
209 Other Non-Network Assets				-	13.891	29.510
210 Land & Easements				-	19.897	49.395
211 Total Distribution Capex				-	209.956	435.279

Western Power Corporation FD Real Pre-tax Model

Ref	2	3	6	7	8	9	10	11	12	13
	Year ending 30 June									
	Project Year									
					2004	2005	2006	2007	2008	2009
					-2	-1	0	1	2	3
5	Modelled Inflation									
6					144.8	148.4	153.0	157.7	162.6	167.7
7						2.49%	3.10%	3.10%	3.10%	3.10%
8							1.000	1.031	1.063	1.096
9	Pre-tax WACC									
10							6.76%	6.76%	6.76%	6.76%
11							10.07%	10.07%	10.07%	10.07%
12										
	Regulatory Period 1 & 2, Transmission, Real Calculations [m\$ 30/06/06]									
	Year ending 30 June									
	Project Year									
					2004	2005	2006	2007	2008	2009
					-2	-1	0	1	2	3
	Asset Value [m\$ 30/06/06]									
17	Asset Value									
18								1,386.564	1,547.695	1,724.194
19								209.956	229.569	173.623
20								-	-	-
21								-48.825	-53.071	-57.656
22										
23							1,386.564	1,547.695	1,724.194	1,840.160
	Year ending 30 June									
	Project Year									
					2004	2005	2006	2007	2008	2009
					-2	-1	0	1	2	3
	Days									
	Working Capital [m\$ 30/06/06]									
28	Gross Cost of Service (excluding Working Capital)									
29								67.237	69.386	69.892
30								48.825	53.071	57.656
31								-	-	-
32								93.732	104.624	116.556
33								209.793	227.080	244.104
34	Net Covered Service Revenue									
35								209.793	227.080	244.104
36								-	-	-
37								-16.095	-27.400	-13.353
38								193.698	199.680	230.751
39	Expenses									
40								67.237	69.386	69.892
41								209.956	229.569	173.623
42								277.193	298.955	243.515
43	Working Capital									
44				Days	Base for Calculation					
45				45.0	Net Covered Service Revenue					
46				-	Total Expenses					
47				-	Total Expenses					
48				-20.0	Total Expenses					
49	Asset & Working Capital Value									
50								1,386.564	1,547.695	1,724.194
51								8.692	8.214	15.105
52								1,395.256	1,555.910	1,739.299
53										

Year ending 30 June		2004	2005	2006	2007	2008	2009
Project Year		-2	-1	0	1	2	3
Cost of Service [m\$ 30/06/06]							
57	Gross Cost of Service						
58	Opex				67.237	69.386	69.892
59	Depreciation				48.825	53.071	57.656
60	Redundant Assets (Accelerated Depreciation)				-	-	-
61	Return on Assets				93.732	104.624	116.556
62	Return on Working Capital				0.588	0.555	1.021
63	Cost of Service				210.381	227.636	245.125
64	Gross Regulatory Revenue						
65	Opex				67.237	69.386	69.892
66	Capex				209.956	229.569	173.623
67	Asset Opening Value			1,386.564	-	-	-
68	Asset Residual Value				-	-	-1,840.160
69	Working Capital Variation			8.692	-0.477	6.891	-15.105
70	Gross Regulatory Revenue			1,395.256	276.716	305.846	-1,611.751
71	Check						
72	Net Reference Service Revenue						
73	Gross CoS				210.381	227.636	245.125
74	Non Reference Service Revenue				-18.387	-18.387	-18.387
75	Tariff Equalisation				-	-	-
76	Capital Contribution				-16.095	-27.400	-13.353
77	Net Reference Service Revenue				175.899	181.848	213.385
78							
Net Cash Flow [m\$ 30/06/06]							
82	Net Cash Flow						
83	Revenue				175.899	181.848	213.385
84	Opex				-67.237	-69.386	-69.892
85	Capex				-209.956	-229.569	-173.623
86	Non Reference Service Revenue				18.387	18.387	18.387
87	Tariff Equalisation				-	-	-
88	Capital Contribution				16.095	27.400	13.353
89	Asset Opening Value			-1,386.564	-	-	-
90	Asset Residual Value				-	-	1,840.160
91	Working Capital Variation			-8.692	0.477	-6.891	15.105
92	Net Cash Flow			-1,395.256	-66.335	-78.210	1,856.876
93	Check						
94	Internal Rate of Return						
95	IRR						6.76%
96	Check						
97	Nominal from Real						
98	Net Cash Flow			-1,395.256	-68.390	-83.132	2,034.886
99	Check						
100	Internal Rate of Return						
101	IRR						10.07%
102	Check						
103							

