EN401*

ELECTRICITY INDUSTRY ACT 2004
ELECTRICITY NETWORKS ACCESS CODE AMENDMENTS (NO. 2) 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 1st day of December 2006.

FRANCIS LOGAN.

Made by the Minister

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

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

4. Section 1.3 amended
Section 1.3 is amended as follows—

(a) insert after the definition of "approval" the following definition and note—

"approved extension and expansion policy" has the meaning given to "approved policy" in section 60 of the Act.

[Note: At the time this definition was inserted in this Code, the definition of "approved policy" in section 60 of the Act was—

"approved policy" means an extension and expansion policy approved under section 62 as amended from time to time and includes any replacement for the policy approved under section 63]; and

(b) in the definition of "connection point", insert after "covered network identified in" the words—

"or to be identified in, ".
5. Section 2.9 amended
Section 2.9 is amended by deleting “If a service provider will need to undertake an augmentation (‘required augmentation’)” and inserting instead—

Subject to section 2.9A, if a service provider will need to undertake a required augmentation.

6. New section 2.9A inserted
After section 2.9 the following section is inserted—

2.9A If—
(a) an approved extension and expansion policy provides that the service provider will undertake and fund a required augmentation if the user pays an amount specified in, or determined under, the policy; and
(b) the user pays the amount,
then the service provider must undertake and fund the required augmentation in accordance with the approved extension and expansion policy or as otherwise agreed between the service provider and user.

7. Sections 4.72 to 4.76 inserted
After section 4.71 the following heading and sections are inserted—

Transitional: Extension of deadlines after 2006 Code change
4.72 Sections 4.73 to 4.76 are transitional provisions that apply only in respect of the application of the access arrangement approval process in Subchapter 4.1 in respect of the covered network that is covered under section 3.1.

[Note: These transitional provisions apply only for Western Power's first proposed access arrangement for the SWIN, which is the subject of the 2006 draft decision.]

4.73 In sections 4.73 to 4.76—
“2006 amendments” means the amendments to this Code made by the Electricity Networks Access Code Amendments (No 1) 2006 and the Electricity Networks Access Code Amendments (No 2) 2006.

[Note: The Electricity Networks Access Code Amendments (No 1) 2006 were Gazetted on 1 September 2006 and the Electricity Networks Access Code Amendments (No 2) 2006 were Gazetted on 8 December 2006.]

“2006 draft decision” means the draft decision published by the Authority on 21 March 2006 under section 4.12(b) not to approve the proposed access arrangement for the covered network that is covered under section 3.1.

“original section 4.18 deadline” means the section 4.18 deadline applying under this Code immediately before the Electricity Networks Access Code Amendments (No 2) 2006 take effect.

“section 4.18 deadline” means the deadline in section 4.18 for the issue of a final decision, as extended from time to time under this Code.

4.74 Despite anything else in this Code—
(a) on the date the Authority publishes a notice under section 4.71(b) ending a suspension under section 4.71(a)—
(i) the Authority may publish and advertise an invitation for submissions on the 2006 draft decision which have regard to the 2006 amendments; and
(ii) if it does so, the Authority must specify in the invitation the length of time (which must be no greater than 15 business days after the invitation is published) that it will allow for the making of submissions under section 4.74(a)(i);
and
(b) a person may make a submission to the Authority in accordance with an invitation under section 4.74(a)(i) within the period of time specified in the invitation; and
(c) the Authority may, from time to time, by publishing a notice, extend the section 4.18 deadline, but—
(i) the notice must be published before the time the section 4.18 deadline would otherwise have expired; and
(ii) the Authority must not do so unless it has first determined as a reasonable and prudent person that it is essential to do so for due consideration of all the matters under consideration or satisfactory performance of the Authority's obligations under this Code; and
(iii) the notice must specify the Authority's reasons for deciding to extend the section 4.18 deadline; and
(iv) the aggregate of all extensions under this section 4.74(c) must not exceed—

(A) if the Authority has published and advertised an invitation for submissions under section 4.74(a)—an additional 30 business days, plus the number of business days specified under section 4.74(a)(ii), after the original section 4.18 deadline; and

(B) otherwise—an additional 30 business days after the original section 4.18 deadline.

4.75 An extension under section 4.74(c) is in addition to any other extension, and does not limit section 4.67.

4.76 Section 4.66(n) is amended to delete “3” and insert—

" 5 ".

8. Section 5.14 amended

Section 5.14 is amended by deleting “A” and inserting instead—

" Subject to section 5.14A, a ".

9. New section 5.14A added

After Section 5.14 the following section is inserted—

5.14A A capital contributions policy may provide for a user to make a capital contribution in respect of a new facility whether or not the new facilities investment meets the new facilities investment test, if an approved extension and expansion policy provides for the user to pay in respect of the new facility an amount specified in, or determined under, the policy.

10. Section 6.37A amended

Section 6.37A is amended by—

(a) deleting “to make a tariff equalization contribution to the Tariff Equalization Fund under Part 2A of the Act” and inserting instead—

" by a notice made under section 129D(2) of the Act, to pay a tariff equalization contribution into the Tariff Equalization Fund "; and

(b) in paragraph (a) deleting “made during the access arrangement period” and inserting instead—

" paid under the notice, including any amount that was payable or paid before the commencement of the access arrangement period ".

11. Section 7.12 amended

Section 7.12 is amended by—

(a) after “under section 6.37A deleting “, then” and inserting instead—

" and is intended to be recovered from users of reference services through one or more reference tariffs, then the recovery must have the objective of "; and

(b) deleting paragraphs (a) and (b) and inserting instead—

" (a) applying only to users of reference services provided in respect of exit points on the distribution system; and

(b) being equitable in its effect as between the users referred to in section 7.12(a); and

(c) otherwise being consistent with the Code objective."

12. Opening words to Appendix 4 Amended

After the fourth paragraph beginning “If an access arrangement is to include” the following paragraph is inserted—

" This model capital contributions policy does not provide for a user to make a capital contribution under section 5.14A. If the capital contributions policy in the access arrangement is to provide for capital contributions under section 5.14A, then the Authority should consider how the capital contributions policy should differ from this model capital contributions policy."

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