



WESTERN
AUSTRALIAN
GOVERNMENT
Gazette
ISSN 1448-949X PRINT POST APPROVED PP665002/00041

4631



PERTH, WEDNESDAY, 22 OCTOBER 2008 No. 180 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.30 PM

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ELECTRICITY INDUSTRY ACT 2004

**ELECTRICITY NETWORKS
ACCESS CODE AMENDMENTS
(No. 2) 2008**

Approval by Minister

I, Peter Collier, 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*.

PETER COLLIER

Dated at Perth this 21st day of October 2008.

ELECTRICITY INDUSTRY ACT 2004

**ELECTRICITY NETWORKS ACCESS CODE AMENDMENTS
(No. 2) 2008**

Made by the Minister

1. Citation

These amendments may be cited as the *Electricity Networks Access Code Amendments (No 2) 2008*.

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** ("Code").

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

4. References to "access contract" amended

Each section in the Table to this amendment is amended by deleting "access contract" where it appears in each section and inserting instead:

" *contract for services* ".

Table

Section 1.3 (in the definition of " efficiently minimising costs ")	Section 1.3 (the second time it appears in the definition of " exit point ")
Section 1.3 (the second time it appears in the definition of " entry point ")	Section 10.29(g) Section 10.53 Section A2.33

5. References to "an access contract" amended

Each section in the Table to this amendment is amended by deleting "an access contract" where it appears in each section (and however it is italicised) and inserting instead:

" *a contract for services* ".

Table

Section 1.3 (in the definition of “ connection point ”)	Section 1.3 (the first time it appears in the definition of “ exit point ”)
Section 1.3 (the first time it appears in the definition of “ entry point ”)	Section 10.32(a)
	Section A2.1 (in the definition of “ capacity increase ”)
	Section A3.2 (in the definition of “ user ”)

6. References to “augmentation” amended

Each section in the Table to this amendment is amended by deleting “augmentation” and “augmentations” where they appear in each section (and however they are italicised), and inserting instead:

“ *work* ”.

Table

Section 5.7(d)(ii)A	Section A4.15
Section 5.7(d)(ii)B	Section A8.1 (in the definition of “ SES ” and “ Supply Extension Scheme ”)
Section 5.17A	Section A8.1 (in the definition of “ total cost ”)
Section 10.33(a)	Section A8.2(e)
Section A2.68(d)(iii)	Section A8.3
Section A3.27(a)	Section A8.4 (except where it occurs in A8.4(b))
Section A4.1 (in the definition of “ new service ”)	Section A8.7
Section A4.9	Section A8.8
Section A4.7	Section A8.8
Section A4.8	Section A8.9
Section A4.12	Section A8.12
Section A4.13	Section A8.19
Section A4.14	

7. References to “capital” deleted

Each section in the Table to this amendment is amended by deleting “capital” where it appears in each section (and in whatever typeface it is in).

Section 1.3 (in part (a) of the definition of “ anticipated incremental revenue ”)	Section A3.51(b)
Section 1.3 (in the definition of “ contributing user ”)	Schedule 5 to Appendix 3 (heading of schedule)
Section 4.41(c)	Heading to Appendix 4
Section 5.1(h)	Appendix 4 (introductory notes)
Section 5.12 (in the opening words)	Section A4.1 (in the opening words)
Section 5.13 (in the opening words)	Section A4.2
Section 5.15	Section A4.3
Section 5.16	Heading to section A4.4
The note that appears in braces after section 5.16	Section A4.4
	Section A4.6
	Section A4.7
	Section A4.8
	Section A4.11

Section 5.17	Section A4.12 (except where it occurs in section
Section 5.17A	A4.12(a)(i))
Section 6.58(c)	Heading to section A4.13
Section A2.9(c)	Heading to section A4.14
Section A2.86(b)	Section A4.15 (except where it occurs in section A4.15(a))
Section A2.93(b)	Section A8.3
Section A2.103(c)(i)	Section A8.4
Section A3.2 (in the definition of “ capital contribution ”	Section A8.5
Section A3.2 (in the definition of “ capital contributions policy ”	Section A8.7
Section A3.2 (in the definition of “ financial provision ”	Section A8.10
Section A3.43	Section A8.11
	Section A8.12
	Section A8.13
	Section A8.14
	Section A8.16(c)
	Section A8.16(d)
	Section A8.17
	Section A8.19

8. References to “contract for services” italicised

Each section in the Table to this amendment is amended by deleting “contract for services” where it appears in each section (and however it is italicised), and inserting instead:

“ *contract for services* ”.

Table

Section 1.3 (in the definition of “ access rights ”)	Section 12.5
Section 1.3 (twice in the definition of “ bare transfer ”)	
Section 1.3 (in the definition of “ contractual dispute ”)	
Section 1.3 (in the definition of “ standard tariff exit point ”)	

9. References to “new facilities investment” amended

Each section in the Table to this amendment is amended by deleting “new facilities investment” and “new facilities investments” where they appear in each section (and however they are italicised), and inserting instead:

“ *cost* ”.

Table

Section A8.1 (in the definition of “ total cost ”)	Section A8.12
Section A8.3	Section A8.13
Section A8.4	Section A8.16(b)
Section A8.6(a)	Section A8.18
Section A8.7	Section A8.19
Section A8.9(a)	
Section A8.10	

10. References to “SWIN” amended

Each section in the Table to this amendment is amended by deleting “SWIN” where it appears in each section (and however it is italicised), and inserting instead:

“ *Western Power Network* ”.

Table

The note that appears in braces after section 4.72	Section A8.7
Section 5.17B	Section A9.1 (in the definition of “ application and queuing policy ”)
Section A8.1 (in the definition of “ pillar ”)	Section A9.2
Section A8.1 (in the definition of “ SES ”)	Section A9.3
Section A8.1 (in the definition of “ SES Augmentation ”)	Section A9.6
Section A8.1 (in the definition of “ standard dwelling ”)	Section A9.7(e)
Section A8.1 (in the definition of “ temporary connection ”)	Section A9.13
Section A8.7	

11. References to the SWIN simplified

Each section in the Table to this amendment is amended by deleting “*covered network* that is *covered* under section 3.1” where it appears in each section and inserting instead:

“ *Western Power Network* ”.