Year ending 30 June		2004	2005	2006	2007	2008	2009
Project Year		-2	-1	0	1	2	3
Revenue Cap [m\$ 30/06/06]							
107	Declared Revenue Cap						
	PV						
108	Allowable Annual Reference Service Revenue				175.899	181.848	213.385
109	Non Reference Service Revenue				18.387	18.387	18.387
110	Tariff Equalisation				-	-	-
111	Capital Contribution				16.095	27.400	13.353
112	Revenue Cap				210.381	227.636	245.125
113	Revenue Cap (Including TEC)				210.381	227.636	245.125
114	Table For AAI						
115	Operating Costs				67.237	69.386	69.892
116	plus Depreciation				48.825	53.071	57.656
117	plus Redundant Assets				-	-	-
118	plus Return on Assets				93.732	104.624	116.556
119	plus Return on Working Capital				0.588	0.555	1.021
120	Target Revenue				210.381	227.636	245.125
121	plus Tariff Equalisation Contribution				-	-	-
122	less Non-Reference Services Revenue				-18.387	-18.387	-18.387
123	less Capital Contributions				-16.095	-27.400	-13.353
124	Net Reference Services Revenue				175.899	181.848	213.385
125	Smoothed Reference Services Revenue				175.899	181.848	213.385

Appendix C: Changes in tariffs that would occur with introduction of the revised proposed access arrangement

Bundled (Distribution & Transmission) Tariff Changes

Energy Tariffs		2005/06	2006/07	%Change	Average % change in effective c/kWh
RT1 - Energy Only Small	Variable (c/kWh)	4.256	4.684	10.1%	7.4%
	Fixed (\$/annum)	86.16	86	-0.2%	
RT2 - Energy Only Large	Variable (c/kWh)	5.765	6.178	7.2%	6.6%
	Fixed (\$/annum)	86.16	86	-0.2%	
RT3 - Time of Use Small	On Peak (c/kWh)	6.854	8.328	21.5%	11.5%
	Off Peak (c/kWh)	2.167	2.167	0%	
	Fixed (\$/annum)	87.86	86	-2.1%	
RT4 - Time of Use Large	On Peak (c/kWh)	5.866	6.331	7.9%	6.3%
	Off Peak (c/kWh)	1.395	1.395	0.0%	
	Fixed (\$/annum)	114.88	115	0.1%	
RT9 - Streetlights	Variable (c/kWh)	3.086	3.086	0.0%	0.0%
	Fixed (\$/annum)	7.46	7.46	0.0%	
	Assets (Average \$/annum)	38.80	65.51	0.0%	
RT10 - Unmetered Supplies	Variable (c/kWh)	3.232	3.232	0.0%	0.0%
	Fixed (\$/annum)	45.95	45.95	0.0%	

Metered Demand Tariffs	2005/06		2006/07		%Change	
	Fixed (\$/annum)	Demand (in excess of lower threshold) \$/kVA/ annum	Fixed (\$/annum)	Demand (in excess of lower threshold) \$/kVA/ annum	Fixed (\$/annum)	Demand (in excess of lower threshold) \$/kVA/ annum
RT5 - HV Demand						
0 to 300	172.34	128.67	165.00	129.22	-4.3%	0.4%
300 to 1000	38773.34	97.65	38931.00	95.55	0.4%	-2.2%
1000 to 1500	107128.34	45.95	105816.00	44.12	-1.2%	-4.0%
RT6 – LV Demand						
0 to 300	229.78	137.86	1265.00	138.47	450.5%	0.4%
300 to 1000	41587.78	106.84	42806.00	104.54	2.9%	-2.2%
1000 to 1500	116375.78	55.14	115984.00	52.63	-0.3%	-4.6%

