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ELECTRICITY CORPORATIONS ACT 2005

**SEGREGATION AND TRANSFER
PRICING GUIDELINES 2013**

ELECTRICITY CORPORATIONS ACT 2005**SEGREGATION AND TRANSFER PRICING GUIDELINES 2013****Approval by Minister**

I, Dr Mike Nahan MLA, Minister for Energy for the State of Western Australia, under section 62(1) of the *Electricity Corporations Act 2005* hereby establish the Segregation and Transfer Pricing Guidelines contained in this document.

Dr MIKE NAHAN MLA, Minister for Energy.

Dated at Perth this 19th day of December 2013.

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ELECTRICITY CORPORATIONS ACT 2005

SEGREGATION AND TRANSFER PRICING GUIDELINES 2013

1 PRELIMINARY

1.1 Citation

- (1) This Guideline may be cited as the *Segregation and Transfer Pricing Guidelines 2013*.
- (2) This Guideline, and the rules contained in this Guideline, are segregation arrangements under section 62(1) of the Act.

1.2 Authority

This Guideline is made by the Minister under section 62(1) of the Act.

1.3 Commencement

This Guideline comes into operation on the day on which section 6 of the *Electricity Corporations Amendment Act 2013* comes into operation.

1.4 Terms used in this Guideline

- (1) In this Guideline, unless the contrary intention appears—
- additional customers** means those customers of the EGRC referred to in regulation 9(3).
- additional load** means, in respect of a period, the aggregate quantity of electricity, in MWh, consumed during that period by the additional customers.
- Additional Load Trading Interval Forecast** has the meaning given in clause 5.1(1)(b).
- additional transfer price mechanisms** has the meaning given in clause 4.1(1).
- Balancing Price** means, in respect of a Trading Interval, the Balancing Price for that Trading Interval as determined pursuant to the Wholesale Electricity Market Rules.
- EGRC** has the meaning given in regulation 3.
- electricity** has the meaning given in section 3 of the Act.
- foundation customers** means those customers of the EGRC referred to in regulation 9(1).
- foundation load** means, in respect of a period, the aggregate quantity of electricity, in MWh, consumed during that period by the foundation customers.
- Foundation Load Trading Interval Forecast** has the meaning given in clause 5.1(1)(a).
- foundation transfer price** has the meaning given in regulation 3.
- foundation transfer price mechanism** has the meaning given in regulation 3.
- Mid-Year Review** means the review conducted by the Electricity Retail Corporation in or about September 2013 for the purposes of submitting information for the 2012-13 Government Mid-year Financial Projections Statement.
- new contestable customer arrangement** has the meaning given in regulation 3.
- regulation** means a regulation in the *Electricity Corporations (Electricity Generation and Retail Corporation) Regulations 2013*.
- replacement foundation transfer price mechanism** means a replacement foundation transfer price mechanism prepared and provided to the Minister pursuant to regulation 11(3).
- retail business unit** has the meaning given in regulation 3.
- Settlement Price** has the meaning given in clause 5.3(2).
- STEM Clearing Price** means, in respect of a Trading Interval, the STEM Clearing Price for that Trading Interval as determined pursuant to the Wholesale Electricity Market Rules.
- Trading Interval** has the meaning given in the Wholesale Electricity Market Rules.
- Trading Interval Forecast** means, in respect of a Trading Interval, a forecast specifying an amount of electricity required by the retail business unit to be supplied by the wholesale business unit for that Trading Interval.
- wholesale business unit** has the meaning given in regulation 3.
- Wholesale Electricity Market Rules** means the rules made under the *Electricity Industry (Wholesale Electricity Market) Regulations 2004* (WA) as contemplated by section 123 of the *Electricity Industry Act 2004* (WA).
- wholesale force majeure events** has the meaning given in clause 2.2(1)(f).

(2) In this Guideline—

- (i) a reference to a “clause” or “Part” is a reference to a clause or Part of this Guideline; and
- (ii) a reference to a “supply transaction” has the meaning given in regulation 8(a).

2 FOUNDATION TRANSFER PRICE MECHANISM

2.1 Application

(1) This Part 2 applies to the foundation transfer price mechanism.

(2) This Guideline does not set out an exhaustive list of content which may apply to the foundation transfer price mechanism. Any foundation transfer price mechanism may contain additional content, provided that content is consistent with this Guideline and the *Electricity Corporations (Electricity Generation and Retail Corporation) Regulations 2013*.

