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Access Arrangement Review
Electricity Access
Economic Regulation Authority
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WESTERN POWER'S PROPOSED REVISED ACCESS ARRANGEMENT FOR THE PERIOD 2009/10 TO 2011/12

Alinta Sales Pty Limited (Alinta) appreciates the opportunity to comment on the Economic Regulation Authority's draft decision on Western Power's proposed revisions to the current Access Arrangement (the Proposed Access Arrangement) for the South West Interconnected Network (SWIN).

Alinta notes that the Authority's draft decision is not to approve Western Power's proposed revisions, but instead to require amendments to the proposed standard access contract, the proposed applications and queuing policy and the proposed contributions policy. In addition, Alinta is pleased the Authority is requiring Western Power to include additional service standard benchmarks and to modify or delete proposed mechanisms through which adjustments may be made to target revenue in the next access arrangement period.

Alinta also notes that the Authority is requiring that Western Power significantly amend elements of the price control, which it estimates will result in overall real increases in network tariffs of around 8.5 per cent per year (exclusive of any tariff equivalisation contribution amount). This compares with an estimated real increase in the order of 30 per cent under Western Power's proposed revisions.

Alinta's comments in response to the specific amendments required by the Authority, and on Western Power's revised proposed amendments that it notified to the Authority on 13 August 2009 are provided in the attachment. Should the Authority require further information on any of the above issues, or those discussed in the attachment, I can be contacted on 9486 3749.

Yours ~~st~~incerely

Corey Dykstra
Manager Regulatory Affairs
Alinta Sales Pty Ltd

Att.

ATTACHMENT

WESTERN POWER'S PROPOSED REVISED ACCESS ARRANGEMENT FOR THE PERIOD 2009/10 TO 2011/12

REFERENCE SERVICES

Required Amendment 1

The proposed access arrangement revisions should be amended such that one or more reference services provide for single connection points to function both as entry points and exit points. This revision will cater for the requirements for network services that arise where small-scale renewable energy systems connect to the network and where electricity consumers participate in the Renewable Energy Buyback Scheme.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect in full the amendment required by the Authority.

Alinta supports the amendment required by the Authority, and notes that Western Power has undertaken to consult publicly to allow interested stakeholders to have input into the final design of the new or amended reference service(s) and associated tariff(s).

STANDARD ACCESS CONTRACTS

Required Amendment 2

The proposed access arrangement revisions should be amended so that the requirement under clause 3.3, for a user to ensure compliance with eligibility criteria for a reference service, is subject to operation of the Applications and Queuing Policy regarding a change in the reference service applying to a connection point.

Western Power has indicated it will amend the proposed access arrangement revisions so that the requirement under clause 3.3, for a user to ensure compliance with eligibility criteria for a reference service, is subject to operation of the Applications and Queuing Policy regarding a change in the reference service applying to a connection point.

However, it is unclear that the amendment proposed by Western Power is consistent with that required by the Authority. Specifically, Western Power is proposing to add a new clause 3.3(b) as follows.

- (b) "Where the User* has sought to change the Reference Service* in respect of a Connection Point* under clause 3.2(a), its obligation under clause 3.3(a) in relation to that Connection Point* is subject to compliance by Western Power* with clause 3.2(b)."

The proposed new clause 3.2(b) of the proposed ETAC requires that if Western Power receives a notice from a user for a change in the reference service for a connection point, it must process that request in accordance with the APQ.

Consequently, it would appear that Western Power's proposed new clause 3.3(b) would make the obligation under its original proposed clause 3.3 [which would become 3.3(a)] subject only to Western Power processing the user's request in accordance with the APQ rather than the obligation being subject to the APQ itself as required by the Authority.

Required Amendment 3

The proposed access arrangement revisions should be amended so that the revised electricity transfer access contract includes a clause 3.6(d) requiring that "subject to the Customer Transfer Code, Western Power must not delete a connection point other than in accordance with a notice given by a user in accordance with clause 3.6".

Western Power has indicated it will amend the proposed access arrangement revisions to reflect in full the amendment required by the Authority.

Alinta supports the amendment required by the Authority, and has no comment on the revised amendment proposed by Western Power.

