

Doug Aberle Managing Director

24 December 2009

Mr Lyndon Rowe
Chairman
Economic Regulation Authority
Level 6, 197 St Georges Terrace
Perth WA 6000

Dear Lyndon

SUBMISSION OF AMENDED PROPOSED ACCESS ARRANGEMENT REVISIONS

I am pleased to provide to you Western Power's:

- Amended Proposed Access Arrangement Revisions; and
- Revised Access Arrangement Information,

for the regulatory period ending 30 June 2012, in response to the Authority's Final Decision published on 4 December 2009.

The following documents are attached:

1. A printed copy of the submission documents; and
2. An electronic (pdf) version of the submission documents for your publication.

These amended revisions address all the required amendments in the Final Decision and enable the Authority to approve the amended proposed revisions.

That said, I have been asked by the Board to convey to you that Western Power's response should not be interpreted as concurrence or agreement with the Authority's Final Decision in relation to the very substantial write-down of the value of capital expenditure during the first regulatory period. The Board's decision to submit a compliant revision in this respect was not taken lightly but was made only because of the commercial imperatives confronting Western Power and in the overall best interests of the business, customers and the owner at this time. The Board believes that the process used by the ERA in arriving at its decision is flawed and it should be clearly understood that Western Power's acceptance, in the circumstances it faces at this point, should not be construed as any kind of acceptance of that process or precedent for the future.

In elaboration of Western Power's concerns, Western Power lodged very soundly-based technical and regulatory expert opinions on the level of the asset value write-down proposed in the Draft Decision. It is our view that the matters put to the Authority by Western Power and in those expert opinions have not been considered properly by the Authority in the formulation of the Final Decision. In this regard, I note that Western Power's primary concerns with the decision are as follows:

- The required write-down (which is more than 10% of capital expenditure undertaken over the first access arrangement period) is based largely on the Authority's qualitative judgment, which Western Power considers is not substantiated by the available information. For instance, a

number of SKM's observations and conclusions have been incorrectly applied by the Authority "across the board", despite SKM stating explicitly that its findings were clearly confined to a particular group of projects.

- In reaching its judgment, the Authority has, in a number of matters, incorrectly applied a standard of "best practice" rather than "good industry practice". Both expert opinions lodged by Western Power in response to the Draft Decision noted that the application of such a high standard is inappropriate, unreasonable and inconsistent with regulatory practice elsewhere.

The proposed write-down will have a significant permanent detrimental financial impact. In view of the magnitude of the capital loss faced by Western Power, the Board has carefully considered the options that are available to it to seek redress. The Board has decided not to pursue an appeal of the Final Decision, given that the finalisation of the access arrangement would be delayed further, and taking into account the (already) six month delay in commencement of the access arrangement revisions. However, I note that Western Power remains very concerned about the permanent negative implications for investment incentives that have now arisen as a result of the Authority's application of the new facilities investment test and the imposition of a very substantial asset value write-down.

The company is strongly of the view that the capital loss it will sustain as a result of the Final Decision is not consistent with providing effective incentives for efficient investment in infrastructure in the future; nor is it consistent with providing an environment that will foster a financially sustainable business over the longer term. Western Power will therefore be exploring further avenues – including possible Code changes, and the application of an optimised replacement cost asset revaluation at the next review – to mitigate the company's exposure to stranded asset risk.

Lyndon, we look forward to receiving the Authority's final approval of the proposed Access Arrangement amendments in early 2010.

Yours sincerely

DOUG ABERLE
MANAGING DIRECTOR