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Dear Lyndon

#### **WESTERN POWER'S PROPOSED ACCESS ARRANGEMENT**

The implementation of the Electricity Networks Access Code (the Code) represents a significant achievement in the process of electricity reform. The process currently being undertaken by the Economic Regulation Authority (the Authority) under that Code, will establish the parameters for access to Western Power's networks into the future. It is essential that the principles of the Code are reflected in the outcome of this process.

It is important that an Access Arrangement be approved and in operation by the 1 July 2006. I note that a number of extensions have already been granted and encourage the Authority to complete this process in a timely manner.

There has been considerable industry frustration over access to Western Power's network in the past and this process provides the opportunity to significantly improve these arrangements.

The Office of Energy has reviewed the proposed Access Arrangement and associated information lodged with the Authority on 24 August 2005. The Office's submission on the proposed arrangements is attached.

Yours sincerely

ANNE NOLAN  
**COORDINATOR OF ENERGY**

2 November 2005

## **OFFICE OF ENERGY'S SUBMISSION - WESTERN POWER'S PROPOSED ACCESS ARRANGEMENT**

The Office of Energy submits the following comments in response to Western Power's Proposed Access Arrangement for the South West Interconnected System. The Office of Energy has focused on areas that it considers are important in ensuring that the principles of the Code are reflected in the Final Access Arrangement.

### **REGULATED ASSET BASE**

The Office of Energy in consultation with Western Power and the Department of Treasury and Finance through a Valuation Committee, commissioned a valuation of Western Power's assets, including the South West Interconnected Transmission and Distribution assets, which concluded in June 2004.

The valuation was required to be undertaken to a regulatory standard on the basis that it was to:

- provide information related to the disaggregation of Western Power; and
- provide Western Power with the basis of its submission to the Authority in relation to its regulated asset base.

The valuation was considered suitable for the purposes for which it was intended. The information was, however, subject to limited consultation with network users and it was recognised that further public consultation would be required before the valuation could be accepted by the Authority as a reasonable basis on which to determine a regulated asset base.

The Office of Energy encourages the Authority to undertake a robust regulatory review of the valuation methodology and the outcomes being proposed by Western Power.

### **WEIGHTED AVERAGE COST OF CAPITAL**

The Office of Energy notes that the Weighted Average Cost of Capital (WACC) being proposed by Western Power, 7.3% pre-tax real, is significantly higher than the outcome of the Authority's *Advanced Determination of a WACC Methodology* (6.5% pre-tax real). It also appears high relative to other recent decisions such as the application of a WACC of 6.78% pre-tax real to Alinta's gas distribution network and 6.85% pre-tax real determined by the Essential Services Commission of South Australia in its 2005-10 Electricity Price Determination

The Office of Energy encourages the Authority undertake a robust regulatory review of Western Power's proposed Weighted Average Cost of Capital.

### **TARIFF INCREASES**

The Office of Energy has conducted comparative analysis between Western Power's current published *Standard Network Tariffs & Prices for the South West Interconnected System 2005/06* and the *Tariff Schedule C1 2006/07* (Appendix 5: Price List).

The increases observed across indicative tariff profiles modelled by the Office appear high. The Office encourages the Authority to model indicative tariff outcomes for Users and reconcile the *Tariff Schedule* to the proposed price control.

One of the key objectives of the pricing methods detailed in section 7.4(d) of the Access Code is to avoid price shocks between succeeding years. The Authority should ensure that the objectives of this section of the Code are achieved in reviewing and considering the tariffs proposed by Western Power.

## **INVESTMENT TESTS (REGULATORY TEST AND NEW FACILITIES TEST)**

The Access Code is drafted in a manner that provides certainty and clarity in relation to its objectives and the outcomes required from the independent regulation of covered networks. At the same time the Code leaves substantial flexibility to the Authority, the Network Service Provider (NSP) and industry in negotiating the form of Access Arrangement, including processes and supporting documents that best achieve these objectives.