Required Amendment 4

The proposed access arrangement revisions should be amended so that the electricity transfer contract includes a new clause 3.6(e) requiring that, if Western Power wilfully or deliberately deletes a connection point in breach of clause 3.6(d), Western Power is liable to pay the user any indirect damage suffered by the user as a result of Western Power's action.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect the amendment required by the Authority, but argues that it should not be liable to pay the user any indirect damage suffered where a connection point is deleted in breach of clause 3.6(d) but where the deletion was the result of an error of judgment, mistake, act or omission, where negligent or not, which is made in good faith.

Alinta supports the amendment required by the Authority. Given the obligation imposed by the Authority's required amendment 3 [i.e. the inclusion of the proposed new clause 3.6(d)] is very clear, it is unclear that the exclusions proposed by Western Power (i.e. deletions resulting from an error of judgment, mistake, act or omission, where negligent or not, which is made in good faith) as part of its revised amendment are either necessary or appropriate.

Required Amendment 5

The proposed access arrangement revisions should be amended such that clause 3.7 of the electricity transfer access contract is clear on whether schedule 3 and, where relevant, the metering database, is to be updated only by Western Power, or by either Western Power or the user.

Required Amendment 6

The proposed access arrangement revisions should be amended such that clause 3.7 of the electricity transfer access contract requires Western Power to provide the user with such access to schedule 3 and the metering database as is reasonably required for the user to obtain information or to change relevant information.

Required Amendment 7

The proposed access arrangement revisions should be amended so that the electricity transfer access contract indicates which records of connection point data will have precedence, to the extent of any inconsistency between schedule 3 of the electricity transfer access contract, the metering database and any connection point data contained in the price list.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect the above amendments required by the Authority, but that it is also proposing to make further changes to clause 3.7 to facilitate users continuing to be provided with flexibility in accessing connection point information held by Western Power in Schedule 3, the metering database and/or other databases.

Alinta supports the amendment required by the Authority, and has no comment on the revised amendments proposed by Western Power.

Required Amendment 8

The proposed access arrangement revisions should be amended to delete clause 3.8 of the electricity transfer access contract or to amend clause 3.8 to make any reduction in a user's contracted capacity subject to agreement with the user.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect in full the amendment required by the Authority by deleting the proposed clause 3.8.

Alinta supports the amendment required by the Authority, and has no comment on the revised amendment proposed by Western Power.

Required Amendment 9

The proposed access arrangement revisions should be amended such that clause 6.1(a) of the electricity transfer access contract be made to provide for the user to nominate a controller as soon as reasonably practical after the commencement of the service.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect the above amendment required by the Authority, but that it is also proposing to impose a requirement that the user notify it of the controller no later than 30 days after the start date of the service.

Alinta supports the amendment required by the Authority. However, it is unclear whether the 30 day limitation on providing notice which Western Power proposes to include in the revised proposed clause 6.1(a), is consistent with the Authority's required amendment. It is also unclear whether a user could comply with this requirement in all instances where connection points may be added to an access contract other than by an application from the user and subsequent to the commencement of a service, most notably under the default supplier provisions of sections 35 to 38 of the Electricity Industry Customer Contract Regulations 2005.

Required Amendment 10

The proposed access arrangement revisions should be amended such that clause 6.1(e) of the electricity transfer access contract requires only that the user uses reasonable endeavours to procure that a controller enter into a connection contract with Western Power.

Required Amendment 11

The proposed access arrangement revisions should be amended such that clause 6.2(a) of the electricity transfer access contract is made subject to a provision that the user is not required to commence, maintain or continue legal proceedings to procure compliance of a controller with obligations under the access contract unless Western Power provides an indemnity for all of the user's costs of and relating to such proceedings.

Western Power has indicated it will amend clause 6.1(e) of the proposed access arrangement revisions to reflect the above amendment required by the Authority, subject to the Authority accepting its revised proposed amendment to clause 6.2(a).

Alinta has no comment on either the amendment required by the Authority or on Western Power's proposed revised amendment.

Required Amendment 12

The proposed access arrangement revisions should be amended such that clause 7.1 of the electricity transfer access contract includes a provision dealing with the determination of amounts payable by the user where there is a change in the charges payable under a reference tariff during a billing period. The provision must represent a reasonable balance between the interests of the user and Western Power.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect the above amendment required by the Authority.

Alinta has no comment on either the amendment required by the Authority or on Western Power's proposed revised amendment.

Required Amendment 13

The proposed access arrangement revisions should be amended such that clause 10 of the electricity transfer access contract clearly applies only in respect of a contribution payable by the user.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect the above amendment required by the Authority.

