

Access Arrangement Information

Applications and Queuing Policy Demonstration of Code Compliance

**ELECTRICITY NETWORKS CORPORATION
("WESTERN POWER")**

ABN 18 540 492 861

{Outline: This document is included in Western Power's access arrangement information in accordance with section 4.2 of the Code.}

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1 Introduction

The Applications and Queuing Policy (AQP) describes the process an applicant undertakes from initial discussion with Western Power before submitting an application through to the signing of an access offer to form or modify an access contract.

An applicant is a person who seeks to obtain or modify a covered service. A covered service is a service involving the transportation of electricity, or a service ancillary to the transport of electricity (including the performance of works to build assets that will transport electricity).

This document explains how Western Power formed the AQP in its proposed access arrangement, and how that policy complies with the Code in accordance with section 4.2 of the Code. It also explains in detail each of the principal modifications that Western Power has made to the model policy in Appendix 2 of the Code. This document should be read in conjunction with access arrangement information on the Capital Contributions Policy (CCP) and the ETAC, to which this policy strongly relates.

Sections 5.7 to 5.10 of the Code describe the requirements of an AQP.

In developing this policy, Western Power has sought to create an equitable, transparent and efficient process that deals effectively with applicants and existing users whilst avoiding unfairly disadvantaging future applicants. Consequently, Western Power believes that the proposed policy meets the Code objective and complies with the specific Code criteria.

1.1 Types of application

The AQP has two types of application – an electricity transfer application, which relates to the transfer of electricity at a connection point, and a connection application, which relates to any application that has the potential to require works.

This division recognises that customers and developers frequently submit an application for a new connection point, which proceeds to an offer relating to an augmentation and a contribution, whilst a retailer later separately submits an application to commence transferring electricity under their access contract.

A person who is going to manage their own access charges and technical issues of connection, such as a generator, would submit both an electricity transfer and a connection application at the same time. Most customers would submit only a connection application, whilst their retailer would submit an associated electricity transfer application.

Western Power has developed this approach due to concerns that the definitions of the terms “applicant”, “access application”, “user” and “access contract” in the Access Code, and their use in the model policy and the CCP, appear to restrict the application of these policies only to transactions made by those who have or wish to have the right to transfer electricity. This would effectively exclude the bulk of network augmentation and capital contributions

performed or received by Western Power from the Access Code, as these transactions are made directly with customers rather than retailers.

Western Power considers that an application for a new connection (or similar, for example, a capacity increase at an existing connection) is an access application for covered services, and any resulting works contract is an access contract. Therefore, end use customers and developers are access applicants when they approach Western Power for the provision of covered services to arrange for a new connection.

Even once the term “applicant” is taken to include customers, the model policy clearly refers throughout the document to a single person applying for a network augmentation, paying the capital contribution and receiving an access offer resulting in an access contract. This is not the case with the majority of customers, and results in the model policy not applying, or being impossible to apply in a meaningful sense, to the majority of customers.

For these reasons, the AQP that Western Power has presented in its AA is somewhat differently structured to the model policy in the Code.

1.2 Content of the AQP

The AQP is presented in three sections. The first is a common section, which contains the following elements.

- Introductory provisions
- Making the application
- Terms of the access offer
- Forming an access contract
- Confidentiality

The second section relates only to electricity transfer applications. It contains the following provisions:

- Costs and timing for processing the application
- Eligibility criteria for selecting a reference service
- Rules for particular applications
- Contestability determinations
- NMI allocations (determining the physical make-up of a connection point)

The third section relates only to connection applications. It contains the following provisions.

- Rules for particular applications
- Lead times for applications

- Informal discussions prior to submitting an application
- Western Power's reporting to the applicant during the processing
- Costs
- Amendment and withdrawal of an application
- Application of the Capital Contributions Policy
- The queuing rules
- Specific provisions regarding the access offer

2 Code compliance

2.1 Accommodating the interests of applicants, users and Western Power

Section 5.7(a) of the Code requires that an AQP, to the extent reasonable practicable, accommodates the interests of the service provider and of users and applicants.

Accommodating the interests of existing users means ensuring that applicants do not impact the user's cost or availability of network access.

The criterion of not impacting on a user's cost is met by requiring the applicant to pay for all of its own costs associated with gaining access, so that the bulk of network users do not subsidise the applicant. This is done under clauses 7 and 20 of the AQP, as well as by correctly applying the CCP. The criterion of not impacting on a user's availability of network access is met by requiring Western Power to treat network capacity that is used by existing users as unavailable for new applicants, which is done under clause 23.15 of the AQP.

Accommodating the interests of applicants means ensuring that:

- Applications are processed as quickly as possible, and for the least cost
- Competing applicants are dealt with fairly, such that network capacity is made available for the applicant's use at a reasonable cost

The AQP is designed to make the application process as efficient as practicable by laying out a staged, mechanical process that assigns different (but appropriate) cost levels of application information requirements and processing methods for each type of application.

The queuing rules under clause 23 of the AQP ensure that competing applicants are dealt with in a fair and consistent manner by applying the first come, first served principle. However, to ensure fairness, appropriately specified deviations from this principle are included.

Given that, under the queuing rules, capacity on the network is effectively reserved for an applicant for as long as the applicant's application is current and, thus, unavailable for subsequent applicants in the queue, the timely processing of applications is important, not just

for the interests of the applicant being processed, by also for subsequent applicants. Therefore, it is important that the application process under the AQP balances the interests of an applicant with regards to providing the applicant flexibility to modify or suspend, or otherwise negotiate with Western Power concerning, its application, with the interests of subsequent applicants who will be delayed during this time.