Metered Demand – Typical Customer Scenarios – (Equivalent c/kWh)

Demand (kVA)	Power Factor	Load Factor	Off Peak Consumption	2005/06 c/kWh	2006/07 c/kWh	%Change
RT5 - HV Demand						
500	0.8	0.4	50%	3.284	3.308	0.7%
1000	0.8	0.4	50%	2.948	2.932	-0.5%
RT6 – LV Demand						
500	0.8	0.4	50%	3.400	3.446	1.4%
1000	0.8	0.4	50%	3.129	3.121	-0.2%

Contract Maximum Demand Tariffs	2005/06		2006/07		%Change

See separate table "Bundled CMD Comparison"

Contract Maximum Demand – Typical Customer Scenarios – (Equivalent c/kWh)							
Pricing Zone	Demand (kVA)	Power Factor	Load Factor	Distance from Zone sub (km)	2005/06 c/kWh	2006/07 c/kWh	% Change
RT7 – HV CMD							
Urban	2000	0.8	0.5	5	2.153	2.160	0.3%
Mining	2000	0.8	0.8	40	1.828	1.784	-2.4%
Urban	7000	0.8	0.5	5	1.822	1.820	-0.1%
Mining	7000	0.8	0.8	40	1.965	1.882	-4.3%
CBD	2000	0.8	0.5	1	2.155	2.122	-1.5%
Mixed	2000	0.8	0.5	10	2.513	2.480	-1.3%
Rural	2000	0.8	0.5	15	2.351	2.454	4.4%
RT8 – LV CMD							
Urban	2000	0.8	0.5	5	2.417	2.484	2.8%
Mining	2000	0.8	0.8	40	1.993	1.987	-0.3%
Urban	7000	0.8	0.5	5	2.075	2.133	2.8%
Mining	7000	0.8	0.8	40	2.123	2.077	-2.2%
CBD	2000	0.8	0.5	1	2.419	2.446	1.2%
Mixed	2000	0.8	0.5	10	2.777	2.804	1.0%
Rural	2000	0.8	0.5	15	2.615	2.778	6.3%

Bundled CMD Comparison

Zone Substation	TNI	Pricing Zone	2005/06 Bundled Price			2006/07 Bundled Price			% Change		
			Fixed charge for first 1000 kVA (\$ per annum)	Demand charge for 1000<kV A<7000 (\$/kVA/annum)	Demand Charge for kVA > 7000 (\$/kVA/annum)	Fixed charge for first 1000 kVA (\$ per annum)	Demand charge for 1000<kV A<7000 (\$/kVA/annum)	Demand Charge for kVA > 7000 (\$/kVA/annum)	Fixed charge for first 1000 kVA (\$ per annum)	Demand charge for 1000<kV A<7000 (\$/kVA/annum)	Demand Charge for kVA > 7000 (\$/kVA/annum)
Cook Street	WCKT	CBD	83673.04	59.35	62.82	83519.58	56.35	60.24	-0.2%	-5.1%	-4.1%
Forrest Avenue	WFRT	CBD	83673.04	59.35	62.82	83519.58	56.35	60.24	-0.2%	-5.1%	-4.1%
Hay Street	WHAY	CBD	83673.04	59.35	62.82	83519.58	56.35	60.24	-0.2%	-5.1%	-4.1%
Milligan Street	WMIL	CBD	83673.04	59.35	62.82	83519.58	56.35	60.24	-0.2%	-5.1%	-4.1%
Wellington Street	WWNT	CBD	83673.04	59.35	62.82	83519.58	56.35	60.24	-0.2%	-5.1%	-4.1%
Black Flag	WBKF	Goldfields Mining	83673.04	103.49	100.66	83519.58	97.77	95.73	-0.2%	-5.5%	-4.9%
Boulder	WBLD	Goldfields Mining	83673.04	99.19	96.98	83519.58	93.61	92.17	-0.2%	-5.6%	-5.0%
Bounty	WBNY	Goldfields Mining	83673.04	162.26	151.04	83519.58	151.72	141.98	-0.2%	-6.5%	-6.0%
West Kalgoorlie	WWKT	Goldfields Mining	83673.04	95.53	93.84	83519.58	84.60	84.45	-0.2%	-11.4%	-10.0%
Albany	WALB	Mixed	83673.04	102.44	99.76	83519.58	93.55	92.11	-0.2%	-8.7%	-7.7%
Boddington	WBOD	Mixed	83673.04	54.73	58.86	83519.58	56.11	60.03	-0.2%	2.5%	2.0%
Bunbury Harbour	WBUH	Mixed	83673.04	56.46	60.35	83519.58	57.11	60.89	-0.2%	1.2%	0.9%
Busselton	WBSN	Mixed	83673.04	85.95	85.62	83519.58	83.74	83.71	-0.2%	-2.6%	-2.2%
Byford	WBYF	Mixed	83673.04	57.10	60.90	83519.58	58.19	61.81	-0.2%	1.9%	1.5%