Alinta supports the amendment required by the Authority, but is concerned that the proposed clause 10 of the proposed ETAC may be inconsistent with clause 8 of the proposed Contributions Policy.

Specifically, clause 10 of the proposed ETAC states that the user (or otherwise the indemnifier) **must** provide a bank guarantee to Western Power guaranteeing the present value of any amount of any contribution that remains unpaid or unprovided as calculated by Western Power under its Contributions Policy. In contrast, under clause 8.3 of the Contributions Policy Western Power **may** require a bank guarantee guaranteeing the contribution where the contribution is not paid upfront (i.e. the contribution is to be paid via periodic payments) but the provision of a guarantee is not mandated.

In addition, Alinta notes that Western Power's ability to require a user or the user's indemnifier (i.e. the "nominated person") to provide security for charges is limited by clause 9(b). It is unclear why its ability to require the nominated person to provide security for contributions should not be similarly limited.

Alinta submits that clause 10 of the proposed ETAC should be amended so that Western Power **may** request the nominated person to provide security for contributions, but that this ability be limited to circumstances where the nominated person does not satisfy credit rating criteria equivalent to that specified in the existing clause 9(b). These amendments are shown in red below.

If these changes were accepted, Western Power would still retain the ability to require that the user provide security for contributions that are to be paid via periodic payments under clause 8.3 of the Contributions Policy.

10. Security for Contribution*

(a) Without limiting the User*'s security obligations related to clause 26, Western Power may require that the Nominated Person* ~~must~~ provide an irrevocable and unconditional bank guarantee (or equivalent financial instrument) in terms acceptable to Western Power* (acting as a Reasonable and Prudent Person*), guaranteeing the present value of any amount of any Contribution* to be made by the User* that remains unpaid or unprovided as calculated by Western Power* under the Contributions Policy*.

(b) If the Nominated Person* has an unqualified credit rating of at least:

(i) BBB from Standard and Poor's Australia Pty Ltd; or

(ii) Baa from Moody's Investor Service Pty Ltd,

and provides evidence to this effect to Western Power*, then Western Power* is not entitled to require that the Nominated Person* provide an irrevocable and unconditional bank guarantee (or equivalent financial instrument) under clause 10(a).

Required Amendment 14

The proposed access arrangement revisions should be amended such that clause 12.1 of the electricity transfer access contract is consistent with clause 6.2 and limits the obligation of the user to ensure that any other person or person's equipment complies with the Technical Rules only to the extent:

- that is reasonably practical for the user; and
- that Western Power provides an indemnity for all of the user's costs of and relating to proceedings against any other person for the purposes of ensuring compliance.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect the identical clause in the model access contract.

Alinta has no comment on either the amendment required by the Authority or on Western Power's proposed revised amendment.

Required Amendment 15

The proposed access arrangement revisions should be amended such that clause 12.2 of the electricity transfer access contract provides that an act or omission of the user that causes Western Power to incur extra costs for compliance with the Technical Rules only causes the user to be liable for those costs where:

- the act or omission of the user is in breach of the access contract; and
- Western Power has not already recovered the costs from another party.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect the above amendment required by the Authority.

Alinta has no comment on either the amendment required by the Authority or on Western Power's revised proposed amendment.

Required Amendment 16

The proposed access arrangement revisions should be amended such that the calculation of liability under clause 19.5 of the electricity transfer access contract is limited to a cap on liabilities with the effect that the maximum liability of both the user and the indemnifier collectively to Western Power is limited to an amount of \$80 million in the aggregate, except that the liabilities described in clause 20 are not counted for the purpose of both the user's and the indemnifier's collective maximum liability.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect the above amendment required by the Authority. In addition, it proposes to exclude from the liability cap, users' liabilities under clauses 7 (Tariff and charges), 8 (Invoicing and payment) and 20 (Personal injury).

Alinta has no comment on either the amendment required by the Authority or on Western Power's revised proposed amendment.

Required Amendment 17

The proposed access arrangement revisions should be amended to delete clause 19.5(c) of the electricity transfer access contract.

Western Power has indicated it will not amend the proposed access arrangement revisions to reflect the above amendment required by the Authority, but instead of annual indexation of the maximum liability amounts in clauses 19.5(a) and 19.5(b) as originally proposed by it, its revised proposed revisions are for indexation every five years.