Accommodating the interests of Western Power is achieved by ensuring that new applicants do not adversely affect Western Power's ability to comply with the Technical Rules and other legislative instruments. This is achieved by requiring, under Part B of the AQP, the submission of connection applications in situations where the technical integrity of the network might be at risk. Such applications will provide Western Power with the opportunity to satisfy itself that the technical integrity of the network can be maintained.

Also, various provisions in Part B of the AQP link Western Power's and the applicant's obligations under the Metering Code and Customer Transfer Code to allow seamless operation of such matters for all parties.

Therefore, the AQP complies with section 5.7(a) of the Code. A discussion on variations to particular provisions within the model policy with reference to the balance of the interests of competing applicants, existing users and Western Power is given below.

2.2 Be sufficiently detailed

Section 5.7(b) of the Code requires that an AQP be sufficiently detailed to enable users and applicants to understand in advance how the AQP will operate.

The AQP has been separated into three sections and sets out clear rules, costs, timeframes and processes for the most common transactions undertaken by applicants (including retailers, generators, customers and developers). The AQP is now considerably more detailed and clear than the model policy.

Therefore, the AQP complies with section 5.7(b) of the Code.

2.3 Set out a reasonable timeline

Section 5.7(c) of the Code requires that an AQP set out a reasonable timeline of the commencement, progressing and finalisation of access contract negotiations between the service provider and an applicant, and oblige the service provider and applicant to use reasonable endeavours to adhere to the timeline.

Table 1 shows the timelines for processing an application under the AQP. Clauses 3.13, 7, 15.2, 17, 18.2(a) oblige Western Power and the applicant to adhere to the timeframes stipulated in the AQP.

| ELECTRICITY TRANSFER APPLICATIONS | | | | |
|--|--|--|---|---|
| Customer transfer request (not more than 20 per day) | | | | |
| Action | Electronically acknowledge receipt, and, if applicable, exit point acceptability | Notify if unlikely to meet nominated transfer date | If applicable, perform contestability assessment | Effect transfer by nominated transfer date, as modified by previous columns |
| X ¹ | 1 | 2 | 5 | 3 to 50 |
| New connection point – existing user | | | | |
| Action | Acknowledge receipt | If applicable, assess security | Provide access offer | |
| X ¹ | 5 | 30 | Later of 10, or 5 after offer for connection application signed | |
| New connection point – new user | | | | |
| Action | Acknowledge receipt | Perform security assessment | Provide access offer | |
| X ¹ | 5 | 30 | Later of 10, or 5 after offer for connection application signed | |
| New reference service, capacity increase, re-energisation or reconfiguration – existing connection point | | | | |
| Action | Acknowledge receipt and notify whether connection application is required | | Provide access offer | |
| X ¹ | 5 | | Later of 10, or 5 after offer for connection application signed | |
| CONNECTION APPLICATIONS | | | | |
| Action | Provide initial response and prelim assessment | Consider response to bypass notification | Consider response to dormant notification | Provide access offer |
| X ¹ | 20 | 20 | 30 | As soon as practicable |
| APPLICANT'S TIMEFRAMES | | | | |
| Action | Provide requested information | Application becomes dormant | Accept offer | Satisfy conditions precedent |
| X ¹ | 20 | 12 months | 30 | 8 months, then if no competing applicant, a further 6 months |

Table 1: AQP Timelines

¹ - X represents number of business days within which the action is to be performed

Therefore, the AQP complies with section 5.7(c) of the Code.

2.4 Provide information to the applicant

Section 5.7(d) of the Code requires that an AQP obliges 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 of an access contract for a covered service, including:

- (a) information in respect of the availability of covered services on the covered network;
and
- (b) if an augmentation will be required to provide the covered services sought:
 - (i) operational and technical details of the required augmentation; and
 - (ii) commercial information regarding the likely cost of the required augmentation.

Clause 19 of the AQP requires Western Power to provide to the applicant an initial response (including a preliminary assessment) and progress reports of the likely costs and timing of both processing the applicant's application and of any works likely to result from the application.

In addition to the provisions in the model policy, clause 19 also refers to information about the likely operational and technical details of any works likely to result from the application.

Clause 18 of the AQP allows the applicant to approach Western Power before submitting an application and to request information to assist it in preparing an application.

Clause 22 of the AQP requires Western Power to apply the CCP to an application where works are required (under which the applicant may negotiate commercial terms of the works), and clause 24 requires Western Power to include in the access offer to the applicant any terms that result from the application of the CCP.

Therefore, the AQP complies with section 5.7(d) of the Code.

2.5 Set out procedure for determining priority

Section 5.7(e) of the Code requires that an AQP set out the procedure for determining the priority that an applicant has to obtain access to covered services, as against another applicant, where the applicants' access applications are competing applications.

Clause 23 of the AQP contains the queuing rules, which state that an applicant's priority is determined on a first come, first served basis, except where, in accordance with section 5.9 of the Code, a departure from this principle is necessary to satisfy the Code objective.

Therefore, the AQP complies with section 5.7(e) of the Code.

2.6 Deal with customer transfer requests

Section 5.7(f) of the Code requires that an AQP, 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 to another user or an applicant which, to the extent that it is applicable, are consistent with and facilitate the operation of any customer transfer code.

