

Our Ref: D/2009/00236

8 January 2009

Mr Doug Aberle
Chief Executive Officer
Electricity Networks Corporation trading as Western Power
GPO Box L921
PERTH WA 6842

Dear Mr Aberle

**SECTION 32 - ELECTRICITY INDUSTRY ACT 2004
NOTICE OF FAILURE TO COMPLY WITH LICENCE**

Reference is made to the following documents submitted to the Economic Regulation Authority ("the Authority") on 10 and 11 November 2008:

- report titled Asia Asset Management System ERA Assessment Report by Lloyd's Register Asia ("the Asset Management Report");
- report titled Western Power Transmission Licence Performance Audit Report by Ernst and Young ("the Transmission Audit"); and
- report titled Western Power Distribution Licence Performance Audit Report by Ernst and Young ("the Distribution Audit") (together "the Reports"),

Based on its assessment of the Reports, the Authority has formed the opinion that the Electricity Networks Corporation ("the Corporation") has contravened Transmission Licence (ETL2) and Distribution Licence (EDL1).

In accordance with section 32(1) of the Electricity Industry Act 2004, the Authority hereby serves the attached Notice on the Corporation. The Notice requires the Corporation to rectify the contraventions set out in the Notice ("the Contraventions") by no later than 31 October 2009.

In the Authority's opinion, implementing the actions identified in the post audit implementation plan in the Asset Management Report would rectify the Contraventions. The Corporation may of course choose alternative ways of rectifying the Contraventions. If the Corporation does choose alternative methods of rectifying the Contraventions, then the Authority is to be notified.

Yours sincerely

LYNDON ROWE
CHAIRMAN

cc Minister for Energy
Treasurer

Section 32
Electricity Industry Act 2004
NOTICE

TO: Electricity Networks Corporation, trading as Western Power
363 Wellington Street
PERTH WA 6000

TAKE NOTICE that pursuant to section 32(1) of the *Electricity Industry Act 2004* ("the Act), that by no later than 31 October 2009, you are hereby required to rectify the contraventions of Transmission Licence Number (ETL2) and Distribution Licence Number (EDL1) set out in the Schedule attached to this Notice and marked with the letter "A".

You are hereby notified that if you do not comply with this Notice, then in accordance with section 32(2) of the *Electricity Industry Act 2004* the Economic Regulation Authority ("the Authority") may take one or more of the following actions:

- a. serve the Electricity Networks Corporation with a letter of reprimand;
- b. subject to section 33 of the Act, order the Electricity Networks Corporation to pay a monetary penalty fixed by the Authority but not exceeding \$100,000; and/or
- c. subject to section 33 of the Act, cause any or all of the contraventions to be rectified to the satisfaction of the Authority at the expense of the Electricity Networks Corporation.

The Common Seal of the Economic Regulation Authority was hereto duly affixed by the Chairman of the Economic Regulation Authority on 8 January 2009:

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In the presence of:

Member: _____

Member: _____

Attachment: Schedule of Contraventions

"A"

Schedule of Contraventions

1. Contravention of clause 4 of Transmission Licence Number (ETL2)

Clause 4 of Transmission Licence Number (ETL2) states:

"The licensee must pay the applicable fees in accordance with the Regulations."

In the Economic Regulation Authority's opinion, the Electricity Networks Corporation has contravened clause 4 of Transmission Licence Number (ETL2) as follows:

- 1.1 Clause 4 of Transmission Licence Number (ETL2) requires Electricity Networks Corporation to pay the applicable fees in accordance with the Regulations. The transmission audit discloses that the license fee was not paid within the required timeframe in 2007 (page 11).

2. Contravention of clause 5.1 of Transmission Licence Number (ETL2)

Clause 5.1 of Transmission Licence Number (ETL2) states:

"Subject to any modifications or exemptions granted pursuant to the Act, the licensee must comply with any applicable legislation including, but not limited to, the Electricity Industry Customer Transfer Code 2004, Electricity Industry Metering Code 2005, Electricity Industry (Network Quality and Reliability of Supply) Code 2005 and the Code of Conduct for the Supply of Electricity to Small Use Customers 2004."