Alinta strongly supports the amendment required by the Authority. Alinta notes that clause 19.5(d) of the proposed ETAC already imposes an obligation on the parties to negotiate in good faith to re-set the maximum liability amounts applicable under clauses 19.5(a) and 19.5(b) every three years having regard for any relevant changed circumstances in that period. Consequently, it appears not to be the case that indexation is necessary to ensure that the maximum liability amounts will not over time become inappropriate as suggested by Western Power,

For this reason, and given the Authority's comment that indexation of limits to liability is not contemplated under the model standard access contract under the Access Code, Alinta considers that the Authority should continue to require that Western Power delete clause 19.5(c).

Required Amendment 18

The proposed access arrangement revisions should be amended so that part 1(a)(i)A of schedule 5 of the electricity transfer access contract provides for the insurance requirement to be limited in the aggregate to \$50 million in each 12 months.

Western Power has indicated it will not amend the proposed access arrangement revisions to reflect the above amendment required by the Authority, but instead will limit the insurance requirement to the greater of \$50 million or the user's maximum liability under clause 19.5.

Alinta has no comment on either the amendment required by the Authority or on Western Power's revised proposed amendment.

Required Amendment 19

The proposed access arrangement revisions should be amended so that the requirements for workers compensation, motor vehicle and third-party property insurance under part 1(a)(ii) and part 1(a)(iii) of the electricity transfer access contract apply only where these insurances are reasonably requested by Western Power.

Western Power has indicated it will not amend the proposed access arrangement revisions to reflect the above amendment required by the Authority.

Alinta has no comment on either the amendment required by the Authority or on Western Power's revised proposed amendment.

Required Amendment 20

The proposed access arrangement revisions should be amended so that clause 29.3(b) of the electricity transfer access contract requires that Western Power act reasonably in determining a location for a meeting for resolution of a dispute.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect the above amendment required by the Authority.

Alinta has no comment on either the amendment required by the Authority or on Western Power's revised proposed amendment.

Required Amendment 21

The proposed access arrangement revisions should be amended so that clause 33.1 of the electricity transfer access contract extends the requirement for confidentiality of information to encompass information exchanged in negotiations preceding the contract and information about, or relating to, a proposed controller.

Western Power has indicated it will amend the proposed access arrangement revisions to reflect the above amendment required by the Authority.

Alinta has no comment on either the amendment required by the Authority or on Western Power's revised proposed amendment.

SERVICE STANDARD BENCHMARKS**Required Amendment 22**

The proposed access arrangement revisions should be amended to include service standard benchmarks for:

- loss of supply event frequency, specified as a number of loss of supply events in a one year period with benchmarks specified for events of low and high duration measured as system minutes interrupted; and
- average outage duration, measured in minutes.

Required Amendment 23

The proposed access arrangement revisions should be amended such that definitions of SAIDI and SAIFI do not make provision for the exclusion of single customer interruptions.

Required Amendment 24

The proposed access arrangement revisions should be amended to include service standard benchmarks for SAIDI and SAIFI for customers served by the 15 per cent of worst performing feeders.

Western Power has indicated it will lodge a response to the amendments required by the Authority in its second submission, which it intends to provide to the Authority by 10 September 2009.

Alinta strongly supports the amendment required by the Authority that will require Western Power to include service standard benchmarks for loss of supply event frequency and average outage duration.

Alinta is disappointed the Authority will not require Western Power to include a service standard benchmark representing the "momentary average interruption frequency index" (MAIFI). However, it notes the Authority's comments regarding Western Power's claims that the accurate measurement would require a multi-million dollar investment, whereas the likely benefits have not been demonstrated and will seek to address this matter in consultations on future proposed revisions to the access arrangement.

Alinta strongly supports the amendment required by the Authority that will require Western Power to include service standard benchmarks for SAIDI and SAIFI for customers served by the 15 per cent of worst performing feeders to ensure it is held accountable for the substantial forecast increases in capital expenditure and non-capital costs.

PRICE CONTROL**Required Amendment 25**

The proposed access arrangement revisions should be amended to reflect a forecast of non-capital costs as specified in the Authority's Draft Decision.

Required Amendment 26

The proposed access arrangement revisions should be amended to reflect actual new facilities investment in the first access arrangement period reduced to:

- exclude investment to the value of \$63.5 million (nominal) for the transmission network in 2008/09 that comprises an overstatement of costs for 2008/09;
- exclude investment to the value of \$65 million (nominal in 2007/08 dollar values) for the distribution network that comprises an amount of costs that is not appropriately considered as new facilities investment; and
- exclude a further amount of 15 per cent of the new facilities investment (other than that comprising gifted assets) to reflect likely inefficiencies in the undertaking of investment.