Clause 9.1 of the AQP refers to the Customer Transfer Code (which was gazetted after the Access Code). This clause requires customer transfers to be dealt with under the Customer Transfer Code and not under the AQP, and clarifies some matters related to customer transfers being a “bare transfer” of sorts that are not adequately covered in the Customer Transfer Code.

Therefore, the AQP complies with section 5.7(f) of the Code.

2.7 Enable supplier of last resort and default supplier provisions

Section 5.7(g) of the Code requires that an AQP establish arrangements to enable a user who is a ‘supplier of last resort’ or a ‘default supplier’ under the Act to comply with its obligations under the Act.

Clause 23 of the AQP allows an application to be bypassed by a competing application to the extent enable supplier of last resort or a default supplier to comply with its obligations under the Act.

Clause 11 of the AQP sets out the procedure by which a connection point that has been de-energised can be re-energised, which facilitates one of the most likely actions that a default supplier or supplier of last resort would be required to undertake to comply with its obligations.

Therefore, the AQP complies with section 5.7(g) of the Code.

2.8 Facilitate the wholesale market

Section 5.7(h) of the Code requires that an AQP facilitate the operation of the wholesale market under Part 9 of the Act.

Clause 3.3 of the AQP requires all applicants seeking a right to transfer electricity (that is, an exit or entry service) to demonstrate that they are market participants or that they intend to become market participants (for example, by lodging an application to the Independent Market Operator). This is to ensure that the market may be settled accurately.

The market rules developed under Part 9 of the Act require an “all or nothing” approach to enable the market to be settled accurately. Therefore, the AQP ensures that all persons transferring electricity are, or are associated with, market participants.

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 Part 9 of the Market Rules provides that the wholesale market will operate on a formula that does not contemplate non-market participants. The transfer of electricity on the network by a non-market participant will therefore affect the settlement of the Notional Wholesale Meter. Under 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.

It is therefore 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 at the time the electricity transfer takes place.

Therefore, the AQP complies with section 5.7(h) of the Code.

2.9 Enable transition from prior access arrangement

Section 5.7(i) of the Code requires that an AQP, if applicable, contain provisions setting out how access applications lodged before the start of the relevant access arrangement period are to be dealt with.

Clause 2.3 of the AQP sets out the procedure for the transition of applications made prior to the start of the relevant access arrangement period. Under this clause, the queue is continuous, so that existing applicants are not adversely affected by the introduction of the AQP.

Therefore, the AQP complies with section 5.7(i) of the Code.

3 Departures from the Model - General

3.1 Introduction

This section describes ways in which the AQP differs from the model policy given in schedule 2 of the Code, and how such differences are intended to further the Code objective, and the interests of users, applicants (including competing applicants) and Western Power in accordance with section 5.7(a) of the Code.

3.2 Structure of the AQP and classes of application

As described above, the structure of the AQP has been modified from the model policy to better reflect current industry practice. Replacing the class 1, 2 and 3 applications with specific transactions, such as a new connection point, capacity increase, re-energisation, connection application and so on allows Western Power and applicants to better understand the operation of the AQP, and thus furthers each party's interests.

The electricity transfer application is effectively similar to the class 1 and 2 applications in the model policy, whilst a connection application is similar to a class 3 application. The queuing rules, the CCP, the payment of actual costs for processing, the preliminary assessment and so on (contained in the AQP) apply only to connection applications. Fixed lodgement fees and processing timeframes apply to electricity transfer applications, with the timeframes being equivalent to those in the model policy. By providing separate sections in the AQP for the

different categories of application, the associated rules, costs, timing and so on can be set at levels appropriate to the particular transaction.

3.3 Requirement to act in good faith

Clause 3.1 of the AQP extends the model provision requiring the service provider and applicant to act in good faith with respect to an application. A particular applicant who does not act in good faith with respect to its application is likely to have a detrimental effect on other applicants because it would prevent Western Power from processing other applications. Thus, this change is for the benefit of both applicants and Western Power.

The requirement for Western Power to negotiate in good faith regarding the terms of the access contract has been reproduced in clause 4.3 – if applicant requests non-reference service.

3.4 Applications forms

Clause 3.2 of the AQP requires the applicant to make an application on the appropriate application form provided on Western Power's website or, where permitted under the AQP, by notice to Western Power. Such forms may not require more information from the applicant than specified in clauses 3.5 – 3.7 of the AQP. The model policy assumed Western Power would submit a single application form in its AA.

This approach allows Western Power to ensure that applicants are required to provide only the information that is relevant to the type of application that the applicant is making. Allowing certain applications regarding existing connection points (such as a capacity increase or a change of reference service) to be made by notice to Western Power (usually electronically) will also reduce the administrative burden on the applicant and will enhance the efficiency of the application process for all parties.

Clause 3.7(f) of the AQP adds an additional requirement to that in the model policy with respect to connection applications. Under clause 3.7(f), an applicant to a connection application must consider what, if any, exemptions from the Technical Rules the applicant might request. This is a prompt to the applicant to consider their obligations under the Technical Rules before submitting an application. Western Power's experience is that this results in the best outcome for the applicant, who is then in a more informed position to ensure that the applicant's equipment suppliers are also aware of their obligations. In addition, discussions regarding exemptions from the Technical Rules can take considerable time to resolve and, thus, should be commenced as soon as possible to avoid extending the time it takes to make an access offer – which would detrimentally impact other applicants in the queue.