This allows for the promotion of a light handed form of regulation, which recognises and achieves efficiencies through recognition of, and where necessary, building upon existing practices and industry standards.

Whilst it is acknowledged that there may be overlap between the investment outcomes of current investment and planning processes and those of the new regime, the effective operation of both the Regulatory Test and the New Facilities Investment Test are seen by the Office as crucial to the operation of the new regime.

The Authority must be able to assure itself that the program proposed by Western Power is reasonable and that it supports achievement of the code objectives in s2.1 as well as those specific objectives that are set out s6.4 and s9.1.

The Office submits that:

- Western Power should be required to develop and implement, in consultation with the Authority, a plan (including timeframes) to finetune its investment and planning processes to formally accommodate the Regulatory Test and the New Facilities Investment Test within its proposal.
- It should be acknowledged that planning for, and managing, the efficient implementation of these tests, will require the Authority and Western Power to determine the treatment of pre-existing committed investments, including those which were 'committed' to under the previous planning and investment regime.
- Sufficient flexibility is available within the Code for the Authority and Western Power to negotiate and implement such a plan to ensure that, in this transitional period, the requirements of both the Regulatory Test and the New Facilities Investment Test are explicitly considered to the maximum extent possible.

## ***Regulatory Test***

The Office notes that the intent, and to a large extent the drafting, of Chapter 9 of the Access Code was explicit and discussed extensively throughout the Access Code development process that commenced in late 2003.

The test has been designed to achieve broader objectives (set out in s.9.1) and ensures that the Network Service Provider does not pursue only networks augmentation solutions (thus earning a regulated return) to issues which may better be resolved by an alternative method. Whilst the regulated revenue requirement of the various project alternatives is a key input, the Regulatory Test requires consideration of the net benefits of particular project alternatives that will accrue to all Users and the Network Service Provider.

The long lead times inherent in large projects are driven by network requirements and construction lead times whilst, unless the Network Service Provider submits a major augmentation proposal under s.9.15, Authority consideration of these investments is driven by the regulatory period, (three years in the first instance). This creates the potential for a disjunct between the need for the Network Service Provider to commit to a project, and the opportunity for the Authority to consider such major investments as part of its determination of allowable revenue for a forthcoming regulatory period.

Because of this, the Office of Energy believes that, in addition to fulfilling its objectives under s.9.1, strong positive evidence of compliance with the Regulatory Test is also likely to become a critical risk management tool for the Board of the Network Service Provider in providing a measure of certainty about how a particular investment may be viewed by the Authority at a future Access Arrangement review.

## **MODEL POLICIES**

The Access Code includes model policies, specifically, a model applications and queuing policy, a model access contract and a model capital contributions policy. The policies are intended to perform two functions, to:

- streamline the approvals process, if the Network Service Provider chose to submit them without material amendment; and
- provide guidance to the Authority in considering deviations from those policies should the Network Service Provider choose to submit amended policies.

Each of the model policies in the Access Code was the subject of extensive consultation and negotiation between industry representatives and Western Power. Whilst security and safety of electricity supply was the primary objective, it was acknowledged that this should be achieved in a new access regime that delivered significantly enhanced certainty, transparency and commerciality to network users.

The Office of Energy submits that, in each case, the standard policies incorporated by Western Power including the Standard Access Contract, Applications and Queuing Policy and the Capital Contributions Policy differ materially from the model policies.

Therefore the Office of Energy submits that the Authority should have regard to the model policies in respect of the impact of each such deviation on the achievement of the Code objectives and the objectives that are set in Chapter 5 of the Access Code for each of the policies.

However, the Office of Energy also finds that the documents lodged by Western Power represent a material change in direction for the Corporation and, subject to the satisfactory resolution of issues identified in the current process, represent a significant improvement in the commercial terms and conditions under which Users will have access to the network.