Western Power has indicated it will lodge a response to the amendments required by the Authority in its second submission, which it intends to provide to the Authority by 10 September 2009.

Alinta has no comment on the amendments required by the Authority.

Required Amendment 27

The proposed access arrangement revisions should be amended to add the value of any revenues from disposal of assets in the first access arrangement period to the value of redundant assets applied in calculation of the capital base at the commencement of the second access arrangement period.

Western Power has indicated it will not amend the proposed access arrangement revisions to reflect the amendment required by the Authority, as it has found an anomaly in the Authority's Draft Decision.

Alinta has no comment on either the amendment required by the Authority or on Western Power's revised proposed amendment.

Required Amendment 28

The proposed access arrangement revisions should be amended to incorporate a forecast of new facilities investment that:

- reflects a revised program of capital works that takes into account revised forecasts of demand for network services;
- reflects a zero rate of escalation in unit costs over the second access arrangement period; and
- excludes any "estimating risk margin".

Required Amendment 29

The target revenue should be revised to reflect a real pre-tax WACC value of 7.06 per cent, subject to revision of the risk free rate and debt margin at a date to be advised and prior to the Authority's final decision.

Western Power has indicated it will lodge a response to the amendments required by the Authority in its second submission, which it intends to provide to the Authority by 10 September 2009.

Alinta strongly supports the above amendments required by the Authority.

Required Amendment 30

The target revenue should be revised to reflect an allowance for a cost of working capital calculated as a return on the opening value of a stock of working capital in each year of the second access arrangement period.

Required Amendment 31

The proposed access arrangement revisions should be amended to determine the target revenue for reference services taking into account a forecast revenue from non-reference services at least equal to the forecast of non-capital costs attributed to provision of these services.

Western Power has indicated it will amend the calculation of the revenue requirement as required by the Authority.

Alinta has no comment on either the amendment required by the Authority or on Western Power's revised proposed amendments.

Required Amendment 32

The proposed access arrangement revisions should be amended to provide for deferral of revenue from the second to the third and subsequent access arrangement periods in an amount that fully offsets the effect of the change in the treatment of capital contributions in the determination of target revenue.

Western Power has indicated it will lodge a response to the amendment required by the Authority in its second submission, which it intends to provide to the Authority by 10 September 2009.

Alinta has no comment on the amendment required by the Authority.

Required Amendment 33

The proposed access arrangement revisions should be amended such that clauses 3.11, 5.35 and 5.46 provide for maximum proportional changes in reference tariffs from 2009/10 to 2010/11 and from 2010/11 to 2011/12 of:

- +/- (percentage change in the CPI + 13 percentage points) for the transmission network; and
- +/- (percentage change in the CPI + 7 percentage points) for the transmission network.

Western Power has indicated it will lodge a response to the amendment required by the Authority in its second submission, which it intends to provide to the Authority by 10 September 2009.

Alinta has no comment on the amendment required by the Authority.

ADJUSTMENTS TO TARGET REVENUE IN THE NEXT ACCESS ARRANGEMENT PERIOD

Required Amendment 34

The proposed access arrangement revisions should be amended to specify a gain sharing mechanism as specified by the Authority.

Western Power has indicated it will lodge a response to the amendment required by the Authority in its second submission, which it intends to provide to the Authority by 10 September 2009.

Alinta strongly supports the amendments required by the Authority. In particular, Alinta agrees generally with the basis on which the Authority requires Western Power to calculate the above-benchmark surplus in each year, and the requirement that Western Power not benefit in any year where Western Power fails to meet the service standard benchmarks.

However, Alinta notes that the Authority's requirement that the above-benchmark surplus be zero in any year in which Western Power fails to meet service standard benchmarks could result in perverse outcomes.

The Authority's formulation of the above-benchmark surplus indicates that its value may be either positive (actual non-capital costs are below the efficiency and innovation benchmark) or negative (actual non-capital costs are above the efficiency and innovation benchmark). Based on the specification of the gain sharing mechanism, a negative above-benchmark surplus in any one year would reduce the amount that may be added to target revenue in a subsequent access arrangement period, with a limitation that the amount cannot be negative.

However, under the amendments required by the Authority, if Western Power's actual non-capital costs were significantly above the efficiency and innovation benchmark, it would have a strong (financial) incentive to ensure it failed to meet at least one service standard benchmark so that it ensured the above-benchmark surplus was not negative (and hence the cumulative above-benchmark surplus remained at the pre-existing level).

