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Access Arrangement Review
Electricity Access
Economic Regulation Authority
PO Box 8469
PERTH BC WA 6849

also by email to: electricityaccessreview@era.wa.gov.au

Dear Sir

CALL FOR SUBMISSIONS ON WESTERN POWER'S PROPOSED ACCESS ARRANGEMENT REVISIONS FOR THE SOUTH WEST INTERCONNECTED NETWORK

Thank you for the opportunity to comment on Western Power's proposed Access Arrangement revisions. The Issues Paper produced by the ERA has been particularly helpful in identifying the key elements of the proposed revisions.

REFERENCE SERVICES

1. In its submissions on the Proposed Access Arrangement ("**PAA**") in 2005, Verve Energy argued for the incorporation of a Connection Access Contract ("**CAC**") as a Reference Service. In the Final Decision, the CAC was deleted completely as a service and is not available under the current Access Arrangement. The argument for the need for a CAC is re-presented for consideration at this Access Arrangement reset.
2. 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 and 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.}"

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3. Additionally the Model Standard 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.
4. 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.
5. 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).
6. 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.
7. The PAA did not specify the Connection Service as a 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.
8. Verve Energy understands that this is permissible under the ENAC.

STANDARD ACCESS CONTRACT

9. Verve Energy does not support the proposed addition of a provision allowing Western Power to unilaterally reduce a user’s contracted capacity at a connection point. Fundamentally, the requested right is not consistent with the ENAC and should therefore be rejected.

10. The bilateral contract approach taken in the Wholesale Electricity Market makes it an imperative for Generators to hold a firm connection point contracted capacity.
11. Indeed it is Verve Energy's view that ongoing guarantee of firm contracted capacity is essential to ensure that investment in new generation capacity is not stifled. Proponents may have difficulty obtaining project finance if there is not the guarantee of firm contracted capacity for the lifetime of a project.
12. Verve Energy certainly agrees with the notion, postulated in the Authority's 17 January 2007 Notice calling for Submissions on Matters Relating to Western Power's Revised PAA for the SWIN, that such a unilateral right could unreasonably constrain network users in managing contracts for network services. It is entirely reasonable that a network user may wish to retain unused contracted capacity in support of potential future development opportunities.
13. It should be remembered that a network user, in addition to ongoing annual network access charges, would invariably have also made a significant capital contribution to secure access. The contracted capacity therefore has value to the user which should not be subject to unilateral removal.
14. Another salient point is that it should not be the role of the network operator to concern itself with policing anti-competitive behaviour. It is clearly the role of the regulatory authority to administer compliance with the relevant legislation and correctly determine, and appropriately deal with, parties that are acting to hinder or prevent network access.
15. It is important to emphasise however that it could be argued that a party holding unutilised contracted capacity is not strictly hindering or preventing access. The network operator is always capable of augmenting the network, at a cost, to facilitate a new user. The more appropriate regulatory enquiry is whether the party holding access is unreasonably contributing to inefficient investment in network capacity. Any such enquiry should be tempered however by the acknowledgement that timely and appropriate network augmentation is, in the long run, beneficial.
16. Notwithstanding Verve Energy's strong objection to unilateral removal of contracted capacity, it is mindful of facilitating and supporting economically efficient operation and use of the network. To that end, Verve Energy would be supportive of a proposal that suitably enables users to temporarily 'release' contracted capacity, to another user with immediate need, on the guarantee that the released contracted capacity can be recovered on, say, two years notice. Clearly, the new user would then be required to make any capital contribution necessary to facilitate the associated network augmentation. The effect of this arrangement would be to ensure economically efficient investment by appropriately delaying the required network augmentation, while not diminishing the user's future development options.
17. The 'bare transfer' arrangement contemplated in the Code, and established in the network operator's current Electricity Transfer Access Contract ("**ETAC**"), is the ideal mechanism for facilitating that economically efficient investment.

REFERENCE TARIFFS AND PRICE CONTROL

18. Verve Energy recognises that significant expenditure is required to ensure network capability and reliability following an extended period of expenditure restraint.

19. However, the tariff increases resulting from the proposed expenditure, and from the proposed change to the treatment of capital contributions, are very substantial and clearly amount to a price shock for the purposes of the ENAC.
20. Western Power's intention to defer to the third access arrangement recovery of some revenue is noted. ERA is asked to scrutinise the proposed expenditure carefully, satisfy itself that all assumptions underlying the increases are Code-compliant, and contemplate whether the proposed revenue recovery deferral adequately ameliorates the price shock.
21. In relation to the proposed capital expenditure, it is vital that the new facilities investment test is rigorously applied and that the ERA satisfies itself that the actual and proposed expenditure has been/is prudent and can be incorporated in the capital base as proposed by Western Power. Verve Energy supports the approach to this aspect proposed by ERA in the Issues Paper (clause 72).
22. The proposed real pre-tax weighted average cost of capital ("**WACC**") of 8.95% may now be excessive given the recent change in the state of the global economy. ERA is asked to review the basis for the proposed WACC in the context of those changed circumstances.
23. The proposed increase in the price control side constraint from +/- cpi + 5 percent to cpi +37.2 percent for the transmission network and cpi + 30 percent for the distribution network is substantial. The fact that significantly increased expenditure is proposed in this reset does not of itself warrant that there should be a significantly wider margin to deal with over and under recovery. ERA is asked to carefully consider the basis for such a substantial change.
24. ERA is requested to ensure that target revenue adjustment mechanisms proposed by Western Power comply with the ENAC.
25. ERA is requested to ensure that treatment of non-capital contributions complies with the ENAC.

The proposal to expend significantly more operating and capital expenditure on the SWIN comes at a time when end users will be exposed to substantially higher costs emanating from retail tariff increases aimed at achieving generation cost reflectivity and the impending Carbon Pollution Reduction Scheme implementation. While the need to upgrade and expand the network is recognised, it is paramount that expenditure to achieve the desired capacity and reliability is optimised. ERA has a vital role in pursuing that objective.

Thank you again for the opportunity to comment on Western Power's proposed revisions to the Access Arrangement. I am happy to discuss any aspect of Verve Energy's submission and can be contacted on the above numbers or by email andrew.everett@verveenergy.com.au

Yours sincerely

ANDREW EVERETT
MANAGER STRATEGY & REGULATION