Nothing in clause 3.7(f) prevents the applicant from amending its application under the AQP, or after the services have commenced, to include further requests for exemptions. However, whilst an applicant may, under the Technical Rules, apply for an exemption at any time, if the

applicant waits until after its project has been complete and is connected to the network, then the applicant is at risk that such an exemption may not be approved. This could result in significant costs to the applicant, or even the total curtailment of services to the applicant. Such an outcome is not in the applicant's or Western Power's interests and, if the applicant is a generator, it may affect the IMO's ability to source sufficient generation for the network.

Several other minor changes have been made to the information required on the application forms to enable Western Power to be flexible to meet the different needs in different types of applications. The changes include:

- The section on the requested reference service has been modified to accommodate non-standard requests
- The section on requested capacity has been changed to recognise that generators can be installed at exit points and that entry points are likely to also require an exit service
- Forecast consumption has been specified as a requirement, which will allow, for example, contestability to be determined. This requirement also provides Western Power with information to enable it to confirm the appropriateness of a particular requested reference service
- The reference to the provision of an "in kind" contribution has been removed, as this is not offered in Western Power's CCP
- A controller is required for every connection point, in accordance with the Metering Code.

3.5 Where applicant rejects an access offer and proposes amendments

Clause 5.3 of the AQP deals with the situation where an applicant rejects an access offer made by Western Power and proposes amendments to the offer. In such circumstances the amended offer is to be prioritised, addressed in accordance with the provisions of the AQP and then be made the subject of a further access offer as soon as practicable.

3.6 Requested capacity must match actual requirements

Clause 3.8 of the AQP requires that the applicant apply for only that capacity that the applicant reasonably needs, so as not to tie up existing capacity unnecessarily and avoid over investment in the network. This is intended to ensure the efficient use of, and investment in, the network in accordance with the Code objective. It will also ensure that an applicant does not hold a covered service that it does not need and unnecessarily impede the ability of Western Power to provide that covered service, if sought, to another applicant.

3.7 Errors or omissions in an application

Clause 3.11 of the AQP requires any applicant who becomes aware of errors or omissions in the application to amend the application within 20 business days. If such an amendment is

not made within the timeframe, the application will be deemed to have been withdrawn. This is consistent with a more general statement in the model policy to make the amendment “as soon as practicable”, but the additional specificity (to that outlined in the model policy) serves as a safeguard to enable other applicants not to be unreasonably or unnecessarily held up, or otherwise inconvenienced, by an applicant. Thus, the interests of applicants in general are furthered.

3.8 One connection point per contract

By clause 3.9 of the AQP, each connection point must be included in one and only one electricity transfer access contract.

There has been some confusion regarding what constitutes a connection point. The AQP defines the relevant terms as follows:

“attachment point” means a point on the *network* at which *network assets* are *connected* to assets owned by another person.

“connection point” means an *exit point* or an *entry point* identified or to be identified as such in an *electricity transfer access contract*.

“entry point” means a single, indivisible (except as allowed under this *applications and queuing policy*) point, that for purposes under the *access arrangement* involving the transfer of electricity, is deemed to consist of a single *attachment point, connected* or to be *connected* to a *user’s connection point*, with a single *meter* (regardless of the actual configuration of *network assets* making up the *entry point*), at which electricity is more likely to be transferred into the *network* than out of the *network*.

“exit point” means a single, indivisible (except as allowed under this *applications and queuing policy*) point, that for purposes under the *access arrangement* involving the transfer of electricity, is deemed to consist of a single *attachment point, connected* or to be *connected* to a *user’s connection point*, with a single *meter* (regardless of the actual configuration of *network assets* making up the *entry point*), at which electricity is more likely to be transferred out of the *network* than into the *network*.

The Access Code, Metering Code and Customer Transfer Code use the terms connection point, exit point and entry point for two purposes. Firstly, those terms are used to define a transaction involving the transfer of electricity between parties to a standard access contract. Secondly, those terms are used to describe a physical point of attachment to the network. The Codes appear to assume that there is one physical point of attachment applicable to each user. In reality, there are various connection configurations (for example, a shopping centre or a high rise building with multiple tenants).

The redefined terms clarify that the connection point is the notional end point on the network. Thus, for example, in the case of a shopping centre, where individual shops might be with

different retailers, each individual shop is a separate connection point individually listed on an electricity transfer access contract. These connection points share a common attachment point at the point where the shopping centre sub-network connects to the main network.

If it is energised, a connection point must be on an electricity transfer access contract to ensure that Western Power receives appropriate revenue from the provision of an exit or entry service.

3.9 Terms for the access offer

The AQP is not materially different to the model policy with respect to the requirements relating to terms of an access offer but, in line with the restructure of the policy, it sets out the requirements somewhat differently. Central to this issue is that a connection application is always an application for a non-reference service and, therefore, the terms of the resulting access offer are to be negotiated in good faith between the applicant and Western Power, as with any other application for a non-reference service.

Where the applicant has requested a reference service, the applicant will receive the standard contract for the reference service (by definition of a reference service).

Clause 4.4 of the AQP replaces clause A2.103(c)(iii) of the model policy by requiring Western Power to offer a services start date and services end date as close as reasonably practicable to that requested by the applicant. This furthers the applicant's interest by ensuring they are able to manage the timing of their connection to the network.