Alinta suggests that to avoid such an outcome (or the creation of such an incentive), the Authority should instead require Western Power to amend the proposed access arrangement revisions to specify a gain sharing mechanism so that in any year in which Western Power fails to meet service standard benchmarks, the above-benchmark surplus should be restricted from being greater than zero.

Required Amendment 35

The proposed access arrangement revisions should be amended to alter the specification of the service standard adjustment mechanism as specified by the Authority.

Western Power has indicated it will lodge a response to the amendment required by the Authority in its second submission, which it intends to provide to the Authority by 10 September 2009.

Alinta supports the amendments required by the Authority. In particular, Alinta supports the requirements to remove the dead-bands and limits around the target values of the service standards, to calculate the amount of the difference between target and actual service standards as specified by the Authority, and to increase the value of the incentive rates.

Alinta remains concerned that the probabilities of Western Power achieving and not achieving the benchmark service standards is not symmetrical, and questions whether it is therefore appropriate for the proposed service standard adjustment mechanism to provide the same reward or penalty for the same level of over, or under, performance relative to the service standard benchmarks.

Required Amendment 36

The proposed access arrangement revisions should be amended to provide for the recovery of deferred revenue as a constant amount in each year subsequent to the second access arrangement period and over a total period of recovery equal to the average economic life of network assets.

Western Power has indicated it will lodge a response to the amendment required by the Authority in its second submission, which it intends to provide to the Authority by 10 September 2009.

Alinta has no comment on the amendment required by the Authority.

Required Amendment 37

The proposed access arrangement revisions should be amended to delete the proposed D-factor scheme at clauses 5.54 to 5.57.

Western Power has indicated it will lodge a response to the amendment required by the Authority in its second submission, which it intends to provide to the Authority by 10 September 2009.

Alinta strongly supports the amendment required by the Authority that the proposed access arrangement should be amended by deleting the proposed D-factor scheme at clauses 5.54 to 5.57.

APPLICATIONS AND QUEUING POLICY

Required Amendment 38

The proposed access arrangement revisions should be amended to resolve inconsistencies between clause 10 of the applications and queuing policy and clauses 3.4 and 3.5 of the electricity transfer access contract in relation to changes to covered services, including increases or decreases in contracted capacity at a connection point.

Western Power has indicated it will amend the proposed electricity transfer access contract (ETAC) to resolve inconsistencies between clause 10 of the applications and queuing policy (APQ) and clauses 3.4 and 3.5 of the ETAC in relation to changes to covered services, including increases or decreases in contracted capacity at a connection point.

Alinta supports the amendment required by the Authority, and is pleased Western Power has undertaken to amend the proposed APQ accordingly.

Required Amendment 39

The proposed access arrangement revisions should be amended such that clause 11.2 of the applications and queuing policy is amended to indicate that nothing in clause 11.2 provides Western Power with a derogation of obligations to energise connection points within the timeframes specified under clause 8.2 of the Code of Conduct for the Supply of Electricity to Small Use Customers or regulations 7 and 8 the Electricity Industry (Obligation to Connect) Regulations 2005.

Western Power has indicated it will amend the proposed APQ by inserting a new clause [clause 11.2(g)] that reflects in full the amendment required by the Authority.

Alinta has no comment on either the amendment required by the Authority or on Western Power's revised proposed amendment.

Required Amendment 40

The proposed access arrangement revisions should be amended such that the proposed change to clause 24.17(a) of the applications and queuing policy is deleted and the obligation is maintained for Western Power to provide queue information in the initial response to an application.

Western Power has indicated it will not amend the proposed APQ as required by the Authority, but instead proposes to amend clause 24.17(a) as outlined below.

24.17 When Western Power is to provide queue information

Western Power must provide the information in clause 24.16:

- (a) as part of the initial response to an application to the extent Western Power is reasonably able to do so, but in any case as part of the preliminary assessment under clause 19.3 with respect to an application; and

Western Power notes that for congested parts of the network, or complex connection arrangements, complete and accurate determination of competing applicants may be undefined until such time as system studies, which might take two to four months, have been completed. It claims that its revised proposed Clause 24.17(a) will ensure that queuing status can be provided with an initial response to an application

where it is able to make an assessment as to competing applications prior to undertaking detailed system studies.

Alinta strongly supports the amendment required by the Authority.