Capel	WCAP	Mixed	83673.04	74.65	75.93	83519.58	71.63	73.33	-0.2%	-4.0%	-3.4%
Chapman	WCPN	Mixed	83673.04	89.44	88.62	83519.58	95.54	93.82	-0.2%	6.8%	5.9%
Darlington	WDTN	Mixed	83673.04	64.64	67.35	83519.58	63.02	65.95	-0.2%	-2.5%	-2.1%
Eneabba	WENB	Mixed	83673.04	80.91	81.30	83519.58	80.93	81.30	-0.2%	0.0%	0.0%
Geraldton	WGTN	Mixed	83673.04	89.46	88.63	83519.58	85.37	85.11	-0.2%	-4.6%	-4.0%
Marriott Road	WMRR	Mixed	83673.04	57.36	61.12	83519.58	57.20	60.96	-0.2%	-0.3%	-0.3%
Muchea	WMUC	Mixed	83673.04	58.61	62.18	83519.58	61.67	64.79	-0.2%	5.2%	4.2%
Northam	WNOR	Mixed	83673.04	79.06	79.72	83519.58	80.39	80.84	-0.2%	1.7%	1.4%
Picton	WPIC	Mixed	83673.04	62.04	65.13	83519.58	60.72	63.98	-0.2%	-2.1%	-1.8%
Rangeway	WRAN	Mixed				83519.58	85.37	85.11			
Sawyers Valley	WSVL	Mixed	83673.04	79.51	80.10	83519.58	83.48	83.49	-0.2%	5.0%	4.2%
Southern Cross	WSNX	Mixed	83673.04	135.55	128.14	83519.58	45.55	50.97	-0.2%	-66.4%	-60.2%
Yanchep	WYCP	Mixed	83673.04	56.83	60.67	83519.58	59.10	62.59	-0.2%	4.0%	3.2%
Yilgarn	WYLN	Mixed	83673.04	100.96	98.48	83519.58	94.96	93.32	-0.2%	-5.9%	-5.2%
Baandee	WBDE	Rural	83673.04	88.43	87.75	83519.58	99.43	97.16	-0.2%	12.4%	10.7%
Beenup	WBNP	Rural	83673.04	90.77	89.76	83519.58	100.14	97.77	-0.2%	10.3%	8.9%
Bridgetown	WBTN	Rural	83673.04	59.33	62.81	83519.58	64.99	67.64	-0.2%	9.5%	7.7%
Carrabin	WCAR	Rural	83673.04	99.86	97.55	83519.58	112.65	108.49	-0.2%	12.8%	11.2%
Cataby Iluka	WCTB	Rural				83519.58	68.59	70.73			
Collie	WCOE	Rural	83673.04	83.86	83.83	83519.58	87.84	87.23	-0.2%	4.7%	4.1%
Coolup	WCLP	Rural	83673.04	91.96	90.77	83519.58	93.30	91.91	-0.2%	1.5%	1.3%
Cunderdin	WCUN	Rural	83673.04	88.66	87.95	83519.58	91.85	90.66	-0.2%	3.6%	3.1%
Katanning	WKAT	Rural	83673.04	100.62	98.20	83519.58	91.54	90.40	-0.2%	-9.0%	-7.9%
Kellerberrin	WKEL	Rural	83673.04	91.49	90.38	83519.58	96.93	95.02	-0.2%	5.9%	5.1%
Kojonup	WKOJ	Rural	83673.04	60.73	64.01	83519.58	56.42	60.29	-0.2%	-7.1%	-5.8%