3.10 Conditions precedent

Clauses 4.5 to 4.8 of the AQP deal with the time provided to satisfy any conditions precedent within an access contract resulting from an application.

In this respect, the model policy created the possibility of Western Power facing significant contingent obligations to prospective users with regard to provision of capacity. Where conditions precedent had continued unsatisfied for greater than 18 months, Western Power was required to have a contract with one party to provide capacity, whilst simultaneously 'disregard[ing] its obligation to provide covered services' under that contract to offer the same capacity to another applicant. In Western Power's view, the model policy may create significant uncertainty for Western Power, users and applicants. Western Power cannot legally, arbitrarily disregard its contractual obligations.

In Western Power's view, the model policy may create significant uncertainty for Western Power, users and applicants. Western Power cannot legally, arbitrarily disregard its contractual obligations.

The amendments address this issue by providing that conditions precedent must be satisfied within an 8 month period. Any contract with conditions precedent not fulfilled after 8 months

can be automatically renewed if there are no competing applications. However, if there are competing applications, then 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.

If a time limit for the satisfaction of conditions precedent is not specified in the AQP, competition in markets upstream and downstream of the network is likely to be impeded. This would not facilitate the Code objective. An 8-month period to satisfy the conditions precedent is considered reasonable. This will provide sufficient time for an applicant to obtain the 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 sufficient 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 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 the time frame for satisfaction is not limited, 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 required to wait only for a limited period and may then choose to participate in the subsequent capacity auctions under the Market Rules.

Therefore, the AQP reasonably balances the interests of existing users and new applicants to promote the Code objective.

3.11 Security

Under clause 4.9 of the AQP, Western Power may require the applicant to provide some form of security in its access contract.

The model policy refers to a material risk that the applicant's technical and financial capabilities are such that the applicant will be unable to meet its liabilities under the contract, and provides three options for the applicant to choose to mitigate this risk. The first two options are to provide security (either a cash deposit or a bank guarantee) that covers an amount equal to 2 months worth of access charges. The third option is to provide a parent company guarantee to Western Power under which the parent company guarantees all of the applicant's liabilities under the contract.

Western Power considers the first two options are not measures commensurate with the risk posed by the user's inability to meet all of its obligations under the contract, and finds it strange that the options were offered as an option equal to that of providing a guarantor with respect to all of the applicant's liabilities.

Therefore, Western Power has made the remedies available to the applicant, if the test relating to the applicant's financial and technical capabilities is satisfied, objectively commensurate with the risk. These remedies are for the applicant to provide an indemnifier who will indemnify Western Power only in respect of those liabilities for which there is a material risk that the applicant will not be able to meet. Alternatively, the applicant can procure a guarantor to guarantee its liabilities, who may be a parent company, a bank, or some other person. The form of guarantee from the MAC has been included as a schedule to the AQP.

The remedies available in the ETAC remain unchanged.

Western Power considers that this is an outcome that reasonably balances the interests of Western Power and the applicant, particularly as the arbitrator's powers are preserved under clause 4.10. The provisions are also more consistent with section 5.7(b) of the Code than the model policy provisions. The model policy did not provide for the indemnifier envisaged by the MAC to be introduced during the applications process, which is the only practical time for the applicant to procure an indemnifier.

3.12 Confidentiality

The model policy places obligations on the service provider in relation to confidential information, which Western Power acknowledges as appropriate. In order to further mitigate the risk that information is used inappropriately, clause 6.1 of the AQP has extended the model policy obligation to be a mutual obligation on the service provider and the applicant.

4 Departures from the Model– Electricity Transfer Applications

4.1 Lodgement fees

Clause 7.1(a) of the AQP lists the categories of lodgement fees that are applicable to certain applications for reference services. The actual fees are then listed in the Price List, which is subject to the Authority's approval.

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.

A new access contract requires more administrative work again 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.

While the model policy required an applicant to pay a lodgement fee at the time of submitting an application, clause 7.1(c) of the AQP allows an applicant who is a current user to be charged on the user's next invoice. This furthers the interests of both the applicant and Western Power by reducing the administrative burden on both parties, particularly for low value, high volume types of applications.

4.2 Customer transfer requests

Clause 9.1 of the AQP requires that Western Power, an incoming retailer and a previous retailer comply with the Customer Transfer Code with regards to a customer transfer request.

Western Power has used its now considerable experience in processing customer transfers under the Customer Transfer Code to expand on the matters where the Customer Transfer Code is silent. These include provisions to ensure that the intent of a customer transfer being a "bare transfer" from one retailer to another is maintained so that the new retailer is automatically deemed to have the same service for a customer that the outgoing retailer had. The provisions allow Western Power to check that the customer being transferred is contestable.

If the incoming retailer wishes to modify the covered service relating to an exit point that is the subject of a customer transfer request, then that incoming retailer must make an application under the AQP as a separate transaction after the customer transfer request has been processed.

This implies that all elements of a covered service that a retailer holds on behalf of a contestable customer must be discoverable standing data under the Customer Transfer Code, which furthers the Code objective by promoting competition in the retail electricity industry.

These provisions, in addition to the amendments to clause 12.1, will facilitate a transparent process, furthering an applicant's understanding of how customer transfers will be processed beyond the information contained in the Customer Transfer Code.

4.3 New connection point or new generating plant

Clause 9.2 of the AQP details the procedure that Western Power and an applicant are to follow when an applicant applies to have a new connection point added to its existing or new electricity transfer access contract. The same procedure is to be followed if an applicant seeks to install generating plant at an existing connection point (whether an exit or an entry point).