The proposed APQ defines “competing”, in relation to two or more connection applications, as meaning that the provision of the covered service sought in one connection application **may** impede Western Power’s ability to provide the covered services that are sought in the other connection applications (emphasis added). Western Power’s response to the Authority’s required amendment also notes that whether an application is competing may be determined through prior knowledge of the state of the network and comparison of the locations and proposed connection points of active connection applications.

Alinta notes that the definition of “competing” in the APQ is **subjective**, rather than definitive. Consequently, it does not appear reasonable for Western Power to be able to withhold the information in clause 24.16 that would ordinarily be required to be provided to an applicant at the time of the preliminary assessment simply because Western Power was unable to confirm with **certainty** that two or more connection applications are competing applications.

As noted by the Authority, a delay in providing information to the applicant on the queuing status of an application would not adequately accommodate the interests of the applicant, for whom the information may be of substantial commercial significance, and would therefore be inconsistent with section 5.7 of the Access Code.

CONTRIBUTIONS POLICY

Required Amendment 41

The proposed access arrangement revisions should be amended such that the contributions policy includes an obligation on Western Power to provide an applicant or user with details of the calculation of any contribution to be required from the applicant or user including:

- where the contribution is in respect of new facilities investment, details of assessment of the new facilities investment against the requirements of the new facilities investment test and details of the calculation of the amount that does not meet the new facilities investment test;
- where the contribution is made in respect of non-capital costs related to alternative options, details of assessment of the non-capital costs against the alternative options test and details of the calculation of the amount that does not satisfy the alternative options test;
- details of assumptions and calculations applied in the apportionment of any forecast cost of works between the user or applicant and other users or applicants or Western Power under clause 5.4 of the contributions policy; and
- details of the calculation of a headworks contribution under clause 6 of the contributions policy.

Western Power has indicated it will amend the proposed Contributions Policy by inserting a new clause (clause 10) that reflects in full the amendment required by the Authority.

Alinta strongly supports the amendment required by the Authority, and is pleased Western Power has undertaken to amend the proposed Contributions Policy accordingly.

Required Amendment 42

The proposed access arrangement revisions should be amended to include definitions of "rural zone" and "mixed zone" as these terms are used in the proposed contributions policy to define a class of user who must make a payment under the headworks scheme.

Western Power has indicated that the cross-reference in clause 6.1(b) of the proposed Contributions Policy to clause 4.3 was in error, and that the reference in this clause should instead have been to clause 5.3 of the price list information. Western Power has undertaken to amend the proposed Contributions Policy accordingly.

Alinta has no comment on either the amendment required by the Authority or on Western Power's revised proposed amendment.

Required Amendment 43

The proposed access arrangement revisions should be amended such that clause 6 of the contributions policy sets out:

- the method or calculation and assumptions applied in determining the amount of costs to be recovered by headworks contributions;
- the method or calculation and assumptions applied in determining the allocation of costs across a forecast of connections to the network and determining the magnitude of headworks contributions;
- the procedures or methods applied by Western Power to ensure that headworks contributions will, in the long term, recover no more than Western Power's costs of the headworks; and
- a mechanism, which may involve a system of accounting records, to ensure that any amount of the costs of headworks recovered by headworks contributions are not also recovered, or sought to be recovered, through other contributions or through tariffs for services.

Western Power has indicated it will lodge a response to the amendment required by the Authority of the proposed Contributions Policy in its second submission, which it intends to provide to the Authority by 10 September 2009.

The amendments required by the Authority will provide greater transparency in the process adopted by Western Power in determining the amount of any headworks contribution and for this reason are strongly supported by Alinta.

Required Amendment 44

The proposed access arrangement revisions should be amended to delete the proposed clause 2(c)(iii) of the contributions policy that seeks to allow Western Power to require a contribution in respect of non-capital costs required in response to a connection application, where the non-capital costs associated with such works are costs which would not be incurred by a service provider efficiently minimising costs.

Western Power has indicated it will amend the proposed Contributions Policy as required by the Authority by deleting the proposed clause 2(c)(iii).

Alinta supports the amendment required by the Authority.

Required Amendment 45

The proposed access arrangement revisions should be amended such that the contributions policy only allows for contributions in respect of non-capital costs incurred in the implementation of an alternative option where:

- the alternative option is being implemented in response to a connection application; and
- the costs are costs that would be incurred by a service provider efficiently minimising costs; and
- Western Power is able to clearly demonstrate that the costs were not included, and could not reasonably have been included, in forecasts of non-capital costs taken into account in setting the price control; and
- the conditions of section 6.41(b) of the Access Code are not satisfied.

