

EN401\*

**ELECTRICITY INDUSTRY ACT 2006****ELECTRICITY NETWORKS ACCESS CODE AMENDMENTS 2006**

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 28th day of August 2006.

FRANCIS LOGAN.

Made by the Minister

**1. Citation**

These amendments may be cited as the *Electricity Networks Access Code Amendments 2006*.

**2. Commencement**

These amendments come into operation on the date on which these amendments 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. Section 1.3 amended**

Section 1.3 is amended as follows—

- (a) in paragraph (a) of the definition of “anticipated incremental revenue” by deleting “*tariff income*” and inserting instead—  
“income from *charges* (excluding any *capital contributions*)”.
- (b) in the definition of “approved total costs” by deleting paragraph (a) of the definition and inserting instead—  
“(a) those *capital-related costs* which either—
  - (i) satisfy the new *facilities investment test*; or
  - (ii) satisfy the test for being added to the *capital base* under section 6.56;and”.

**5. Section 6.50(b) amended**

Section 6.50(b) is amended by deleting paragraph (b) and inserting instead—

- “(b) at the time of inclusion is reasonably expected to meet either—
  - (i) the *new facilities investment test*; or
  - (ii) the test for being added to the *capital base* under section 6.56, when made.”.

**6. Section 6.51 amended**

Section 6.51 is amended by deleting “to meet the new *facilities investment test* when the *forecast new facilities investment* is forecast to be made.” and inserting instead—

- “to meet either—
  - (a) the *new facilities investment test*; or
  - (b) the test for being added to the *capital base* under section 6.56, when the *forecast new facilities investment* is forecast to be made.”.

**7. Note inserted into Section 6.52**

After the heading to section 6.52 and before section 6.52, the following note is inserted—

{Note: Section 6.56 provides another circumstance in which *new facilities investment* may be added to the *capital base*.}

**8. Section 6.56 inserted**

After section 6.55 the following heading and section is inserted—

**“Capital base may include capital contributions in certain circumstances**

6.56 Despite section 6.52, if—

- (a) a *capital contribution* has been, or is expected to be, provided to the *service provider*; and
- (b) the *new facilities investment* in respect of which the *capital contribution* is made meets the requirements of section 6.52(a); and
- (c) an amount in respect of the *capital contribution* is deducted from the *service provider’s target revenue*,

then an amount of *new facilities investment* in respect of the *capital contribution* may be added to the *capital base*.”.

**9. Sections 4.70 and 4.71 inserted**

After section 4.69 the following heading and sections are inserted—

**“Suspension of deadlines for Code amendment**

4.70 In section 4.71, “**notice of proposed amendment**” means a written notice, expressed to be given under this section 4.70, from the *Coordinator* to the *Authority* in respect of a proposed amendment to, or repeal and replacement of, this Code.

4.71 Despite anything else in this Code, if the *Coordinator* gives the *Authority* a *notice of proposed amendment*, then—

- (a) the *Authority* may, by *publishing* a notice, suspend the operation of the deadline for the issue of a *draft decision* under section 4.12, a *final decision* under section 4.17 or an *interim access arrangement* under section 4.59, if the *Authority* reasonably considers that the proposed amendment, or repeal and replacement, would, if made, materially affect the *Authority’s* determination of the *draft decision*, *final decision* or *interim access arrangement*; and
- (b) if the *Authority* suspends a deadline under section 4.71(a)—time ceases to run in respect of the relevant deadline until the suspension is ended by the *Authority publishing* a notice, which it must *publish* no later than 10 *business days* after the earlier of—
  - (i) the date the amendment, or repeal and replacement, takes effect; and
  - (ii) the date the *Coordinator* gives the *Authority* written notice withdrawing the *notice of proposed amendment*.”.

**10. Opening words to Appendix 4 amended**

Appendix 4 is amended in the opening words by inserting a new fourth paragraph before the paragraph commencing “Footnotes following each matter...”—

“If an *access arrangement* is to include *capital contributions* in the *capital base* under section 6.56, the *Authority* should consider whether, and if so how, the *capital contributions policy* in the *access arrangement* should differ from this *model capital contributions policy*.”.