

EG302*

ELECTRICITY CORPORATION ACT 1994**ELECTRICITY TRANSMISSION AMENDMENT REGULATIONS 1997**

Made by the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Electricity Transmission Amendment Regulations 1997*.

Commencement

2. These regulations come into operation on 1 July 1997.

Principal regulations

3. In these regulations the *Electricity Transmission Regulations 1996** are referred to as the principal regulations.

[*Published in Gazette 31 December 1996, pp. 7257-320.]

Regulation 12 repealed and a regulation substituted

4. Regulation 12 of the principal regulations is repealed and the following regulation is substituted —

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Capital contributions

12. (1) For the purposes of this regulation, an augmentation is commercially viable if, in Western Power's reasonable opinion —

- (a) Western Power will recover within a reasonable time the costs, the capital investment and a reasonable rate of return on the capital investment in respect of the augmentation as contemplated by clause 5 of Schedule 5, and not increase the charges payable by existing users; and
- (b) the division of Western Power responsible for operating the electricity transmission network has sufficient allocated capital funds to undertake the augmentation, having regard to sections 82 and 83 of the Act.

(2) The reasonable rate of return on the capital investment associated with a proposed augmentation contemplated by subregulation (4) (c) or subregulation (5) (b) is to be determined by Western Power taking into account —

- (a) Western Power's cost of capital and its components;
- (b) the potential future use of the augmentation by existing and potential users;
- (c) the financial viability of the applicant and the applicant's business;
- (d) the impact of the capital investment upon the performance targets and other measures of Western Power's performance as set out in any applicable statement of corporate intent under the Act.

(3) The reasonable time within which the costs, the capital investment and the reasonable rate of return in respect of a proposed augmentation contemplated by subregulation (4) (c) or subregulation (5) (b) must be recovered is to be determined by Western Power taking into account —

- (a) the anticipated commercial life of the augmentation; and
- (b) the purpose for which the applicant requires the electricity transmission capacity the subject of the relevant access offer,

but in any event cannot exceed 15 years.

(4) If —

- (a) Western Power and a user enter into an access agreement;
- (b) the services to be provided under the access agreement include connection services using a connection that is not an exempt connection;

- (c) Western Power is not able to reliably provide those connection services without augmenting that connection; and
- (d) the augmentation concerned is not commercially viable without any capital contribution,

then the user must make a capital contribution towards the augmentation in accordance with this regulation.

(5) If —

- (a) Western Power and a user enter into an access agreement;
- (b) Western Power is not able to reliably provide the access services which are the subject of the access agreement without augmenting the electricity transmission network to either transport electricity on the network or to link the network to an exempt connection; and
- (c) the augmentation concerned is not commercially viable without any capital contribution,

then the user must make a capital contribution towards the augmentation in accordance with this regulation.

(6) If subregulation (4) or subregulation (5) requires a user make a capital contribution, then —

- (a) the amount of the capital contribution is equal to the amount that would be required to make the augmentation commercially viable; and
- (b) the capital contribution must be paid to Western Power in the manner and at the time set out in the access agreement.

(7) A proposed augmentation satisfies paragraph (a) of the commercial viability test set out in subregulation (1) if —

- (a) the discounted present value of the future cash flows anticipated in respect of the augmentation over the reasonable time in respect of the augmentation is determined in accordance with subregulation (3), using a real discount rate equal to the reasonable rate of return in respect of the augmentation determined in accordance with subregulation (2); and
- (b) that discounted present value is positive.

(8) If —

- (a) Western Power and a user enter into an access agreement;
- (b) the services to be provided under the access agreement include access services in respect of a connection that is not an exempt connection; and
- (c) Western Power is obliged under an existing agreement to repay an amount of money to a person if it provides those services,

then the user must pay Western Power an amount equal to the amount referred to in paragraph (c).

(9) If —

- (a) Western Power makes an access offer; and
- (b) the access offer contemplates the provision of connection services or ancillary services using an exempt connection,

then Western Power may include in the access offer a condition that the user makes a capital contribution in respect of the capital investment associated with designing, constructing, installing and commissioning the connection equipment or with providing those ancillary services (as the case requires) and a rate of return on that investment and, if so, the capital contribution must be taken into account in the determination of fees for providing the connection services or the ancillary services (as the case requires) set out in the access offer.

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Regulation 25 amended

5. Regulation 25 (2) (b) of the principal regulations is amended by inserting after “network” in both places where it is used the following —

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or the electricity distribution network as defined in the *Electricity Distribution Regulations 1997*

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Regulation 16A inserted

6. After regulation 16 of the principal regulations the following regulation is inserted —

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Suspension of time periods

16A. The periods of time referred to in regulations 8 (5), 9 (4) (b), 10 (1), 11 (1) and 11 (7) may cease to run in accordance with regulation 8 (1) of the *Electricity Referee and Dispute Resolution Regulations 1997*.

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By Command of the Governor,

J. PRITCHARD, Clerk of the Executive Council.