In the Economic Regulation Authority's opinion, the Electricity Networks Corporation has contravened clause 5.1 of Transmission Licence Number (ETL2) as follows:

- 2.1 Clause 4.1 of the *Electricity Industry Metering Code 2005 (Metering Code)* requires a network operator to prepare and, if necessary, implement a disaster recovery plan regarding the metering database and energy data. The transmission audit discloses that the Electricity Networks Corporation's disaster recovery plan does not comply with the requirements of the Metering Code (page 14).
- 2.2 Section 5.21 of the Metering Code requires a network operator to conduct a test of audit of the accuracy of one or more of the metering installation, energy data from the metering installation and standing data from the metering installation. The transmission audit discloses that the Electricity Networks Corporation does not comply with this obligation (page 14).

- 2.3 Clause 3.16(3) of the Metering Code provides that if a device is used as a data logger, the energy data for a metering point on the network must be collated in trading intervals within the metering installation unless it has been agreed between the network operator and the code participant that energy data may be recorded in sub-multiples of a trading interval. The transmission audit discloses that the Electricity Networks Corporation records energy usage in 15 minute intervals rather than the 30 minutes trading interval as required by the Metering Code and no agreement exists between the Electricity Networks Corporation and a code participant which would displace this obligation (page 13).
- 2.4 Clause 27 of the Quality Code requires the Electricity Networks Corporation to prepare a report setting out prescribed information as set out in the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005 (Quality Code)*. A copy of the report must be provided to the Minister and the Authority not less than seven days before it is published. The transmission audit discloses that the 2006 report was not submitted within the timeframe (page 13).

3. **Contravention of clause 16 of Transmission Licence Number (ETL2)**

Clause 16.1 of Transmission Licence Number (ETL2) states:

"The licensee must provide for, and notify the Authority of, an asset management system in relation to the transmission system within 2 business days from the commencement date or from the completion of construction of the transmission system, whichever is later."

In the Economic Regulation Authority's opinion, the Electricity Networks Corporation has contravened clause 16.1 of Transmission Licence Number (ETL2) as follows:

- 3.1 The asset management system is defined in the Transmission Licence as "the measures that are to be taken by the licensee for the *proper* maintenance, expansion or reduction of the transmission system" (our emphasis). The asset management report discloses a number of deficiencies with the Electricity Networks Corporation's asset management system for its transmission system. In the Authority's opinion, some of the deficiencies disclosed in the asset management report are such that the Authority does not consider that the Electricity Networks Corporation's asset management system puts in place measures for the proper maintenance of the transmission system. In particular:

3.1.1 The "Corporate Risk Database" does not contain all risks rated "Extreme" but only the top ten risks for each branch (page 62 – finding 1 and page 73 – finding 25); and

3.1.2 there is a lack of understanding of key processes in the Electricity Networks Corporation with respect to operational and

capital expenditure works programmes (page 4 and pages 69 – 70 – finding 19).

4. Contravention of clause 22 of Transmission Licence Number (ETL2)

Clause 22.1 of Transmission Licence Number (ETL2) states:

"The licensee must have an approved trouble call fault management plan."

In the Economic Regulation Authority's opinion, the Electricity Networks Corporation has contravened clause 22 of Transmission Licence Number (ETL2) as follows:

- 4.1 Clause 22 of Transmission Licence Number (ETL2) requires the Electricity Networks Corporation to have an approved trouble call fault management plan. The transmission audit discloses that the Electricity Networks Corporation's trouble call fault management plan only relates to electricity distribution and not electricity transmission (page 19).

5. Contravention of clause 4 of Distribution Licence Number (EDL1)

Clause 4 of Distribution Licence Number (EDL1) states:

"The licensee must pay the applicable fees in accordance with the Regulations."

In the Economic Regulation Authority's opinion, the Electricity Networks Corporation has contravened clause 4 of Transmission Licence Number (EDL1) as follows:

- 5.1 Clause 4 of Distribution Licence Number (EDL1) requires the Electricity Networks Corporation to pay the applicable fees in accordance with the Regulations. The distribution audit discloses that the license fee was not paid within the required timeframe in 2007 (page 11).