### ***Applications and Queuing Policy***

There should be a greater commitment to the specification of timeframes within which the Corporation must use reasonable endeavours to process access applications. For example, s.6.4 sets out lead times that should be observed by applicants but it does not appear that a corresponding commitment for Western Power to respond within the same time frame is made.

The absence of any lead time or even an indication as to a potential timeframe, in relation to a class 3 application is a serious concern.

### ***Standard Access Contract***

To the extent that the proposed Standard Access Contract deviates from the position in the Model Access Contract or deals with matters that are outside of the scope of the Model Access Contract, it has not been the subject of any previous consultation with Stakeholders. Therefore, the Authority should closely consider any of these areas to ensure that they represent a reasonable commercial balance between the parties, uphold or contribute to the objectives of the Code and will lead to certainty and transparency in the manner in which Users contract with Western Power for network services.

### **Service Standards**

The Model Standard Access Contract (Clause A3.67) requires the service provider to provide the services to users in accordance with the service standards. Western Power has removed references to any contractual obligation to meet service standards from its proposed Standard Access Contract because it has proposed service standard targets for groups, not individual users.

End use customers contracting with users are likely to expect to be able to contract with the user for appropriate service standards. In an interconnected system an individual user (generator or retailer), has little control over the standard of supply to an individual end use customer. If the service provider is not contracted to the user meet individual service standards, users will not be able to contract with end use customers for appropriate service standards.

It is the Office of Energy's view that the Standard Access Contract should make provision for users to be able to contract with the service provider for appropriate individual service standards. Reliability of services is a critical aspect of the service being provided by the service provider.

### **Interconnection Works Agreement.**

The Interconnection Works Agreement, as proposed by Western Power, appears to be a completely separate contract and deals with provisions that are covered in Schedule 5 of the Model Access Contract.

However, the Interconnection Works Agreement also extends the scope of Schedule 5 significantly and, in relation to those matters that fall outside of the scope of Schedule 5, no prior stakeholder discussion or consultation has been undertaken.

The Office of Energy suggests that particular attention be given to the Interconnection Works Agreement and, in assessing its suitability, consideration of the extent to which it contributes to achievement of Code objectives.

On this basis, barring any other stakeholder issues with the proposed form of the Interconnection Works Agreement, it is reasonable for the Authority to consider the contract as it contributes to the achievements of the Access Code that are set out in s.2.1.

#### Results of high level review.

The Office of Energy has not conducted a legal review comparing the two documents (the Model Access Contract and the Standard Access Contract). However, the Office offers the following attached (Attachment A) comments in relation to differences between the two documents which may or may not constitute issues that materially affect the position of Users of the network under the Standard Access Contract.

#### ***Capital Contributions Policy***

Western Power has indicated that elements of the Code's model Capital Contributions Policy, such as time to pay and rebates, have been included in the Capital Contributions Policy of the Access Arrangement. However, their application is exclusively limited to large use customers. As it argues that the wider application of these elements represents an extensive piece of work, Western Power has proposed to review the application of:

- time to pay to small customers by March 2006; and
- rebates to small use customers by September 2006.

The Office of Energy views the inclusion of a time to pay scheme for contestable and non-contestable customers as essential since it is a key issue among customers, especially rural customers. It should be available to customers above a reasonable threshold to be set after public consultation. The threshold needs to be appropriate for small use customers.

The wider application of the rebate scheme to include small use customers is necessary to avoid free riders and reduce the impost on customers triggering the initial extension of the network.

The Office of Energy understands that future amendments to be lodged by Western Power will provide for a future rebate scheme for small users. However, in the covering letter to the Authority, this is not made explicit. Instead the letter refers to reviewing:

The methodology to be used to assess the extent of forecast load growth from other customers that should be taken into account when assessing the level of initial capital contributions for small customers (Western Power covering letter to Lyndon Rowe, 24 August 2005, p 2).