Table

Section 3.2	Section 6.47
Section 4.72	Section 6.64(a)(i)
Section 4.73 (in the definition of “2006 draft decision”)	Section 6.69
Section 5.2(d)	Section 12.52
Section 6.37A	Section 12.56

12. Section 1.3 amended

Section 1.3 is amended:

- (a) in part (a) of the definition of “**access application**” by inserting after “*access contract*” the following:

“ or to modify any other *contract for services* ”;

- (b) in the definition of “**access dispute**” by:

- (i) inserting after “including a dispute in relation to” in the opening words the following:

“ any one or more of the following (and the paragraphs of this definition do not limit each other) ”; and

- (ii) deleting paragraphs (c) and (ca) of the definition and inserting instead:
- “
- (c) whether *work* is *required work* and the terms and conditions applying, or proposed to apply, to any such *work*; and
- (ca) anything connected with or arising out of a proposed *contribution*; and
- ”;
- (c) in the definition of “**alternative option costs**” by inserting after “**option**” the following:
- “ **non-capital** ”;
- (d) by deleting the definition of “**Appendix 8 augmentation**” and inserting instead:
- “
- “**Appendix 8 work**” means *work* in connection with the *Western Power Network* of a type specified in clause A8.2 of Appendix 8.
- ”;
- (e) by deleting part (a) of the definition of “**applicant**” and inserting instead:
- “
- (a) a person (who may be a *user*) who has lodged an *access application* under the *access arrangement* for a *covered network* to establish or modify a *contract for services*, and includes a prospective *applicant*; and
- ”;
- (f) by deleting part (a) of the definition of “**approved total costs**” and inserting instead:
- “
- (a) the *capital-related costs* determined in accordance with section 6.43; and
- ”;
- (g) in the definition of “**augmentation**” by deleting “, including by the development, construction, acquisition or commissioning of new *network assets*”;
- (h) by deleting the definition of “**capital contribution**” and inserting instead:
- “
- “**capital contribution**” means a payment or provision in kind made, or to be made, by a *user* in respect of any *new facilities investment in required work*.
- ”;
- (i) in the definition of “**Code change**” by deleting the words “Appendix 2, Appendix 3 or Appendix 4 of”;
- (j) in the definition of “**competing applications**” by inserting after “**applications**” the following:
- “ , subject to section 5.9A, ”;

- (k) by inserting the following definition and note after the definition of “**contestable**”:

“

“**contract for services**” means an agreement between a *service provider* and another person for the person to have access to *services*, and includes an *access contract*.

{Note: The expression “**contract for services**” is broader than “access contract”, because it catches all such contracts and not merely those entered into under this Code. Hence, it includes contracts entered into under the *Electricity Transmission Regulations 1996* and the *Electricity Distribution Regulations 1997*.}

”.

- (l) in the definition of “**contributing user**” by deleting the words “in respect of a *required augmentation*”;

- (m) by inserting the following definition after the definition of “**contributing user**”:

“

“**contribution**” means a *capital contribution*, a *non-capital contribution*, or a *headworks charge*.

”.

- (n) by deleting the definition of “**capital contributions policy**” and inserting instead:

“

“**contributions policy**” means a policy in an *access arrangement* under section 5.1(h) dealing with *contributions* by users.

”.

- (o) by deleting the definition of “**covered**” and inserting instead the following definition and note:

“

“**covered**”, with regard to a *network*, means either:

(a) that the *network* is referred to in section 3.1, and the coverage has not been revoked under Subchapter 3.4; or

(b) that the Minister has made a *final coverage decision* that the *network* should be *covered*, and the coverage has not been revoked under Subchapter 3.4.

{Note: Among other things, *coverage* of a network means that the *service provider* must submit a *proposed access arrangement* under section 4.1.}

”.

- (p) in the definition of “**covered service**” by deleting the words “in relation to the *transportation* of electricity”;

- (q) in the definition of “**deadlock**” by deleting the word “model” and inserting instead:

“ *model* ”.

- (r) by inserting the following definition after the definition of “**distribution system**”:

“

“**distribution system target revenue**” for a *network* for an *access arrangement period* means either:

- (a) if the *access arrangement* or *access arrangement information* apportion part or all of the *target revenue* for the *access arrangement period* to the *distribution system* — the amount so apportioned; or
- (b) otherwise — a percentage of the *target revenue* for the *access arrangement period* calculated by determining the part of the *capital base* which is attributable to the *distribution system* and then dividing it by the *capital base*, with the quotient expressed as a percentage.

”;

- (s) in the definition of “**excluded service**” by deleting the words “in relation to the *transportation* of electricity”;

- (t) by inserting the following definitions after the definition of “**good electricity industry practice**”:

“

“**headworks**”, in respect of a *headworks scheme*, means the class of works identified under section 5.17D(a) as the class in respect of which the *headworks scheme* applies.

“**headworks charge**”, in respect of a *headworks scheme*, means a payment made, or to be made, by a *user* under the *headworks scheme* in respect of a *connection point*.

“**headworks scheme**” means a scheme under section 5.17C.

”;

- (u) in the definition of “**major augmentation**”:

- (i) by deleting \$5 in paragraph (a) and inserting instead:

“ \$10 ”; and

- (ii) by deleting \$15 in paragraph (b) and inserting instead:

“ \$30 ”.

- (v) by deleting the definition of “**model capital contributions policy**” and inserting instead the following definition:

“

“**model contributions policy**” means the model contributions policy in Appendix 4.

”;

- (w) by inserting the following definition after the definition of “**model standard access contract**”:

“

“**model technical rules**” means rules approved by the *Authority* under section 12.61 as amended from time to time under section 12.62.