In both cases, to protect the technical integrity of the network, Western Power requires that an associated connection application be submitted, whether by the applicant who submitted the

electricity transfer application, or by that applicant's customer or other controller. In practice, a customer first submitting a connection application usually commences the process of establishing a new connection point.

To properly facilitate the industry practice of submitting two applications, Western Power conducts a reconciliation process with the applicant of the electricity transfer application with regards to the capacity and services start and end dates sought by the two applicants. This might result in a modified start date (of the exit or entry service, rather than the works to provide the physical attachment point) and a modified contribution.

With the security provisions in the CCP, this reconciliation practice helps to ensure that the correct contribution is paid with respect to a new connection point, so that other users are not forced to subsidise the new connection point if Western Power under-recovers from the actual user (usually because the customer nominated a forecast consumption in its connection application that indicated a greater revenue was to be received than that indicated by the retailer's actual selection of reference service in its electricity transfer application). Making the reconciliation process symmetrical ensures an appropriate balance between the applicants' and existing users' interests.

4.4 New covered service and capacity increase

Clause 10 of the AQP details the procedure that Western Power and an applicant are to follow when an applicant applies to change its existing covered service at an existing connection point by seeking a different reference or a non-reference exit or entry service, or by increasing capacity. This procedure enables users and applicants to understand in advance how these types of applications will proceed.

The AQP provides a streamlined process for an existing user to follow for these types of applications. The applicant may make an application by notifying Western Power (for example, by email), who will then notify the applicant within 5 business days whether it can make a straightforward access offer in respect of the application or whether the applicant will need to submit (or procure that its customer or controller submit) an associated connection application. If a connection application is required, then the application is prioritised using the date Western Power received the original notice.

This process is considerably fairer than outlined in the model policy and the MAC, in that it removes uncertainty regarding the applicant's queue status, and avoids the risk of an applicant's position in the queue being prejudiced by having to comply with an additional procedure in the contract.

A decrease of contracted capacity is dealt with under the user's access contract and is not an application.

The AQP requires that a change in reference service be made only once per year, except in a special circumstance, likely to be in the nature of a permanent change in the user's actual

requirements (and not a seasonal or similar variation). The annual network prices are determined on the basis that reference services are fixed for a 12-month period. If the reference service of one user were allowed to be varied seasonally, then this option would need to be made available to all users and the network prices would need to compensate for this by being set higher than otherwise required to ensure that the target revenue is recovered. Thus, the interests of existing users are protected by ensuring network prices are not unfairly raised by applicants.

4.5 De-energisation and re-energisation

Clause 11 of the AQP details the procedure that Western Power and an applicant are to follow when an applicant applies to de-energise or re-energise an existing connection point, thus enabling users and applicants to understand in advance how this process will operate.

The AQP specifies that a de-energisation must be undertaken in accordance with the relevant law (such as the Code of Conduct for the Supply of Electricity to Small Use Customers and the Metering Code) and with the user's contract. De-energisation is included in the AQP to clarify that is not an application.

The procedure for re-energising a connection point is similar to that for the change of a covered service or an increase in capacity. Depending on the circumstances, Western Power may require the applicant to submit (or procure that its customer or controller submits) an associated connection application.

This sort of application occurs most frequently when a customer has left premises, and the customer's retailer has requested Western Power to de-energise the connection point so that the retailer need not pay access charges for the empty premises. Some time later, a new customer occupies the same premises and selects a retailer who will apply to Western Power to re-energise the connection point. The new customer might have a similar consumption pattern as the previous customer, or a completely different one, which is when Western Power is likely to require a connection application.

This procedure might, in some circumstances, relate to the default supplier provisions under the Act, although generally such provisions will apply when the premises has not been de-energised and the new customer simply commences consuming electricity. The procedure will also apply in the case when Western Power has de-energised prior to the coming into effect of any supplier of last resort provisions under the Act.

4.6 New contract

Clause 12 of the AQP details the procedure that Western Power and an applicant are to follow when an applicant seeks only a new electricity transfer contract (in particular, a new retailer), thus enabling users to understand in advance how this process will operate. This will be a rare event but has been inserted in the AQP for completeness.

4.7 Contestability assessment

Clause 13 of the AQP details the procedure that Western Power is to follow when performing a contestability assessment under the Distribution Order. Under this procedure, contestability is assigned to an exit point rather than a customer to ensure that this process is managed as efficiently as practicable. Western Power is not able to track the movement of customers between premises, but can clearly extract information regarding an exit point.

Western Power may determine that an exit point is contestable if a customer can reasonably prove that its consumption over the next 12-month period will reach the contestability threshold. This provides the maximum flexibility and fairness to customers and retailers, and furthers the Code objective to promote competition in the electricity retail industry.

4.8 Connection point configuration

Clause 14 of the AQP describes how Western Power determines the physical make-up of what is effectively a virtual connection point, and allows a user to apply to change this configuration to suit its own purposes.

The rules for determining the configuration of a connection point have been made as flexible as practicable whilst meeting the WA Electrical Requirements (for safety reasons), and being reasonably consistent with requirements for network charges, retailers' arrangements with customers and the IMO's arrangements with retailers. The IMO's arrangements with retailers are associated with the means of determining a retailer's obligation under the market rules for IRCR and so on.

