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ELECTRICITY INDUSTRY ACT 2004

ELECTRICITY NETWORKS ACCESS CODE AMENDMENTS (NO. 2) 2007

I, Francis Logan, Minister for Energy for the State of Western Australia, hereby amend the *Electricity Networks Access Code 2004* established under section 104(1) of the *Electricity Industry Act 2004*.

Dated at Perth this 24th day of August 2007.

FRANCIS LOGAN.

Made by the Minister.

1. Citation

These amendments may be cited as the *Electricity Networks Access Code Amendments (No. 2) 2007*.

2. Commencement

These amendments come into operation on the date on which they are published in the *Gazette*.

3. The Electricity Networks Access Code amended

These amendments are to the *Electricity Networks Access Code 2004**.

[*Published in *Gazette* 30 November 2004, p. 5517-5700

For amendments to 29 June 2007 see *Gazettes*—

- No 207 of 8 November 2005;*
- No 59 of 31 March 2006;*
- No 152 of 1 September 2006;*
- No 206 of 8 December 2006; and*
- No 137 of 29 June 2007.]*

4. Sections 2.4A and 2.4B inserted

Insert the following new sections after the heading “Freedom to contract” and before section 2.5—

“

2.4A Subject to this Code and to—

- (a) an *applications and queuing policy* in an *access arrangement*; and
- (b) the *ringfencing objectives* and any *ringfencing rules* approved for a *network* by the *Authority* under Chapter 13; and
- (c) any applicable *technical rules*,

a *service provider* (including Electricity Networks Corporation) and a *user* or *applicant* may negotiate regarding, and may make and implement, an *access contract* for *access* to any *service* (including a *service* which differs from a *reference service*) on any terms (including terms which differ from a *standard access contract*).

{Note: This provision confirms the Code’s central emphasis on negotiated outcomes. The express reference to Electricity Networks Corporation confirms that such negotiation and agreement is within its functions under section 41(b) of the *Electricity Corporations Act 2005*.}

2.4B Section 2.4A does not—

- (a) permit a *service provider, user or applicant* to do anything which a *written law* prohibits; or
- (b) by implication limit the rights, powers or obligations of a *service provider, user or applicant*.

”.

5. New clause A8.20 inserted in Appendix 8

In Appendix 8, insert the following heading and clause after clause A8.19—

“

If required augmentation comprises more than just an Appendix 8 augmentation

A8.20 To avoid doubt, if a *required augmentation* comprises one or more *Appendix 8 augmentations* and one or more other *augmentations*, then unless the *service provider* and the *contributing user* agree otherwise —

- (a) references in the Code to “*required augmentation*” are to the *Appendix 8 augmentations* and the other *augmentations* collectively; and
- (b) without limiting clause A8.20(a), for the purposes of section 2.9 of the Code the *service provider* is not required to undertake and fund the *required augmentation* unless required to do so under both section 2.9(a) for the *Appendix 8 augmentations* and section 2.9(b) for the other *augmentations*.

”.