While the Office of Energy accepts there may be value in such a review as it has the potential to allow initial capital contributions to be apportioned accurately among

multiple users, this does not appear to commit to subsequent rebates where additional users join the infrastructure after the initial payments are made. The Office of Energy believes Western Power should clarify to the Authority that its policy will address this latter issue.

### Manner of Contribution

Clause 6.2(a)(ii) (*When applicant may choose periodic payment*) of Western Power's proposed Capital Contributions Policy specifies that periodic payments will only be available if the amount of the capital contribution exceeds \$1 million.

Clause 6.3(a)(i) and (ii) (*Terms and amount of periodic payment*) of Western Power's proposed Capital Contributions Policy specifies that the maximum term over which periodic payments may be made is five years, with a minimum payment of \$200,000 per annum.

Clause 6.3(a)(iii) (*Terms and amount of periodic payment*) of Western Power's proposed Capital Contributions Policy specifies that Western Power will charge an interest rate of 15% on periodic payments.

The Office of Energy considers that:

- the inclusion of a time to pay scheme for contestable and non-contestable customers is essential;
- a time to pay scheme should be available above a reasonable threshold, which needs to be appropriate for small use customers;
- Western Power's test is restrictive and inappropriate for small use customers;
- the implementation of a more flexible test based on a multiple of the estimated annual charge should be considered (i.e. if the capital contribution exceeds three times the estimated annual charge); and
- the interest rate charged on periodic payments should be no more than the cost of capital as determined by the regulator plus a reasonable margin to account for administration and planning risk (to the extent any planning risk is accepted by Western Power).

### Rebates and Recoupment

Clause 7.2(a) and (b) (*Western Power must adjust periodic payment*) of Western Power's proposed Capital Contributions Policy specifies that rebates will be provided to users when:

- subsequent users connect within five years;
- the original capital contribution is greater than \$1 million; and
- the rebate entitlement is greater than \$100,000.

The Office of Energy considers this approach is restrictive, as it disqualifies small use customers from access to the Western Power rebates scheme. Consequently, small use customers will have to pay a lump sum for any initial capital contribution necessary when requesting a new connection and will not benefit from rebates if subsequent users decide to take advantage of the new infrastructure at a later stage.

### Connection to the Urban Shared Network

Clause 9.2 (*Connection to the urban shared network*) of Western Power's proposed Capital Contributions Policy specifies that applicants who seek to connect new generating plant to the urban shared network will only have to pay for the dedicated connection.

The Office of Energy believes that this clause is likely to lead to claims of bias by Western Power, as Western Power's Pinjar site is situated just within the urban shared network, whereas the Alcoa/Alinta Pinjarra site is situated just outside that area. The application of the 50 kilometre radius appears arbitrary.

### Consumers Consuming Less than 50 MWh per Year

Clause 10.2 (*Method of payment*) of Western Power's proposed Capital Contributions Policy specifies that any contribution made by applicants consuming less than 50 MWh per year shall be made as an upfront payment.

As stated above, the Office of Energy expects Western Power to include time to pay arrangements for small use customers in accordance with the agreed timeframe.

## **SERVICE STANDARD BENCHMARKS**

### ***Trend in Reliability Performance***

Western Power claims that there has been a worsening trend in reliability from 1999 to 2005. This is illustrated in Figure 3 of the Access Arrangement Information.

However, Western Power has noted:

- that its reliability reporting has been much improved over the last two years with the use of "validated TCMS [Trouble Call Management System] data" capturing "a broader range of outages and customer connection issues than the previous DFR [Distribution Fault Recording] system"; and
- that there is "significant annual volatility in performance", presumably because of variations in weather and other environmental factors.

It follows that the deterioration in reported performance in June 2004 and June 2005 could be largely the effect of better reporting, rather than worse actual performance, or possibly the effect of the annual volatility of performance.

In particular, the Office of Energy draws to the Authority's attention that, if the two most recent years are omitted, there is no distinct underlying trend in reliability performance from 1999.