Kondinin	WKDN	Rural	83673.04	66.88	69.28	83519.58	62.88	65.84	-0.2%	-6.0%	-5.0%
Manjimup	WMJP	Rural	83673.04	62.86	65.84	83519.58	69.36	71.39	-0.2%	10.3%	8.4%
Margaret River	WMRV	Rural	83673.04	101.67	99.10	83519.58	102.17	99.51	-0.2%	0.5%	0.4%
Merredin	WMER	Rural	83673.04	82.96	83.06	83519.58	88.27	87.59	-0.2%	6.4%	5.5%
Moora	WMOR	Rural	83673.04	72.60	74.18	83519.58	68.79	70.90	-0.2%	-5.2%	-4.4%
Mount Barker	WMBR	Rural	83673.04	97.26	95.32	83519.58	87.65	87.07	-0.2%	-9.9%	-8.7%
Narrogin	WNGN	Rural	83673.04	112.66	108.52	83519.58	113.31	109.05	-0.2%	0.6%	0.5%
Pinjarra	WPNJ	Rural	83673.04	57.05	60.85	83519.58	53.86	58.10	-0.2%	-5.6%	-4.5%
Regans	WRGN	Rural	83673.04	68.37	70.55	83519.58	68.59	70.73	-0.2%	0.3%	0.3%
Three Springs	WTSG	Rural	83673.04	73.71	75.13	83519.58	69.48	71.49	-0.2%	-5.7%	-4.8%
Wagerup	WWGP	Rural	83673.04	50.93	55.61	83519.58	49.82	54.64	-0.2%	-2.2%	-1.7%
Wagin	WWAG	Rural	83673.04	77.74	78.58	83519.58	74.97	76.20	-0.2%	-3.6%	-3.0%
Wundowie	WWUN	Rural	83673.04	78.7	79.41	83519.58	76.88	77.84	-0.2%	-2.3%	-2.0%
Yerbillon	WYER	Rural	83673.04	105.03	101.98	83519.58	109.81	106.06	-0.2%	4.6%	4.0%
Amherst	WAMT	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Arkana	WARK	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Australian Paper Mills	WAPM	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Beechboro	WBCH	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Belmont	WBEL	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
British Petroleum	WBPM	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Canning Vale	WCVE	Urban	83673.04	48.84	53.65	83519.58	48.61	53.60	-0.2%	-0.1%	-0.1%
Clarence Street	WCLN	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Clarkson	WCKN	Urban				83519.58	48.61	53.60			
Cockburn Cement	WCCT	Urban	83673.04	45.31	50.79	83519.58	48.61	53.60	-0.2%	7.3%	5.5%
Collier	WCOL	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%

Cottesloe	WCOT	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Edmund Street	WEDD	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Forrestfield	WFFD	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Gosnells	WGNL	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Hadfields	WHFS	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Herdsmen Parade	WHEP	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Joel Terrace	WJTE	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Kalamunda	WKDA	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Kambalda	WKBA	Urban	83673.04	95.05	93.42	83519.58	89.46	88.62	-0.2%	-5.9%	-5.1%
Landsdale	WLDE	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Malaga	WMLG	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Mandurah	WMHA	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Manning Street	WMAG	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Mason Road	WMSR	Urban	83673.04	40.65	46.79	83519.58	48.61	53.60	-0.2%	19.6%	14.6%
Meadow Springs	WMSS	Urban				83519.58	48.61	53.60			
Medical Centre	WMCR	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Medina	WMED	Urban	83673.04	42.32	48.22	83519.58	48.61	53.60	-0.2%	14.9%	11.2%
Midland Junction	WMJX	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Morley	WMOY	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Mullaloo	WMUL	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Mundaring Weir	WMWR	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Murdoch	WMUR	Urban				83519.58	48.61	53.60			
Myaree	WMYR	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Nedlands	WNED	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
North Beach	WNBH	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%