”;

- (x) by inserting the following definition after the definition of “**new facility**”:
- “
- “non-capital contribution”**, means a payment or provision in kind made, or to be made, by a *user* in respect of any *non-capital costs* of *required work*.
- ”;
- (y) in the definition of “**non-capital costs**” by:
- (i) inserting after “which are not” in both places where it occurs the following:
- “ *new facilities investment* or ”; and
- (ii) inserting after the definition the following note:
- “
- {Note: Because of the difference in how capital costs and non-capital costs can be treated in this Code, the expression “non-capital costs” is sometimes juxtaposed against “new facilities investment” (for example in Chapter 5) and sometimes against “capital-related costs” (for example in Chapter 6).}
- ”;
- (z) in the definition of “**recipient**” by deleting “Minister, ”;
- (aa) by deleting the definition of “**required augmentation**” and inserting instead the following definition:
- “
- “required work”** means *work* which is necessary in order to provide a *covered service* sought in an *access application*.
- ”;
- (bb) by deleting the definition of “**service**” and inserting instead the following definition and note:
- “
- “services”** has the meaning given to that term in Part 8 of the Act, and “**service**” has a corresponding meaning.
- {Note: At the time the *Electricity Networks Access Code Amendments (No 2) 2008* were made, the definition in section 103 of the Act was:
- ‘ **“services”** means –
- (a) the conveyance of electricity and other services provided by means of network infrastructure facilities; and
- (b) services ancillary to such services’.
- ”;
- (cc) in part (d) of the definition of “**statutory instruments**” by deleting the words “section 55(7) of the Act” and inserting instead:
- “ section 181(3) of the *Electricity Corporations Act 2005* ”;
- (dd) in part (e) of the definition of “**statutory instruments**” by deleting the words “section 62” and inserting instead:
- “ section 60 ”;
- (ee) by deleting the definitions of “**SWIN**” and “**SWIN access arrangement**”;

(ff) in the definition of “**technical rules**” by deleting the words “in effect” and inserting instead:

“ approved ”;

(gg) in the definition of “**user**” by deleting the words “an contract for services” and inserting instead:

“ a contract for services ”; and

(hh) by inserting the following definitions and note after the definition of “**weighted average cost of capital**”:

“

“**Western Power Network**” means the *covered network* that is *covered* under section 3.1.

{Note:

- The SWIS is the South-West interconnected system including generation plant and associated equipment.
- The term “SWIN” is not used in this Code, but is commonly used to describe the network portion of the SWIS.
- The “Western Power Network” is the portion of the SWIN that is owned by the Electricity Networks Corporation.}

“**Western Power Network access arrangement**” means the *access arrangement* approved for the *Western Power Network* by the *Authority’s* Further Final Decision dated 26 April 2007.

“**work**” means any activity or undertaking in connection with the *covered network*, whether of a capital or non-capital nature, including the planning, designing, development, approval, construction, acquisition and commissioning of *new facilities* and *new network assets* and the procurement or provision of any good or service.

”.

13. Section 1.5 amended

Section 1.5(g)(i) is amended by deleting the word “In” after the word “where” appears and inserting instead:

“ in ”.

14. Section 2.6 amended

Section 2.6 is amended by deleting in the opening words the words “any contract for *services* provided by means of a *network*” and inserting instead:

“ a contract for services ”.

15. Section 2.8 amended

Section 2.8(e) is amended by deleting the words “*new facilities investment test*” and inserting instead:

“ test in section 6.51A ”.

16. Section 2.9 deleted

Section 2.9 is deleted.

17. Sections 2.10 – 2.12 inserted

The following is inserted at the end of Chapter 2:

“

Requirement to undertake work and funding of work

2.10 Subject to section 2.11, the *service provider* must undertake and fund any *required work*.

2.11 If one or more *contributions* are required to be made under the *contributions policy* or under section 5.17A in respect of *required work*, then the *service provider* may refuse to undertake and fund any relevant *required work* under section 2.10 until either:

- (a) the *applicant* makes the *contributions*; or
- (b) the *applicant* and the *service provider* reach agreement on, or the *arbitrator* determines, the terms on which the *applicant* will make the *contributions*.

2.12 If *work*:

- (a) is of a class which is or has been identified as *headworks* under any current or past *headworks scheme*; and
- (b) is necessary in accordance with *good electricity industry practice*,

then the *service provider* must undertake and fund the *work*, despite section 2.11 and whether or not the *work* is *required work*.

”.

18. Heading to section 3.1 amended

The heading to section 3.1 is amended by deleting the word “**SWIS**” and inserting instead:

“ **Western Power Network** ”.

19. Section 3.1 amended

Section 3.1 is amended by deleting the words “Western Power” and inserting instead:

“ Electricity Networks ”.

20. Section 3.2 amended

Section 3.2 is amended as follows:

- (a) by deleting the word “make” and inserting instead:

“ makes ”; and

- (b) by deleting “3.3” and inserting instead:

“ 3.21 ”.

21. Section 3.3 deleted

Section 3.3 is deleted.

22. Section 3.12 amended

Section 3.12 is amended by inserting after “the Minister may dismiss the *coverage application*” the following:

“ , in which case sections 3.13 to 3.29 do not apply to the *coverage application* ”.

23. Section 3.31 amended

Section 3.31 is amended by deleting “3.9” and inserting instead:

“ 3.4 ”.

24. Note after section 3.33 deleted

The note that appears in braces after section 3.33 is deleted.

25. Heading to section 4.38 amended

The heading to section 4.38 is amended by deleting the words “**the term of**” and inserting after “**access arrangement**” the following:

“ **period** ”.

26. Heading to section 4.41 amended

The heading to section 4.41 is amended by deleting the words “**Appendix 2, Appendix 3 or Appendix 4 are**” and inserting instead:

“ **Code is** ”.

27. Section 4.41 amended

Section 4.41 is amended as follows:

- (a) in sections 4.41(a), 4.41(b) and 4.41(c) by deleting the words “vary the *access arrangement*”;
- (b) in sections 4.41(a) and 4.41(b) by deleting the word “or” at the end of each paragraph and inserting instead:

“ and ”;
- (c) in section 4.41(c) by deleting the full stop at the end of the paragraph and inserting instead:

“ ; and ”; and
- (d) by inserting the following new paragraph after section 4.41(c):

“

- (d) otherwise — as a consequence of any other relevant amendments to this Code made by the *Code change*.

”.

28. Section 4.41A inserted

After section 4.41 the following heading and section are inserted:

“

Other revisions during an access arrangement period

4.41A Subject to section 4.42, if the *service provider* proposes revisions other than when it is required to do so under this Code and in circumstances where sections 4.38 and 4.41

do not apply, the *Authority* may by notice to a *service provider* vary its *access arrangement* in accordance with the proposed revisions.