In considering Western Power's argument that there has been a worsening trend in distribution reliability performance since 1995 the Authority should consider:

- the degree to which this argument relies upon the effect of the two most recent years of data;
- the improved reporting arrangements that have applied in those years; and
- the year to year volatility of such data.



### ***Baseline, Glide Path and Performance Areas***

There seems little foundation from which to determine a reliable baseline for network performance, given the acknowledged year to year volatility of network performance data and that validated data appears to be available for only 2004 and 2005.

This is particularly important if it is to underpin a Service Standards Adjustment Mechanism as proposed.

In addition, the annual targets for distribution performance that Western Power has proposed show only modest improvement in the initial years, improving mostly in the last year of the regulatory period.

There also seems to be some confusion in the baseline for the proposed performance improvement:

- The Access Arrangement Information states that Western Power's target improvement for SAIDI is a 25% improvement on that for the year ending June 2004.
- For the South West Interconnect System overall, the 2009 target is 224 suggesting a June 2004 value of 299.
- However, Figure 3 in the same document shows a 2004 SAIDI for SWIS of 258 and also states that the 2004 value is based on validated Trouble Call Management System data, suggesting it is a reliable value for that year.

Western Power has proposed distribution performance targets for rural and urban areas only. No standards have been proposed for the Perth central business district, in which reliable electricity supply plays a critical role in our State's economy.

In considering the distribution performance targets Western Power has proposed for the Service Standard Adjustment Mechanism, the Office believes that the Authority should consider:

- if the base performance levels reliably reflect the current underlying performance;
- if the intermediate reliability targets reflect appropriate annual progress toward the stated objective of 25% reduction compared with the June 2004 performance; and
- the need to specifically recognise the economic significance of supply reliability in the Perth central business district in addition to urban and rural areas.

### **BUDGET CONSTRAINTS**

#### ***Historical***

Throughout the proposed Access Arrangement and associated information Western Power attributes some of the need to increase network expenditure to historical budget constraints. It is important to note that like any business (private or public) Western Power is required to compete for access to scarce capital.

Any budgetary constraints imposed by Government have been imposed upon Western Power as a whole. It is the allocation of funds within Western Power which ultimately determines the amount available for network expenditure. Historically, spending on the Networks business received lower priority than investment in other parts of Western Power's business, partly because Western Power was expected to

provide all generation on the system. The creation of the Networks Corporation through the restructure of Western Power will provide a stronger focus on network performance, reliability and safety.

Moreover, appropriate internal transfer of funds between Western Power's business units, such as payment for network access by its Retail business unit in accordance with its existing access regime, has been a matter for Western Power.

The Government has also approved record network expenditure programs in both the 2004/05 and 2005/06 budget to address reliability.

### ***Future***

During the Parliamentary debate in relation to the *Electricity Corporations Bill 2005*, the Government agreed to ensure that any expenditure level approved by the Authority would be adequately funded.

### **EASTERN GOLDFIELDS RELIABILITY**

Clause 2.5.1.1 of the Draft Technical Rule set out the reliability planning criteria that Western Power intends to apply to the 220 kV network supplying the Eastern Goldfields Region.

Western Power is proposing to apply N-0 criteria to this transmission line. N-0 criteria may result in the loss of all loads in the area supplied by the transmission line as a result of the loss of a single transmission element. The Office of Energy believes that the criteria applying to other transmission lines supplying major regional centres in the South West Interconnected System should also be applied to the 220kV network supplying the Eastern Goldfields.