Western Power has indicated it accepts the intent of the amendment required by the Authority, but considers that the first, second and fourth dot points are already addressed in the proposed Contributions Policy. In respect of the third dot point, Western Power has indicated it will amend the proposed Contributions Policy as required by the Authority

Alinta has no comment on either the amendment required by the Authority or on Western Power's revised proposed amendment.

Required Amendment 46

The proposed access arrangement revisions should be amended to delete the expanded requirements for security proposed under clause 1.3 of the contributions policy.

Western Power has indicated it will not amend the proposed Contributions Policy as required by the Authority, but instead proposes to amend clause 4.3 as outlined below.

4.3 Applicant must provide security for new revenue

- (a) Where the forecast costs with respect to a connection application are greater than \$50,000, but less than \$500,000, Western Power may require the applicant to procure before the commencement of the works, and maintain for a period of 18 months after the commencement of the associated exit service or entry service, an unconditional, irrevocable bank guarantee, or equivalent financial instrument, in terms acceptable to Western Power (acting as a reasonable and prudent person), guaranteeing the portion of new revenue that was used to calculate the contribution and is expected to come from providing an exit service or entry service using the works.
- (b) Where an applicant has provided security under clause 4.3(a), then after 12 months, Western Power may:
 - (I) redetermine the contribution under this contributions policy, and recover from, or rebate to, the applicant any difference from the amount of the original contribution; or
 - (II) require the applicant to maintain the bank guarantee or equivalent financial instrument for a further 12 months before redetermining the contribution in accordance with clause 4.3(a)(I).
- (c) Where the forecast costs with respect to a connection application are equal to or greater than \$500,000 but less than \$15,000,000, Western Power may require the applicant to procure before the commencement of the works, and maintain for a period of up to 36 months after the commencement of the associated exit service or entry service, an unconditional, irrevocable bank guarantee, or equivalent financial instrument, in terms acceptable to Western Power (acting as a reasonable and prudent person), guaranteeing the portion of new revenue that was used to calculate the contribution and is expected to come from providing an exit service or entry service using the works. Western Power (acting as a reasonable and prudent person) may require the applicant to maintain the bank guarantee or equivalent financial instrument for a period greater than 36 months where the forecast use of network services has not been achieved.
- (d) Where the forecast costs with respect to a connection application are equal to or greater than \$15,000,000, Western Power may require the applicant to procure before the commencement of the works, an unconditional, irrevocable bank guarantee, or equivalent financial instrument, in terms acceptable to Western Power (acting as a reasonable and prudent person), guaranteeing the portion of new revenue that was used to calculate the contribution and is expected to come from providing an exit service or entry service using the works.

Alinta strongly supports the amendment required by the Authority.

Alinta did not support the original amendments proposed by Western Power to clauses 4.3(a) and 4.3(b), and the basis that it imposed a potentially open-ended obligation to provide bank guarantees to Western Power that had the potential to impose material (and unquantifiable) costs on applicants. While the revised proposed amendments (as outlined above) do limit the period for which the guarantee may be required (for projects where the contribution is less than \$15 million), they continue to impose potentially material costs on applicants, particularly for projects where the contribution exceeds \$15 million. For these reasons, Alinta remains of the view that the revised proposed amendments would likely create barriers to entry in markets upstream and downstream of the network, and have a negative impact on competition on those markets

Further, as noted by Western Power, the Authority concluded in paragraph 1216:

In the absence of any justifying information from Western Power, the Authority considers that the existing requirements for security under the current capital contributions policy are likely to be sufficient to fulfil this function. The Authority considers that expanded requirements for security may impose a significant additional cost on applicants for connection to the network without any commensurate benefit in efficiency of investment

Alinta submits that Western Power has not provided evidence supporting the need for either the original proposed amendments to the obligations imposed on applicants under clause 4.3 to provide security, nor in support of the revised proposed amendments (as outlined above).

Consequently, Alinta submits that it remains unclear that there are benefits in efficiency of investment that more than offset the additional costs imposed on applicants by the expanded requirements for security. For this reason, Alinta submits that the Authority should not approved Western Power's proposed revised Access Arrangement until it deletes the expanded requirements for security proposed under clause 4.3 of the proposed Contributions Policy.

Alinta Sales Pty Ltd
10 September 2009