North Fremantle	WNFL	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
North Perth	WNPH	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
O'Connor	WOCN	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Osborne Park	WOPK	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Padbury	WPBY	Urban				83519.58	48.61	53.60			
Piccadilly	WPCY	Urban	83673.04	88.16	87.52	83519.58	86.59	86.15	-0.2%	-1.8%	-1.6%
Riverton	WRTN	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Rivervale	WRVL	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Rockingham	WROH	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Shenton Park	WSPA	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
South Fremantle Power Station	WSFT	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Tate Street	WTTS	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
University	WUNI	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Victoria Park	WVPA	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Wanneroo	WWNO	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Welshpool	WWEL	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Wembley Downs	WWDN	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%
Yokine	WYKE	Urban	83673.04	48.84	53.81	83519.58	48.61	53.60	-0.2%	-0.5%	-0.4%

Transmission Nodal Comparison

		Including GST		
Substation	TNI	2005/06 Total Nodal Price (UOS + CS + Con + CSS) \$/kW	2006/07 Total Nodal Price (UOS + CS + Con + CSS) \$/kW	% Diff
* means average Connection Price is not applicable at these substations and is not included in the total				
Albany	WALB	83.83	80.53	-3.94%
Alcoa Pinjarra	WAPJ	*	*	*
Amherst	WAMT	48.86	47.28	-3.23%
Arkana	WARK	51.51	50.66	-1.65%
Australian Fused Materials	WAFM	*	*	*
Australian Paper Mills	WAPM	52.65	51.36	-2.45%
Baandee (WC)	WBDE	89.71	91.29	1.76%
Beechboro	WBCH	50.94	49.26	-3.30%
Beenup	WBNP	90.32	91.94	1.79%
Belmont	WBEL	51.02	49.33	-3.31%
Black Flag	WBKF	98.38	94.37	-4.08%
Boddington (local)	WABD	47.27	45.76	-3.19%
Boddington Reynolds	WRBD	47.85	46.32	-3.20%
Boulder	WBLD	94.20	90.40	-4.03%
Bounty	WBNY	141.78	145.92	2.92%
Bridgetown	WBTN	59.72	59.83	0.18%
British Petroleum	WBPM	47.65	55.64	-3.49%
Broken Hill Kwinana	WBHK	*	*	*
Bunbury Harbour	WBUH	48.25	46.69	-3.23%
Burswood Island Casino	WBUR	*	*	*
Busselton	WBSN	74.26	71.43	-3.81%
Byford	WBYF	49.30	47.70	-3.25%
Canning Vale	WCVE	49.42	47.81	-3.26%
Capel	WCAP	60.91	60.18	-1.20%
Carrabin	WCAR	101.22	103.37	2.12%
Cataby Kerr McGee	WKMC	*	*	*
Chapman	WCPN	81.21	82.38	1.44%
Clarence Street	WCLN	63.35	61.06	-3.61%
Cockburn Cement	WCCT	45.13	43.76	-3.04%
Cockburn Cement Ltd	WCCL	*	*	*
Collie	WCOE	84.02	80.71	-3.94%
Collier	WCOL	59.92	57.79	-3.55%
Cook Street	WCKT	56.82	54.84	-3.48%
Coolup	WCLP	89.25	85.69	-3.99%
Cottesloe	WCOT	54.49	54.35	-0.26%