OFFICE OF ENERGY  
2 November 2005

## MODEL ACCESS CONTRACT / STANDARD ACCESS CONTRACT

| WESTERN POWER Clause | Code Clause | Comment  |
|----------------------|-------------|--|
|                      | A3.8        | <p>Western Power's Electricity Transfer Access Contract appears to consist of a <i>capacity contract</i> and a <i>technical compliance contract</i>, while its Connection Access Contract consists solely of a <i>technical compliance contract</i>. There appears to be some confusion in the document as to what information is contained in what document. Compare for example bullet points 4 to 6 on page 3 with bullet point 1 on page 4 of the "Reasons for Modifying the Model Access Contract". The first appears to support the above understanding of the contract structure, while the latter appears to follow the model adopted under the Model Access Contract.</p> <p>The proposed model appears to require all users who wish to contract for capacity to comply with the capacity and technical components of the contract, irrespective of whether another party has already entered into a Connection Access Contract for the contracted point. As a rule, unless there is a pressing need to do otherwise, there should only be one counterparty to Western Power for each set of obligation.</p> <p>The Interconnection Works Agreement is a completely separate contract. Its contents do not appear to be addressed under the Model Access Contract. Refer to comments above in regard to the Interconnection Works Agreement.</p> |
|                      |             | <p>Western Power is considering developing a "lite" form of the Electricity Transfer Access Contract (refer third last paragraph of "Reasons for Modifying the Model Access Contract").</p> <p>The Office of Energy supports this initiative.</p>  |
|                      |             | <p>Western Power indicates that it has sought to clarify the allocation of risks and their financial consequences by following the "user pays" principle – with appropriate caps and safeguards. Liability Caps and Safeguards were a strong area of concern throughout the development of the Access Code.</p> <p>The Office requests that the Authority pay particular attention to the proposed Caps to ensure that they are reasonable and that they don't constitute a barrier to entry.</p>  |
| 1.1 ETAC             | A3.2        | <p>Western Power has amended a number of definitions (e.g. "connection point" has been replaced with "contracted point"). This change does not appear to pick up in the Electricity Transfer Access Contract definition which for "facilities and equipment" refers to the Access Code, which in turn refers to a 'connection point'.</p>  |

| WESTERN POWER Clause | Code Clause | Comment  |
|----------------------|-------------|--|
| 3.4 ETAC             |             | <p>Western Power has provided itself with the right to decrease the contracted capacity at a contracted point. Some issues that may arise include:</p> <ul style="list-style-type: none"> <li>- The customer's Capital Contribution would have been determined based on its Contracted Capacity. Will there be an equivalent refund to the User?</li> <li>- Clause 3.11 allows Western Power to charge the User a Capital Contribution prior to reducing the Contracted Capacity. It should be made clear how this right relates to clause 3.4.</li> </ul>   |
| 3.6-3.11 ETAC        | A3.15-3.18  | <p>Western Power has substantially amended the provisions of the Model Access Contract dealing with variation to contracted capacity.</p>  |
| 3.8 ETAC             |             | <p>Another new clause requires that a contribution be secured before Western Power commences work. Western Power asserts that this is consistent with section 2.9 Access Code.</p> <p>Section 2.9 Access Code appears to allow a Network Service Provider to require a User to make a capital contribution upfront. However, clause A3.51(b) provides more flexibility, as this clause states that security may be required if the Network Service Provider determines that the User's "technical or financial resources are such that a reasonable and prudent person would consider there to be a material risk that the user would be unable to meet its obligations under the contract".</p> <p>The Authority is encouraged to consider whether the tightening of Western Power's position in relation to Capital Contributions is reasonable?</p>   |
| 4.2 ETAC             | A3.59       | <p>Western Power has extended the situation in which it may make a request for information (i.e. if the User's actual performance differs substantially from its forecast).</p>  |
|                      | A3.67       | <p>Any reference to service standards has been removed from the Standard Access Contract. Western Power asserts "[t]he service standard benchmarks specified in the access arrangement reflect targets for particular groups according to network configuration and location, and are not applicable on an individual user basis."</p> <ul style="list-style-type: none"> <li>- Service Standards for non-reference services do not appear to reflect targets for particular groups (refer section 11.1 Access Code).</li> <li>- The definition of "Service Standard" in the Model Access Contract appears to refer to individual service standards, not service standards benchmarks (as argued by Western Power). Under the Model Access Contract, the Service Standards set out in the Access Arrangement will become individual Service Standards if a Network Service Provider fails to set individual Service Standards</li> </ul> |