Under the AQP rules, users have the ability to:

- combine connection points for convenience of billing, or
- to create a single contestable entity from two non-contestable exit points, or
- split a connection point to allow each new connection point to be associated with a different user.

An electricity transfer application to split or combine connection points might result in a requirement to submit an associated connection application if, to effect the change under the connection point configuration rules (particularly the WA Electrical Rules), Western Power must modify the network in some way.

To ensure that customers' interests are protected in this process, the AQP replicates the concept of a customer providing 'verifiable consent' under the Customer Transfer Code. These rules facilitate the operation of, and promote competition in, the retail electricity industry and, thus, meet the Code objective.

5 Departures from the Model - Connection Applications

5.1 Specific applications

Clause 16 of the AQP completes the description of detailed applications processes and contains provisions related to specific types of connection applications, enabling users and applicants to understand in advance how the AQP operates.

Besides the most common form of connection application (namely an application seeking to establish a new connection point), the AQP requires that a user submit a connection application in relation to any material modification to the technical characteristics of generating plant. This reflects the significant impact that a change to generating plant can have on the network and other users. Western Power maintains a database of details regarding generating plant, and uses this to assess each new application through system studies. System studies examine issues such as thermal capability of the network that are common to loads and generators, and also issues of stability, voltage and frequency response that concern the interrelation of all connected generating plant. For example, the studies might determine that a change in the way that a generator responds to faults requires Western Power to install stabilising equipment on the network.

Even for very small generators, it is important that Western Power knows the exact details of the connected plant so that Western Power can examine the impact on fault level ratings and generally ensure the safety of its personnel when working on the network. It is feasible that changes to small generators might result in Western Power being required to undertake works. For example, a change to the automatic voltage regulator on a small distribution unit might affect the voltage for other users and, hence, require Western Power to install voltage-correcting equipment on the network.

It is envisaged that the requirement to inform Western Power of any changes to equipment might be handled by notice procedures. As, such technical changes to existing generating plant might impact the augmentation costs to be incurred by other applicant's in the queue. Therefore, a change in the technical characteristics of generating plant must go through the same process as any other application, and should be a part of the AQP to ensure the applicant's priority is correctly assigned.

5.2 Informal communications

Clause 18.2 of the AQP enables an applicant to request Western Power to do works (such as system studies) prior to the applicant submitting a connection application. This furthers the applicant's interests by giving the applicant more flexibility to require Western Power to assist in it preparing to lodge an application. For example, the applicant may request that Western power under take a feasibility study on the different project options. Such work will be done on a consultancy basis, with the scope determined by the applicant.

To provide an appropriate balance between the interests of persons planning to submit an application, and applicants already in the queue, Western Power must under the AQP ensure that such ‘access enquiry’ consultancy work does not affect the processing of existing connection applications. This includes not allowing Western Power to consider as reserved the capacity being discussed with the potential applicant until an application is actually submitted.

5.3 Reporting during processing

Clause 19 of the AQP requires Western Power to report to the applicant the status of the applicant’s application. This clause includes the provisions of the model policy, but is expanded to ensure compliance with section 5.7(d) of the Code.

Under the AQP, Western Power is required to keep the applicant informed on the costs, timing and scope relating to two separate matters, namely, the processing of the application and the likely outcome of the application. This furthers the applicant’s interests, as it ensures that the applicant has sufficient information to effectively engage in negotiations with Western Power regarding the terms for its access contract.

5.4 Costs for processing

Clause 20 of the AQP requires an applicant to pay for the costs reasonably incurred by Western Power, including costs incurred processing a connection application or doing work similar to processing in response to an access enquiry. The AQP goes further than the model policy by requiring Western Power, where it expects to receive such costs, to provide a proposal to the applicant. This gives the applicant the opportunity to negotiate with Western Power regarding the scope of work of the processing (for example, to allow the applicant to source some of the work elsewhere, subject to confidentiality issues), and also enables the applicant to have a clear understanding in advance as to what costs it is likely to incur (thus avoiding the risk of an unanticipated quantum of cost being incurred). Thus, the applicant’s interests are accommodated by the AQP.

5.5 Application of CCP

Clause 22 of the AQP states that the CCP applies to a connection application where works are required to provide the covered services sought by the applicant. Unlike the model policy, this clarifies in advance how the CCP and the AQP operate together, and ensures that the applicant’s rights under the CCP are captured in the resulting access offer.

Further clarification is given in the process map in clause 1 of the AQP, showing the CCP being triggered by the determination that works are required, and also showing that the access offer is not completed until the terms from the CCP can be incorporated.

Clause 24.1 of the AQP requires Western Power to incorporate terms selected by the applicant under the CCP into the access offer.

6 Departures from the Model – the Queue

6.1 Definition of first come, first served

Clause 1.1 of the AQP defines “first come, first served”. Under the AQP, applications are processed on a first-come, first-served basis. The model policy assumed that all applicants later in the queue must wait until competing applications have been processed before receiving an access offer. Under the AQP, although non-competing applications will usually be processed on a first-come, first-served basis (where they cannot be processed concurrently), flexibility has been retained to make an access offer out of sequence to avoid unnecessary delays to the processing of routine applications, and thus further the interests of applicants.

6.2 Release of contracted capacity

Clause 24.4 of the AQP enables users and applicants to understand in advance how both parties are treated when a user reduces contracted capacity under its electricity transfer contract. A user’s right to transfer electricity exists only at a connection point, and the user has no rights over the general shared network. Therefore, any capacity that become available on the network is allocated to the first applicant in the queue, regardless of whether the user releasing the capacity seeks capacity at a different connection point at that same time.