6. Contravention of clause 5.1 of Distribution Licence Number (EDL1)

Clause 5.1 of Distribution Licence Number (EDL1) states:

"Subject to any modifications or exemptions granted pursuant to the Act, the licensee must comply with any applicable legislation including, but not limited to, the Electricity Industry Customer Transfer Code 2004, Electricity Industry Metering Code 2005, Electricity Industry (Network Quality and Reliability of Supply) Code 2005 and the Code of Conduct for the Supply of Electricity to Small Use Customers 2004."

In the Economic Regulation Authority's opinion, the Electricity Networks Corporation has contravened clause 5.1 of Distribution Licence Number (EDL1) as follows:

- 6.1 Regulation 4 of the *Electricity Industry (Obligation to Connect) Regulations 2005* requires connections to be made within a prescribed time period (20 business days). The distribution audit discloses that the Electricity Networks Corporation has not met this timeframe on every required occasion (page 17).
- 6.2 Clause 4.1 of the Metering Code requires a network operator to prepare and, if necessary, implement a disaster recovery plan regarding the metering database and energy data. The distribution audit discloses that the Electricity Networks Corporation's disaster recovery plan does not comply with the requirements of the Metering Code (page 13).
- 6.3 Section 5.21 of the Metering Code requires a network operator to conduct a test of audit of the accuracy of one or more of the metering installation, energy data from the metering installation and standing data from the metering installation. The distribution audit discloses that the Electricity Networks Corporation does not comply with this obligation (page 14).
- 6.4 Clause 21 of the Quality Code requires the Electricity Networks Corporation to provide annual written notice of a customer's eligibility for payments for supply interruptions and failure to provide notice of planned interruptions. The distribution audit discloses that the Electricity Networks Corporation does not comply with this obligation (page 15).
- 6.5 Clause 3.16(3) of the Metering Code provides that if a device is used as a data logger, the energy data for a metering point on the network must be collated in trading intervals within the metering installation unless it has been agreed between the network operator and the code participant that energy data may be recorded in sub-multiples of a trading interval. The distribution audit discloses that the Electricity Networks Corporation records energy usage in 15 minute intervals rather than the 30 minutes trading interval as required by the Metering Code and no agreement exists between the Electricity Networks Corporation and a code participant which would displace this obligation (page 19).
- 6.7 Clause 27 of the Quality Code requires the Electricity Networks Corporation to prepare a report setting out prescribed information as set out in the Quality Code. A copy of the report must be provided to the Minister and the Authority not less than seven days before it is published. The distribution audit discloses that the 2006 report was not submitted within the timeframe (page 16).

7. Contravention of clause 19 of Distribution Licence Number (EDL1)

Clause 19.1 of Distribution Licence Number (EDL1) states:

"The licensee must provide for, and notify the Authority of, an asset management system in relation to the distribution system within 2 business days from the commencement date or from the completion of construction of the distribution system, whichever is later."

In the Economic Regulation Authority's opinion, the Electricity Networks Corporation has contravened clause 19.1 of Distribution Licence Number (EDL1) as follows:

- 7.1 The asset management system is defined in the Distribution Licence as “the measures that are to be taken by the licensee for the *proper* maintenance, expansion or reduction of the distribution system”. The asset management report discloses a number of deficiencies with the Electricity Networks Corporation's asset management system for its distribution system. In the Authority's opinion, some of the deficiencies disclosed in the asset management report are such that the Authority does not consider that the Electricity Networks Corporation's asset management system puts in places measures for the proper maintenance of the distribution system. In particular:
 - 7.1.1 There is a backlog of 73,000 poles which have not been inspected in the last 5 years (page 51 and page 72 – finding 24);
 - 7.1.2 There is a backlog of 3,500 condemned poles on the network (page 52 and page 72 – finding 24);
 - 7.1.3 The “Corporate Risk Database” does not contain all risks rated “Extreme” but only the top ten risks for each branch (page 62 and page 73 – finding 25);
 - 7.1.4 The condition of distribution assets is not well documented leading to reactive or imprecise systems for maintenance (page 53 and page 72 – finding 22);
 - 7.1.5 There is a lack of understanding of key processes in Electricity Networks Corporation with respect to operational and capital expenditure works programmes (page 4 and pages 69 – 70 – finding 19); and
 - 7.1.6 The extension of asset lives and moving of expected replacement date into the future where accurate condition information is not available, meaning that those assets are likely to fail before the extended end of life is reached (page 4, pages 40 – 41 and page 71 – finding 21).