”

29. Section 4.41B inserted

After new section 4.41A (inserted by amendment 28 above) the following heading and section are inserted:

“

Mid-period revisions do not necessarily involve full review

4.41B In considering and implementing revisions under section 4.38, 4.41 or 4.41A, the *Authority* is not obliged to undertake a complete review of the proposed revised *access arrangement* such as would occur under section 4.52.

”

30. New heading inserted before section 4.42

After new section 4.41B (inserted by amendment 29 above) the following is inserted:

“

Procedure for amendments under sections 4.41 and 4.41A

”

31. Sections 4.42 to 4.45 amended

Sections 4.42 to 4.45 are amended by inserting after “section 4.41”:

(a) where it first appears in section 4.42 and where it appears in each of sections 4.44 to 4.45, the words:

“ or 4.41A ”; and

(b) where it second appears in section 4.42, the words:

“ or 4.41A (as applicable) ”.

32. Section 4.43 amended

Section 4.43 is deleted and a new section 4.43 is inserted as follows:

“

Before giving a notice under section 4.41 or 4.41A, the *Authority*:

(a) must consult the public under Appendix 7, unless, in the *Authority's* opinion, the proposed variations are not material and will not result in a material change to a *reference tariff*, a *reference service*, a *standard access contract* or the rights of any *applicant*, in which case the *Authority* may consult the public under Appendix 7; and

(b) must consult the *service provider*.

”

33. Section 4.52 amended

Section 4.52 is amended:

(a) by deleting “to 4.23 and 4.26”; and

(b) by deleting the word “section” after “*service provider* under” and inserting instead:

“ sections 4.37 and ”.

34. Note to section 4.72 amended

The note that appears in braces after section 4.72 is amended by deleting the words “Western Power” and inserting instead:

“ Electricity Networks Corporation ”.

35. Section 5.1(h) amended

Section 5.1(h) is amended by deleting “5.17” and inserting instead:

“ 5.17D ”.

36. Section 5.7(d)(ii) amended

Section 5.7(d)(ii) is amended by deleting the words “an *augmentation* will be required to provide the *covered services* sought” and inserting instead the following:

“ there is any *required work* ”.

37. Section 5.9A inserted

After section 5.9 the following section is inserted:

“

5.9A If:

- (a) an *access application* (the “**first application**”) seeks modifications to a *contract for services*; and
- (b) the modifications, if implemented, would not materially impede the *service provider’s* ability to provide a *covered service* sought in one or more other *access applications* (each an “**other application**”) compared with what the position would be if the modifications were not implemented,

then the *first application* is not, by reason only of seeking the modifications, a *competing application* with the *other applications*.

”.

38. Heading to section 5.12 amended

The heading to section 5.12 is amended by deleting the words “**Capital contributions**” and inserting instead:

“ **Contributions** ”.

39. Section 5.12 amended

Section 5.12 is amended:

- (a) by deleting from section 5.12(a) the words “in respect of a *required augmentation*,”;
- (b) by deleting from section 5.12(a)(i) the word “the”; and

(c) by deleting from section 5.12(a)(i) the word “user” and inserting instead:

“ users ”.

40. Section 5.13 amended

Section 5.13 is amended:

(a) by deleting section 5.13(a) and inserting instead:

“

(a) sections 2.10 to 2.12; and

”; and

(b) by deleting section 5.13(b) and inserting instead:

“

(b) the test in section 6.51A; and

(ba) sections 5.14 and 5.17D; and

”.

41. Section 5.14 amended

Section 5.14 is deleted and a new section 5.14 is inserted as follows:

“

5.14 Subject to section 5.17A and a *headworks scheme*, a *contributions policy*:

(a) must not require a *user* to make a *contribution* in respect of any part of *new facilities investment* which meets the *new facilities investment test*; and

(b) must not require a *user* to make a *contribution* in respect of any part of *non-capital costs* which would not be incurred by a *service provider efficiently minimising costs*; and

(c) may only require a *user* to make a *contribution* in respect of *required work*; and

(d) without limiting section 5.14(a) and 5.14(b), must contain a mechanism designed to ensure that there is no double recovery of *new facilities investment* or *non-capital costs*.

”.

42. Section 5.15 amended

Section 5.15 is amended:

(a) by deleting in section 5.15(a) the words “in respect of a *required augmentation*”; and

(b) by deleting in section 5.15(b) the words “towards the *required augmentation*”.

43. Heading to Section 5.17A amended

The heading to section 5.17A is deleted and the following inserted instead:

“

Contributions for certain Western Power Network work

”.

44. Section 5.17A amended

Section 5.17A is amended by deleting after “*contribution for*” the word “an”.

45. Sections 5.17C and 5.17D and heading inserted

After section 5.17B the following heading, sections and example are inserted:

“

Headworks schemes

5.17C Despite section 5.14, the *Authority* may approve a *contributions policy* that includes a “**headworks scheme**” which requires a *user* to make a payment to the *service provider* in respect of the *user’s* capacity at a *connection point* on a *distribution system* because the *user* is a member of a class, whether or not there is any *required work* in respect of the *user*.

{Example: In 2008 Electricity Networks Corporation adopted a headworks scheme under which new users in certain rural parts of the SWIS who connect more than 25 km along the wires from a zone substation, were required to pay a headworks charge in respect of reinforcement of the 3 phase HV distribution network, whether or not the user’s connection made any such reinforcement necessary.}

5.17D A *headworks scheme* must:

- (a) identify the class of *works* in respect of which the scheme applies, which must not include any *works* on a *transmission system* or any *works* which effect a geographic extension of a *network*; and
- (b) not seek to recover *headworks charges* in an *access arrangement period* which in aggregate exceed 1% of the *distribution system target revenue* for the *access arrangement period*; and
- (c) identify the class of *users* who must make a payment under the scheme; and
- (d) set out the method for calculating the *headworks charge*, which method:
 - (i) must have the objective that *headworks charges* under the *headworks scheme* will, in the long term, and when applied across all *users* in the class referred to in section 5.17D(c), recover no more than the *service provider’s* costs (such as would be incurred by a *service provider* *efficiently minimising costs*) of any *headworks*; and
 - (ii) must have the objective that the *headworks charge* payable by one *user* will differ from that payable by another *user* as a result of material differences in the *users’* capacities and the locations of their *connection points*, unless the *Authority* considers that a different approach would better achieve the *Code objective*; and
 - (iii) may use estimates and forecasts (including long term estimates and forecasts) of loads and costs; and

- (iv) must contain a mechanism designed to ensure that there is no double recovery of costs in all the circumstances, including the manner of calculation of other *contributions* and *tariffs*; and
- (v) may exclude a rebate mechanism (of the type contemplated by clauses A4.13(d) or A4.14(c)(ii) of Appendix 4) and may exclude a mechanism for retrospective adjustments to account for the difference between forecast and actual values.