Cunderdin	WCUN	83.11	84.37	1.52%
Darlington	WDTN	54.02	52.19	-3.39%
Edgewater	WEDG	*	*	*
Edmund Street	WEDD	51.73	51.46	-0.52%
Eneabba	WENB	68.29	68.82	0.78%
Forrest Ave	WFRT	56.82	56.79	-0.05%
Forrestfield	WFFD	53.32	51.52	-3.38%
Geraldton	WGTN	74.71	72.95	-2.36%
Golden Grove	WGGV	*	*	*
Gosnells	WGNL	50.44	48.77	-3.31%
Hadfields	WHFS	52.10	50.35	-3.36%
Hay Street	WHAY	56.82	54.84	-3.48%
Herdsman parade	WHEP	60.57	60.72	0.25%
Joel Terrace	WJTE	57.67	56.98	-1.20%
Kalamunda	WKDA	53.10	51.31	-3.37%
Katanning	WKAT	87.57	84.09	-3.97%
Kellerberrin	WKEL	87.53	89.00	1.68%
Kojonup	WKOJ	53.04	52.01	-1.94%
Kondinin	WKDN	57.89	57.92	0.05%
Kwinana Alcoa	WAKW	*	*	*
Landsdale	WLDE	51.72	50.00	-3.33%
Malaga	WMLG	51.51	49.80	-3.32%
Mandurah	WMHA	53.11	51.32	-3.37%
Manjimup	WMJP	66.28	63.84	-3.68%
Manning Street	WMAG	52.26	52.01	-0.48%
Margaret River	WMRV	97.77	93.79	-4.07%
Marriott Road Barrack Silicon Smelter	WBSI	*	*	*
Marriott Road (Local)	WLMR	48.33	46.78	-3.21%
Mason Road	WMSR	41.51	40.74	-1.85%
Mason Road CSBP	WCBP	*	*	*
Mason Road Hismelt	WHIS	*	*	*
Mason Road Kerr McGee	WKMK	*	*	*
Medical Centre	WMCR	56.94	56.91	-0.05%
Medina	WMED	43.49	42.81	-1.56%
Merredin 66kV	WMER	79.99	81.10	1.39%
Midland Junction	WMJX	56.79	54.82	-3.47%
Milligan Street	WMIL	56.82	56.75	-0.12%
Moora	WMOR	63.03	63.31	0.44%
Morley	WMOY	52.29	52.05	-0.46%
Mount Barker	WMBR	*	*	*
Muchea Kerr McGee	WKMM	*	*	*
Muchea (Local)	WLMC	51.23	50.93	-0.59%

Mullaloo	WMUL	51.72	51.45	-0.52%
Mundaring Weir	WMWR	68.12	65.60	-3.70%
Myaree	WMYR	55.97	55.63	-0.61%
Narrogin	WNGN	108.47	103.97	-4.15%
Nedlands	WNED	54.44	54.30	-0.26%
North Beach	WNBH	52.07	51.81	-0.50%
North Fremantle	WNFL	54.07	53.90	-0.31%
North Perth	WNPH	49.93	48.31	-3.24%
Northam	WNOR	67.80	68.32	0.77%
O'Connor	WOCN	53.68	53.36	-0.60%
Osborne Park	WOPK	53.31	52.44	-1.63%
Parkeston	WPRK	0.00	90.40	
Piccadilly	WPCY	91.85	88.16	-4.02%
Picton 66kV	WPIC	51.78	50.05	-3.34%
Pinjarra	WPNJ	51.38	49.67	-3.33%
Rangeway	WRAN	0.00	72.95	
Regans	WRGN	62.87	63.13	0.41%
Riverton	WRTN	48.24	46.68	-3.23%
Rivervale	WRVE	65.10	62.72	-3.66%
Rockingham	WROH	45.76	45.19	-1.25%
Sawyers Valley	WSVL	73.28	71.19	-2.85%
Shenton Park	WSPA	54.54	54.40	-0.26%
South Fremantle 66kV	WSFT	48.86	47.43	-2.93%
Summer Street	WSUM	*	*	*
Tate Street	WTTS	59.80	57.68	-3.55%
Three Springs	WTSG	63.64	63.94	0.47%
Tomlinson Street	WTLN	*	*	*
University	WUNI	57.67	57.69	0.03%
Victoria Park	WVPA	59.13	57.04	-3.53%
Wagerup	WWGP	47.50	45.98	-3.20%
Wagin	WWAG	68.42	68.96	0.79%
Wanneroo	WWNO	50.22	49.86	-0.72%
WEB Grating	WWEB	*	*	*
Wellington Street	WWNT	56.82	56.79	-0.05%
Welshpool	WWEL	51.18	49.49	-3.30%
Wembley Downs	WWDN	55.43	55.33	-0.18%
West Kalgoorlie	WWKT	85.15	81.79	-3.95%
Western Collieries	WWCL	*	*	*
Western Mining	WWMG	*	*	*
Westralian Sands	WWSD	*	*	*
Worsley	WWOR	*	*	*
Wundowie	WWUN	70.08	70.70	0.88%
Yanchep	WYCP	48.96	48.55	-0.84%

Yerbillon	WYER	98.75	100.77	2.05%
Yilgarn	WYLN	85.22	81.85	-3.95%
Yokine	WYKE	51.77	51.49	-0.54%