| WESTERN<br>POWER<br>Clause | Code<br>Clause | Comment  |
|----------------------------|----------------|--|
|                            |                | <p>in its Model Access Contract.</p> <ul style="list-style-type: none"> <li>- The Authority is encouraged to consider whether Western Power's reasoning for not including these Service Standards is appropriate.</li> </ul>   |
| 6.1(a)<br>ETAC             | A3.36          | <p>Western Power requires a Controller for <i>each</i> contracted point, rather than only those contracted points at which the capacity exceeds a prescribed rate. The requirement to specify a Controller was of great concern to Users who were confused about the role of Controllers and Western Power's previous requirements to specify them.</p> <p>This was one of the principal reasons for splitting the Technical Compliance Contract out of the Model Access Contract. If a Controller is required then they should be a signatory to the Technical Compliance sections. As a rule, unless there is a pressing need to do otherwise, there should only be one counterparty to Western Power for each obligation.</p>   |
| 6.1(b)-(c)<br>ETAC         | A3.37          | <p>Western Power has substantially modified the wording of this clause.</p> <p>The Office submits that the Authority should consider the impact this has on Users.</p>   |
| 6.2(a)<br>ETAC             | A3.38          | <p>Western Power has increased the number of obligations a User/Controller has to comply with (i.e. technical characteristics of facilities and equipment, curtailment, directions from system operator, and removal of equipment). In addition, clause 6.2(a) requires that the Controller complies with them "unconditionally". A qualification has furthermore been added stating that compliance is only required "to the extent that such compliance is reasonably necessary for the parties to satisfy their obligations under the SAC [Standard Access Contract]".</p> <p>As the controller owns or operates the equipment, it appears reasonable to require the controller to also comply with matters such as direction from the system operator, or the removal of equipment.</p> <p>The requirement to unconditionally procure compliance with the specified clauses is stricter than the current obligation under the Model Access Contract.</p> |
| 6.2(b)-(c)<br>ETAC         | A3.39          | <p>Under Electricity Transfer Access Contract, the fact that the Controller has entered into a Connection Access Contract with Western Power does not necessarily free the User from its obligation to prove to Western Power that the User has ensured that the Controller will comply with the specified clauses. This is different from the Model Access Contract.</p> <p>If there is a Connection Access Contract between Western Power and the Controller, this should satisfy the requirement</p>  |

| WESTERN<br>POWER<br>Clause | Code<br>Clause | Comment  |
|----------------------------|----------------|--|
|                            |                | <p>on the User to prove to Western Power that the User has ensured that the Controller will comply with the specified clauses.</p> <p>Western Power has added a provision that it may not only curtail but also refuse to commence services if a User fails to provide proof.</p>  |
| 7.2(b)<br>ETAC             |                | <p>Western Power has inserted a right to apply charges in addition to those specified in its price list. (e.g. billing administration charges, meter reading charges, customer transfer charges, etc).</p>   |
| 9(a) ETAC                  | A3.51(a)       | <p>Western Power has substantially amended the security provisions. Under the Model Access Contract, a Service Provider may only require a security if the Service Provider determines that the user's "technical or financial resources are such that a reasonable and prudent person would consider there to be a material risk that the user would be unable to meet its obligations under the contract." Under Western Power's Electricity Transfer Access Contract, Western Power may only require a security deposit if the User does not provide evidence that its credit rating is at least BBB (Standard &amp; Poor) or Baa (Moody's). Western Power states that its proposed standards are in line with National Electricity Market.</p> <p>There are some substantial advantages in Western Power's proposed approach: it is consistent, transparent, and easy to administer.</p> <p>However, the Office of Energy is unsure whether the standards proposed are reasonable. The Office strongly believes that further investigation on this matter is required as this may constitute a barrier to entry.</p> |
| 9(b) ETAC                  | A3.51(b)       | <p>Western Power has substantially reduced the number of ways in which a User may provide security for a capital contribution from that provided for in the Model Access Contract. This may now only be done by bank guarantee.</p> <p>The Authority should consider the impact of the changes on network Users.</p>   |
| 11.2 ETAC                  |                | <p>The Office queries why is there no equivalent provision for those instances where the User incurs costs on behalf of Western Power?</p>   |
| 12 ETAC                    |                | <p>Western Power states: "A clause has been added to the Standard Access Contract to ensure that the technical information provided in the original access application, and that the original access offer was based on, is captured in the contract. This clause also requires the User not to materially change their facilities and equipment without making an application under the applications and queuing policy. This provision ensures that Western Power has available to it accurate information on the characteristics of</p>   |