46. Sections 6.41 and 6.42 amended

Sections 6.41 and 6.42 are amended by:

- (a) in the opening words to section 6.41 inserting between the words “**alternative option**” and “**costs**” the following word:
 - “ **non-capital** ”; and
- (b) inserting between the words “*alternative option*” and “*costs*” wherever they appear together in sections 6.41 and 6.42 the following word:
 - “ *non-capital* ”.

47. Section 6.50 amended

Section 6.50 is amended by deleting section 6.50(b) (but not the note that appears in braces after section 6.50(b)) and inserting instead:

- “
- (b) at the time of inclusion is reasonably expected to satisfy the test in section 6.51A when made.
- ”.

48. Section 6.51 amended

Section 6.51 is deleted and the following section is inserted instead:

- “
- 6.51 For the purposes of section 6.4(a)(i) and subject to section 6.49, the forward-looking and efficient costs of providing *covered services* may include costs in relation to *forecast new facilities investment* for the *access arrangement period* which at the time of inclusion is reasonably expected to satisfy the test in section 6.51A when the *forecast new facilities investment* is forecast to be made.
- ”.

49. Section 6.51A inserted

After section 6.51 the following heading and section is inserted:

- “
- Test for adding new facilities investment to the capital base**
- 6.51A *New facilities investment* may be added to the *capital base* if:
- (a) it satisfies the *new facilities investment test*; or
- ”.

- (b) the *Authority* otherwise approves it being added to the *capital base* if:
 - (i) it has been, or is expected to be, the subject of a *contribution*; and
 - (ii) it meets the requirements of section 6.52(a); and
 - (iii) the *access arrangement* contains a mechanism designed to ensure that there is no double recovery of costs as a result of the addition.

50. Note before section 6.52 deleted

The note that appears in braces after the heading “**New facilities investment test**” and before section 6.52 is deleted.

51. Section 6.52 amended

Section 6.52 is amended by deleting in the opening words “may be added to the *capital base*” and inserting instead:

“ satisfies the *new facilities investment test* ”.

52. Section 6.56 and heading deleted

The heading to section 6.56 and section 6.56 are both deleted.

53. Section 6.71 amended

Section 6.71 is amended:

- (a) by deleting in section 6.71(a) the words “*new facilities investment test*” and inserting instead:
 - “ test in section 6.51A ”;
- (b) by deleting the word “will” in section 6.71(b) and inserting instead:
 - “ is forecast to ”; and
- (c) by deleting in section 6.71(b) the words “*new facilities investment test*” and inserting instead:
 - “ test in section 6.51A ”.

54. Section 6.76 amended

Section 6.76(b) is amended by deleting the word “will” and inserting instead:

“ is forecast to ”.

55. Section 10.29 amended

Section 10.29 is amended:

- (a) in section 10.29(e) after the words “(if any)” by inserting:
 - “ and the amount of any *contribution* and the terms on which it is to be provided ”;
- (b) by deleting in section 10.29(b) the words “planning, designing, constructing, acquiring and commissioning of a proposed *augmentation*” and inserting instead:
 - “ undertaking of proposed *work* ”; and

(c) in section 10.29(f) after the word “to” by inserting:

“ undertake and fund any *required work* including to ”.

56. Section 10.29A inserted

After section 10.29, the following new section is inserted:

“
10.29A The paragraphs of section 10.29 do not limit each other.”.

57. Heading to section 10.33 amended

The heading to section 10.33 is amended by deleting the words “**augmentation of network**” and inserting instead:

“ **work to be undertaken** ”.

58. Section 10.33 amended

Section 10.33 is amended in the opening words by deleting the words “*augment the network*” and inserting instead:

“ undertake *work* ”.

59. Section 12.6 amended

Section 12.6 is amended:

(a) by deleting section 12.6(b) and inserting instead:

“
(b) a *non-covered network* that:
(i) is part of an *interconnected system* which contains one or more *covered networks*; and
(ii) is the subject of a transmission licence, distribution licence or integrated regional licence under Part 2 of the Act.
”; and

(b) by deleting the note that appears in braces after section 12.6(b).

60. Section 12.6A inserted

The following section is inserted after the heading “**Approval process for technical rules – Non-covered network**”:

“
12.6A If section 12.6 requires a *non-covered network* to have *technical rules* (or will require it to have *technical rules* once it is commissioned) and the *network* is to be commissioned after 22 October 2008, then the *network* must not be commissioned before *technical rules* are *published* for the *network*.
”.

61. Section 12.7 amended

Section 12.7 is deleted and the following section is inserted instead:

“

12.7 If a *service provider* of a *non-covered* network is required under section 12.6 to have *technical rules*, the following rules apply to determine the date (“**submission date**”) on or before which the *service provider* must submit proposed *technical rules* to the *Authority*:

- (a) if section 12.6A applies, then the *service provider* may submit proposed *technical rules* to the *Authority* at any time, and hence the *submission date* is whatever time the *service provider* selects; and
- (b) if section 12.6A does not apply and the *network* is part of the *SWIS*, then the *submission date* is 4 months after *model technical rules* are first *published* for the *SWIS*; and
- (c) if section 12.6A does not apply and the *network* is not part of the *SWIS*, then the *submission date* is the later of:
 - (i) 6 months after the *network* is first required to have *technical rules*; and
 - (ii) if, before the 6 months in section 12.7(c)(i) expires, the *Authority publishes* a notice that it has commenced developing *model technical rules* which will apply to the *network* (or an *interconnected system* of which the *network* is part) — 4 months after the *model technical rules* are first *published*.