This appropriately balances the interests of users and applicants by applying the first come, first served principle equitably, and not allowing a particular class of applicants (ie, existing users) to use the queuing system to get an unfair advantage.

6.3 Bypass

Clauses 24.5 to 24.6 of the AQP describe how, and under what circumstances, Western Power may bypass an applicant in favour of a competing applicant. The AQP allows bypass to the extent necessary to allow a person to fulfil its default supplier or supplier of last resort obligations, or under a law. It is envisaged that the latter might apply, for example, if there was a change to the Market Rules enabling the IMO to direct Western Power to bypass so as to ensure sufficient generation is available on the network, thus facilitating the operation of the wholesale market.

One of the ways that bypass might be satisfied under the AQP is when the applicant directs Western Power to suspend processing its application. For example, this may occur where the applicant has failed to gain environmental approvals. This provides the applicant with greater rights than the model policy, which allowed Western Power to make a unilateral determination

that the applicant had failed to gain what it required for its project. It also provides for a more mechanical process, as the applicant's approvals outside of its access application are not related to the AQP, and Western Power is unlikely to know the status of such external approvals.

6.4 Tender projects

Under clause 24.10 of the AQP, applicants participating in a tender project are treated with the same priority (equal to the earliest priority), if:

- two or more applicants notify Western Power that they are competing under a tender process, and
- the applications relate to new generating plant, and
- only the applicant that is successful in its bid will proceed with an access contract, and
- the applicants are competing.

Section 5.9(b) of the Code is not a requirement for the AQP, but rather a discretionary option as it is intended to apply in practice. Western Power has chosen to include the provisions of section 5.9(b) as it considers they were intended to operate in practice, rather than as described in the model policy.

Under the AQP, whilst facilitating the practical concerns of the proponent of a tender process, the interests of other applicants not in the tender process are preserved. For example, an applicant participating in a tender project for wind generation in Albany does not disadvantage other applicants in Albany by jumping ahead of them in the queue because the other participants of the tender project are based in Geraldton.

In addition, Western Power considers that the concept of tender projects in the model policy is too broad, and that the only application of this concept that is reasonable for Western Power to manage is with respect to generating plant. Otherwise, this clause could be said to apply when, for example, two factories are competing for the same manufacturing job and both will implement upgrades that require augmentation if they are successful. Western Power does not believe this was the intent of section 5.9(b) of the Code. Referring to generating plant limits the application of this clause to those electricity industry applications that Western Power could reasonably be aware of. This could include reserve capacity auctions under the market rules (including generating plant installed for DSM solutions).

6.5 Dormant applications

Clause 24.13 of the AQP allows Western Power to require an applicant who has not signed an access offer within 12 months of submitting an application to show reason why the application should not be deemed to have been withdrawn, where there is a competing applicant.

The AQP better accommodates the interests of all applicants in three ways.

Under the model policy, an application was given 3 years before being considered dormant. However, this period only related to the time taken before an access offer was made. There was no limit on the time between Western Power making an offer and the applicant signing an offer, provided it addressed the offer in some way (such as by amending their application).

Importantly, the application process ends when the access offer is signed, not when the access offer is made. Thus, by making the dormant application applicable in relation to a signed access offer, the AQP is now sufficiently detailed for applicants to understand in advance how the process will operate. In addition, the competing applicant is given surety that some resolution will be reached with regards to the applicant ahead of it in the queue.

The period of 3 years in the model policy was an unreasonably long time for a competing applicant to wait before being able to access the capacity reserved for the applicant ahead of it in the queue. Due to the fast pace of change in the Western Australian electricity industry, including the rate of load growth, this length of time did not facilitate competition in markets upstream and downstream of the network. Similarly, having this network capacity unused for this period does not promote the efficient use of the network, and thus does not meet the Code objective.

A period of 12 months more reasonably balances the interests of the applicants ahead and behind in the queue because, on one hand, it is long enough for a person to have successfully negotiated terms for an access contract with Western Power and, on the other, it means that a competing applicant loses only 1 year on its project life.

Finally, an application will only be considered dormant when there is a competing application, which accommodates the interests of applicants without affecting any other party.

6.6 Provision of information about the queue

Under clause 23.16 of the AQP, Western Power is required to provide an applicant with information regarding its position in the queue. The model policy required this information to be provided at the time of the application. The AQP requires Western Power to provide the information at the time of the initial response. This change is intended to allow sufficient time to enable Western Power to determine whether there is a competing application (recognising that such a determination may require system studies to be completed). The change accommodates Western Power's interests by not imposing an unreasonable obligation on it, and the applicant's interests by ensuring the applicant is not given premature and, therefore, potentially misleading information.

6.7 Exemptions from Technical Rules

Clause 25.2 of the AQP requires Western Power to include any exemptions given to the applicant under Chapter 1 of the Technical Rules as terms of the access offer. This gives both the applicant and Western Power contractual certainty regarding its rights to the negotiated exemption, and thus accommodates the interests of both parties.

7 Concluding comments

This document has demonstrated that Western Power's proposed AQP complies with the Code, with reference to the relevant Code provisions. In particular, it shows that the AQP provides a clear process for Western Power, users and applicants to follow with regards to an application for covered services, and that it accommodates the interests of Western Power, users and applicants to the extent reasonably practicable.