2.2 Requirements applicable to foundation transfer price mechanism

(1) The foundation transfer price mechanism must—

- (a) establish the terms and conditions that are to apply to supply transactions for the purposes of retail supply of the foundation load;
- (b) only apply to supply transactions for the purposes of retail supply of the foundation load;
- (c) establish a procedure which must be consistent with Part 5, for the making of Foundation Load Trading Interval Forecasts by the retail business unit in respect of the foundation load in that Trading Interval;
- (d) provide that the wholesale business unit may only supply electricity to the retail business unit for the purposes of retail supply of the foundation load in accordance with a Foundation Load Trading Interval Forecast;
- (e) provide for a foundation transfer price for electricity (in \$/MWh) in a Trading Interval which is consistent with the modelled cost of electricity to the Electricity Retail Corporation in that Trading Interval based on—
 - (i) existing contracts for the acquisition of electricity by the Electricity Retail Corporation (taking account of the terms and conditions of those contracts) (including contracts with the Electricity Generation Corporation); and
 - (ii) information contained in the Mid-Year Review prepared by the Electricity Retail Corporation in respect of the financial years ending in each of the calendar years 2013 to 2017; and
- (f) establish a procedure, consistent with clause 2.3, to apply in the event that circumstances or events occur which have the effect of reducing the electricity able to be supplied by, or that can be made available by, the EGRC including from generation facilities owned or operated by the EGRC or pursuant to agreements with third parties (“*wholesale force majeure events*”).

2.3 Wholesale force majeure events

(1) The foundation transfer price mechanism must either—

- (a) define the scope of wholesale force majeure events and provide for the manner in which the financial consequences of a wholesale force majeure event will be dealt with; or
- (b) specify that the financial consequences of a wholesale force majeure event will be dealt with as a cost allocation.

3 REPLACEMENT FOUNDATION TRANSFER PRICE MECHANISM

(1) Additional guidelines will be made by the Minister under section 62(1) of the Act at a later time, to apply to any replacement foundation transfer price mechanism.

4 ADDITIONAL TRANSFER PRICE MECHANISM

4.1 Application

(1) This Part 4 applies to any written arrangements referred to in regulation 9(3) (“*additional transfer price mechanisms*”).

4.2 Requirements applicable to additional transfer price mechanism

(1) Any additional transfer price mechanism must establish a procedure for the making of nominations (on a Trading Interval basis) by the retail business unit in respect of each Trading Interval.

4.3 Retail business unit must not supply to wholesale business unit

(1) The retail business unit must not supply electricity to the wholesale business unit.

5 FORECAST OBLIGATIONS

5.1 Forecasts in respect of foundation load and additional load

- (1) The retail business unit must make—
 - (a) a Trading Interval Forecast in respect of the foundation load in that Trading Interval (“*Foundation Load Trading Interval Forecast*”); and
 - (b) a Trading Interval Forecast in respect of the additional load in that Trading Interval (“*Additional Load Trading Interval Forecast*”).
- (2) The Trading Interval Forecasts made by the retail business unit under clause 5.1(1) must be made separately for each of the foundation load and the additional load in the relevant Trading Interval.
- (3) Each Trading Interval Forecast must—
 - (a) reflect a genuine estimate by the retail business unit of the foundation load or the additional load (as applicable) for the Trading Interval to which the relevant Trading Interval Forecast applies; and
 - (b) be made by the retail business unit on the basis of information and data—
 - (i) that is, or should reasonably be, available to the retail business unit at the time of making the relevant Trading Interval Forecast; and
 - (ii) that the retail business unit believes, acting reasonably, is current and accurate.
- (4) A Foundation Load Trading Interval Forecast made under the foundation transfer price mechanism must—
 - (a) only be made in respect of the foundation load; and
 - (b) not be made in respect of any additional load.

5.2 Forecasting records

- (1) The EGRC must, on a monthly basis, monitor and keep records of—
 - (a) the variances between, in respect of a Trading Interval—
 - (i) the Foundation Load Trading Interval Forecast and the actual foundation load during that Trading Interval; and
 - (ii) the Additional Load Trading Interval Forecast and the actual additional load during that Trading Interval; and
 - (b) the underlying reasons in respect of any such variances.

5.3 Variance settlement—Cost allocation

- (1) For the purposes of regulation 6, the statements of financial performance for the retail business unit and the wholesale business unit must reflect the following allocation of costs—
 - (a) the variances between, in respect of a Trading Interval, each of—
 - (i) the Foundation Load Trading Interval Forecast and the actual foundation load during that Trading Interval; and
 - (ii) the Additional Load Trading Interval Forecast and the actual additional load during that Trading Interval,will be deemed to be settled at the Balancing Price in respect of that Trading Interval; and
 - (b) any variance between, in respect of a Trading Interval, the Additional Load Trading Interval Forecast and the nomination made by the retail business unit pursuant to the procedure referred to in clause 4.2(1), will be deemed to be settled at the Settlement Price.
- (2) On—
 - (a) 1 January 2014; and
 - (b) each 1 July thereafter,

the EGRC must nominate and record (as part of the records referred to in clause 5.2), the price to apply during each Trading Interval for the purposes of clause 5.3(1)(b) for—

- (c) in respect of clause 5.3(2)(a), the period 1 January 2014 to 30 June 2014; and
- (d) otherwise, the financial year commencing on the date of that nomination,

where that price must be either the Balancing Price or the STEM Clearing Price and the “*Settlement Price*” in respect of each Trading Interval during that 6 month period or financial year (as applicable) will be that price so nominated by the EGRC.