”.

62. Section 12.8 amended

Section 12.8 is deleted and the following section is inserted instead:

“

12.8 Subject to section 12.8B, the *Authority* may extend the deadline specified in section 12.7.

”.

63. Section 12.8A deleted

Section 12.8A is deleted.

64. Section 12.8B inserted

After section 12.8, the following new section is inserted:

“

12.8B The *Authority*:

- (a) must not exercise the power in section 12.8 to extend the deadline unless, before the day on which the time would otherwise have expired, it *publishes* notice of, and reasons for, its decision to extend the deadline; and

- (b) may exercise the power in section 12.8 to extend the deadline on more than one occasion.

”.

65. Section 12.9 amended

Section 12.9 is amended by inserting after “Appendix 7” the following:

“ and may seek advice from the *technical rules* committee ”.

66. Section 12.9A inserted

The following section is inserted after section 12.9:

“

12.9A The *Authority* must, in its final decision under clause A7.18 (applying under section 12.9), approve and *publish* final *technical rules* which must be based on the proposed *technical rules* submitted by the *service provider* under section 12.7 and amended only to the extent necessary to comply with this Chapter 12 and the *Code objective*.

”.

67. Section 12.13A and 12.13B and heading inserted

The following heading, sections and note are inserted after section 12.13:

“

Use of model technical rules

12.13A *Technical rules* and proposed or draft *technical rules*:

- (a) may be based in whole or in part upon *model technical rules*; and
- (b) may be formulated without any reference to *model technical rules* and are not required to reproduce, in whole or in part, *model technical rules*.

{Note: The intention of this section 12.13A(b) is to ensure that *technical rules* can be formulated which comply with this Chapter 12 and the *Code objective* but are not based on the *model technical rules*.}

12.13B If *model technical rules* have been *published* for a *network* (or an *interconnected system* of which the *network* is a part), then the *Authority*:

- (a) must determine that *technical rules*, or proposed or draft *technical rules*, for the *network* comply with this Chapter 12 and the *Code objective* to the extent that they reproduce without material omission or variation the *model technical rules*; and
- (b) otherwise must have regard to the *model technical rules* in determining whether *technical rules*, or proposed or draft *technical rules*, for the *network* comply with this Chapter 12 and the *Code objective*.

”.

68. Section 12.14 amended

Section 12.14 is amended:

- (a) in section 12.14(a) by inserting after “for a *network*” the following:
 - “ or *model technical rules* ”; and
- (b) in the closing words of section 12.14 by inserting after “for the *network*” and “replicated in the *technical rules*” the following:
 - “ or *model technical rules* (as the case may be) ”.

69. Section 12.19 amended

Section 12.19 is amended by deleting the words “technical rules committee” and inserting instead:

“ *technical rules committee* ”.

70. Section 12.23 amended

Section 12.23 is deleted and the following section inserted instead:

“

12.23 A *technical rules committee*, in performing its functions under section 12.11(b) and if otherwise requested:

- (a) must, when requested by the *Authority*, prepare draft *model technical rules* to assist the *Authority* in the performance of its functions under section 12.61; and
 - (b) [not used]
 - (c) must, when requested by the *Authority*, advise the *Authority* on any matter connected with, or with the approval of:
 - (i) *technical rules* or draft or proposed *technical rules*; or
 - (ii) *model technical rules* or draft or proposed *model technical rules*;
- and
- (d) must, when requested by the *Authority*, conduct a review of the operation of:
 - (i) *technical rules* or a part of *technical rules*; or
 - (ia) *model technical rules* or a part of *model technical rules*; or
 - (ii) this Chapter 12 or a part of this Chapter 12,
- and advise the *Authority* of the outcome of the review.

”.

71. Section 12.28 amended

Section 12.28 is amended by deleting in the opening words “model *technical rules* developed and”.

72. Section 12.44 amended

Section 12.44(b) is amended by inserting after “25 *business*” the following:

“ *days* ”.

73. Sections 12.61 – 12.67 and headings inserted

The following sections and headings are inserted after section 12.60:

“

Authority must publish, and may amend, model technical rules

12.61 The *Authority*:

- (a) must for the *SWIS*, by no later than 1 December 2009; and
- (b) may otherwise,

draft, approve, *publish*, and *advertise model technical rules* in accordance with sections 12.63 to 12.67.

12.62 The *Authority* may from time to time draft, approve, *publish*, and *advertise* revisions to *model technical rules* in accordance with sections 12.63 to 12.67.

Extensions of time

12.63 Subject to section 12.64, the *Authority* may extend the deadline specified in section 12.61(a).

12.64 The *Authority*:

- (a) must not exercise the power in section 12.63 to extend the deadline unless, before the day on which the time would otherwise have expired, it *publishes* notice of, and reasons for, its decision to extend the deadline; and
- (b) may exercise the power in section 12.63 to extend the deadline on more than one occasion.

Criteria for model technical rules

12.65 The *Authority*, in performing its functions under sections 12.61 and 12.62 must:

- (a) have regard to the *Code objective*; and
- (b) have regard to advice provided by the *technical rules committee* under section 12.23; and
- (c) have regard to sections 12.1 to 12.3; and
- (d) have regard to the desirability of encouraging efficiency and innovation; and
- (e) specify the *interconnected system*, or class of *network*, in respect of which a set of *model technical rules* applies.

12.66 The *Authority*, in performing its functions under sections 12.61 and 12.62 may:

- (a) have regard to any comparable legislation, standards, codes and practices in other jurisdictions; and

- (b) have regard to any *technical rules* previously approved under this Chapter 12; and
- (c) base the *model technical rules* wholly or partly on any such *technical rules*, including:
 - (i) by expressing *model technical rules* as a list of exceptions to and modifications of the *technical rules*; and
 - (ii) the *technical rules* as at a point in time, or as they may be from time to time, or a combination of the two.

12.67 Sections 12.65 and 12.66 do not limit the matters to which the *Authority* must or may have regard.

Savings for prior approvals

12.68 No approval of *model technical rules* under section 12.61 or revisions under section 12.62 affects the validity of a prior approval under sections 12.9A, 12.11(e) or 12.13(b).