| WESTERN<br>POWER<br>Clause  | Code<br>Clause             | Comment  |
|-----------------------------|----------------------------|--|
|                             |                            | <p>the equipment connected to the network. This information improves the accuracy of planning studies undertaken to assess the integrity of the system. Also, a change in the characteristics of, in particular, generating plant can impact on the network in the same way as a capacity increase, and so might trigger augmentation or other measures, as may be associated with any other application.”</p> <p>The Office of Energy understands Western Power’s desire to be informed of any changes to the network; however, should this always occur by way of an application by the User (for which the User also has to pay).</p> |
|                             | A3.52<br>and<br>A3.53      | <p>These provisions have been omitted all together and did provide the User with additional flexibility in providing security. Omission of these provisions may therefore negatively impact upon Users.</p>  |
| 15.2 ETAC                   | A3.57                      | <p>Western Power has added a right whereby it may carry out a direction of the System Operator, at the User’s cost, if the User fails to comply with the direction himself. The Office of Energy queries whether this is reasonable, and who is liable in a situation where Western Power’s actions (using the Users equipment) cause damage.</p>  |
| 18.1 ETAC                   |                            | <p>Western Power has included a new limitation which precludes parties constituting the User from being severally liable.</p>  |
| 18.5 ETAC                   | A3.74                      | <p>Western Power states: “Western Power has specified various limits of liability to reflect the different levels of technical risk posed by various types of facilities. These different limits again cater for multiple contracted points under the one contract.”</p> <p>The result of Western Power’s proposed limitation of liability is that for each contract Western Power has a total liability of \$10 million per year, while the User’s liability can be nearly unlimited as it is determined per connection point (as opposed to contract).</p>   |
| 18.12<br>ETAC               |                            | <p>Western Power has inserted a clause which provides that if a party has recovered money from its insurer, the party can no longer claim the amount from the other party.</p> <p>The Office queries whether this means that the insurer also no longer has a claim against the other party?</p>   |
| 6.3, 24,<br>26.2(c)<br>ETAC | A3.27-<br>3.30,<br>3.39(b) | <p>Western Power states: “A minor change has been made requiring Western Power to make reasonable endeavors to provide notice of curtailment before the curtailment where practical rather than always as soon as practicable after the curtailment as worded in the MAC.”</p> <p>The Office of Energy does not think that the Model Access Contract only requires notice to be given as soon as practicable <i>after</i> the curtailment has occurred. The Model Access Contract requires notice to be given to a User of any</p>   |

| WESTERN<br>POWER<br>Clause | Code<br>Clause | Comment  |
|----------------------------|----------------|--|
|                            |                | curtailment “as soon as practicable”. Therefore, if it is possible to give notice beforehand, the Model Access Contract provides that Western Power should do so. Under Western Power’s new provision notice only has to be given as soon as practicable beforehand in two specific instances. |
| 27 ETAC                    | A3.90-3.91     | <p>Clause 27.1(d) ETAC requires the User to pay any unpaid charges or capital contribution owed to Western Power upon termination of the contract. No equivalent obligation applies to Western Power.</p> <p>The Office believes that this provision should be reciprocal.</p>                 |