74. Section 14.14 amended

Section 14.14(b)(i) is amended by inserting before “the public benefit” the following:

“ if the *recipient* is the *Authority*, ”.

75. Heading to section 14.28 amended

The heading to section 14.28 is amended by deleting the heading and inserting instead:

“

Detailed provisions regarding contributions for certain work on the Western Power Network

”.

76. Heading to section 15.5 amended

The heading to section 15.5 is amended by deleting the word “**SWIN**” and inserting instead:

“ **Western Power Network** ”.

77. Heading to section 15.8 amended

The heading to section 15.8 is amended by deleting the word “**SWIN**” and inserting instead:

“ **Western Power Network** ”.

78. Section A2.1 amended

Section A2.1 is amended:

- (a) in the note in braces to the definition of “**access contract**” by deleting “**arrangement**” and inserting instead:

“ **agreement** ”;

- (b) in the definition of “**applicant**” by inserting after “for an *access contract*” the following:
“ , or for the modification of any other *contract for services*, ”;
- (c) in the definition of “**competing**” by inserting after “means” the following:
“ (subject to section 5.9A of the *Code*) ”; and
- (d) by deleting the definitions of “**contract commencement date**” and “**contract termination date**”.

79. Section A2.9 amended

Section A2.9 is amended:

- (a) by in section A2.9(b) deleting the words “an *augmentation* may be required to provide the *covered services*” and inserting instead:
“ there may be *required work* ”;
- (b) by in section A2.9(c) deleting the words “an *augmentation* will be required” and inserting instead:
“ there will be *required work* ”;
- (c) by in section A2.9(c) deleting the words “or *non-capital contribution*”;
- (d) by in section A2.9(c) deleting after “amount of the” the word “contribution” and inserting instead:
“ *contribution* ”;
- (e) by in section A2.9(c) inserting after “*contributions policy*” the following:
“ in respect of the *required work* ”;
- (f) by in section A2.9(d) deleting the words “an *augmentation* will be required” and inserting instead:
“ there will be *required work* ”; and
- (g) by in section A2.9(d) deleting the words “planning, designing, approving, financing, construction and commissioning, as applicable, of any necessary *augmentations*” and inserting instead:
“ undertaking of the *work* ”.

80. Section A2.20 amended

Section A2.20(c) is amended by deleting the words “planning, designing, approving, financing, constructing and commissioning of any necessary *augmentation*” and inserting instead:

“ undertaking any necessary *work* ”.

81. Section A2.22 amended

Section A2.22(h) is amended by deleting paragraph (h) and replacing it with the following:

- “
- (h) if the *applicant* so chooses, the *applicant's* preliminary proposal in relation to whether any *contribution* under the *contributions policy* will be paid or (except in the case of a *headworks charge*) provided in kind, and the preliminary proposed terms on which that may occur (but this does not prevent the *applicant* from

making an alternative proposal once the scope of any *required work* is better known); and

”.

82. Section A2.32 amended

Section A2.32(b) is amended by deleting the words “an *augmentation* would be required” and inserting instead:

“ there will be *required work* ”.

83. Section A2.68 amended

Section A2.68(c) is amended:

(a) by deleting after “an *access offer*” the word “and” and inserting instead:

“ , ”; and

(b) by inserting after “necessary *augmentation*” the following:

“ and the undertaking of any other *required work* ”.

84. Heading to section A2.72 amended

The heading to section A2.72 is amended by deleting the word “**augmentation**” and inserting instead:

“ **work** ”.

85. Section A2.72 amended

Section A2.72 is deleted and the following section is inserted instead:

“

A2.72 Without limiting clause A2.70, if an *application* would require any *required work* or result in the *user* being required to pay a *headworks charge*, then at any time after the *service provider* provides the necessary information the *applicant* may revise its *application* to add to the *application* the terms of a *payment contract* or (except in connection with the *headworks charge*) a *works contract* under the *contributions policy*.

”.

86. Section A2.93 amended

Section A2.93 is amended:

(a) by deleting in section A2.93(a) the words “an *augmentation*” and inserting instead:

“ any *required work* ”; and

(b) by deleting in section A2.93(c) the words “planning, designing, approving, financing, construction and commissioning of any necessary *augmentations*” and inserting instead:

“ undertaking of any *required work* ”.

87. Section A2.103 amended

Section A2.103(c)(ii) is amended by deleting the word “*augmentation*” and inserting instead:

“ *required work* ”.

88. Section A3.2 amended

Section A3.2 is amended:

- (a) in the definition of “**augmentation**” by deleting the words “, including by the development, construction, acquisition or commissioning of new *network assets*”;
- (b) in the definition of “**covered service**” by deleting in the opening words the words “in relation to the *transportation* of electricity”; and
- (c) in the definition of “**excluded service**” by deleting in the opening words the words “for the *transportation* of electricity”.

89. Section A3.17 amended

Section A3.17(b) is amended by deleting the words “an *augmentation*” and inserting instead:

“ *work* ”.

90. Section A3.43 amended

Section A3.43 is amended by deleting the words “**Capital Contributions**” and inserting instead:

“ **Contributions** ”.

91. Section A3.45 amended

Section A3.45(b)(i) is amended by deleting the word “*user*” and inserting instead:

“ *UserCo* ”.

92. Section A3.68 amended

Section A3.68(a)(iii) is amended by deleting the word “*user’s*” and inserting instead:

“ *UserCo’s* ”.

93. Introductory notes to Appendix 4 amended

The introductory notes to Appendix 4 are amended:

- (a) in the fourth paragraph by deleting “6.56” and inserting instead:

“ 6.51A(b) ”; and

- (b) by deleting the fifth paragraph and inserting instead:

“

This *model contributions policy* does not provide for *contributions* under section 5.17A or a *headworks scheme*. If the *contributions policy* in the *access arrangement* is to provide for *contributions* under section 5.17A or a *headworks scheme*, then the *Authority* should consider how the *contributions policy* should differ from this *model contributions policy*.

”.

94. Section A4.1 amended

Section A4.1 is amended:

- (a) by deleting the definition “**new service**” and inserting instead:

“**new service**” has the meaning given to it in clause A4.4. ”;

- (b) by deleting the definition “**non-capital contribution**”; and

- (c) by deleting the definition “**required augmentation**”.

95. Section A4.4 amended

Section A4.4 is amended by deleting the words “an *augmentation* (“**required augmentation**”) or, due to the *regulatory test*, an *alternative option*” and inserting instead:

“ *required work* ”.

96. Heading to Sub-appendix 4.2 amended

The heading to Sub-appendix 4.2 is amended by deleting the words “**Capital contributions**” and inserting instead:

“ **Contributions** ”.

97. Heading to section A4.5 amended

The heading to section A4.5 is deleted and the following heading inserted instead:

“ **Contribution** ”.

98. Section A4.5 amended

Section A4.5 is deleted and the following section is inserted instead:

“
 A4.5 In this *contributions policy* and subject to clause A4.6, the *contribution* for any *required work* is:
 (a) in respect of the *forecast new facilities investment* in the *required work*:
 (i) the amount of *forecast new facilities investment* in the *required work* which is permitted to be included in a *contribution* under section 5.14 of the Code; plus
 (ii) a *reasonable rate of return*, determined under clause A4.9, on the amount determined under clause A4.5(a)(i);
 and
 (b) in respect of the *non-capital costs* of the *required work*, the amount of *forecast non-capital costs* in the *non-capital work* which is permitted to be included in a *contribution* under section 5.14 of the Code.
 ”.

99. Section A4.7 amended

Section A4.7 is amended by deleting after “to undertake” the word “a”.

100. Section A4.8 amended

Section A4.8 is amended by deleting after “in relation to” the word “a”.

101. Section A4.10 amended

Section A4.10(a) is amended by deleting the words “the *required augmentation*” and inserting instead:

“ any *new facility* which results from the *required work* ”.

102. Section A4.12 amended

Section A4.12(a) is amended by deleting after “in respect of” the word “a”.

103. Section A4.15 amended

Section A4.15 is amended by deleting after “in respect of” the word “a”.

104. Sub-appendix 4.3 deleted

Sub-appendix 4.3, comprising sections A4.16 to A4.21, is deleted.

105. Section A7.15 amended

Section A7.15 is amended by deleting “A7.6” and inserting instead:

“ A7.14 ”.

106. Section A7.18 amended

Section A7.18 is amended by deleting the word “*consideration*” and inserting instead:

“ *consultation* ”.

107. Heading to Appendix 8 amended

The heading to Appendix 8 is deleted and the following inserted instead:

“

**Appendix 8 — Detailed provisions regarding contributions
for certain work on the Western Power Network**

”.

108. Section A8.1 amended

Section A8.1 is amended:

(a) by deleting the definition of “**scheme**” and inserting instead:

“

“**scheme**” means an arrangement with respect to any particular *SES work* or any particular interconnected series of *SES works* under the *SES*.

”.

(b) in the definition of “**SES augmentation**”:

(i) by deleting the word “**augmentation**” and inserting instead:

“ **work** ”; and

(ii) by inserting after “*required*” the following word:

“ *work* ”.

109. Heading to section A8.2 amended

The heading to section A8.2 is deleted and the following inserted instead:

“

Scope of Appendix 8 work to Western Power Network

”.

110. Section A8.2 amended

Section A8.2 is amended by deleting the opening words to section A8.2 and inserting instead:

“

A8.2 This Appendix 8 applies only in respect of the following *work* in connection with the *Western Power Network* (“**Appendix 8 work**”)

”.

111. Section A8.3 amended

Section A8.3 is amended by deleting after “*contribution for*” the word “an”.

112. Section A8.4 amended

Section A8.4 is amended:

- (a) by deleting the word “contribution” from the opening words and inserting instead:

“ *contribution* ”; and

- (b) by deleting section A8.4(b) and inserting instead:

“

(b) seeks *work* (other than a *pole to pillar connection*) to be undertaken on the *distribution system* to service the *subdivision*,

”.

113. Sections A8.7 to A8.13 amended

Sections A8.7 to A8.13 are amended by deleting “contribution” wherever it appears and inserting instead:

“ *contribution* ”.

114. Section A8.7 amended

Section A8.7(a)(ii) is amended in section by deleting “SES” and inserting instead:

“ *SES* ”.

115. Section A8.8 amended

Section A8.8 is amended by deleting the words “is an” and inserting instead:

“ *comprises or includes* ”.

116. Section A8.9 amended

Section A8.9(a) is amended by deleting the words “SES argumentation” and inserting instead:

“ *SES work* ”.

117. Section A8.10 amended

Section A8.10 is amended by deleting the words “SES augmentation” and inserting instead:

“ *SES work* ”.

118. Heading to section A8.16 amended

The heading to section A8.16 is deleted and the following inserted instead:

“
Work in excess of standard requirements
”.

119. Section A8.16 amended

Section A8.16 is amended:

- (a) by deleting the words “*network assets constructed*” in section A8.16(a) and inserting instead:

“ *work undertaken* ”;

- (b) by deleting the word “**assets**” in section A8.16(a) and inserting instead:

“ **work** ”;

- (c) by deleting the word “*assets*” in section A8.16(b) and inserting instead:

“ *work* ”;

- (d) by deleting the word “**investment**” in section A8.16(b) and inserting instead:

“ **cost** ”; and

- (e) by deleting the word “*investment*” in section A8.16(c) and A8.16(d) and inserting instead:

“ *cost* ”.

120. Heading to section A8.20 amended

The heading to section A.820 is deleted and the following is inserted instead:

“
If required work comprises more than just Appendix 8 work
”.

121. Section A8.20 amended

Section A8.20 is deleted and the following section inserted:

“
A8.20 To avoid doubt, if *required work* comprises one or more items of *Appendix 8 work* and one or more other items of *work*, then unless the *service provider* and the *contributing user* agree otherwise, references in the Code to “*required work*” are to the *Appendix 8 work* and the other *work* collectively.
”.

122. Heading to appendix 9 amended

The heading to appendix 9 is amended by deleting the word “**SWIN**” and inserting instead:

“ **Western Power Network** ”.
