



Western Australia

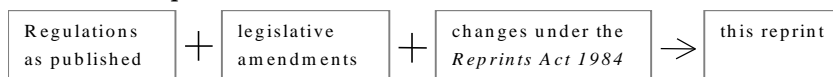
Electricity Transmission and Distribution Systems (Access) Act 1994

Electricity Transmission Regulations 1996

Reprint 2: The regulations as at 2 June 2006

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original regulations and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the regulations being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a regulation that was inserted, or has been amended, since the regulations being reprinted were made, editorial notes at the foot of the regulation give some history of how the regulation came to be as it is. If the regulation replaced an earlier regulation, no history of the earlier regulation is given (the full history of the regulations is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprint numbering and date

1. The reprint number (in the footer of each page of the document) shows how many times the regulations have been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3rd reprint since the regulations were published. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the regulations are reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Western Australia

Electricity Transmission Regulations 1996

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Defined Terms



Reprinted under the
Reprints Act 1984 as
at 2 June 2006

Western Australia

Electricity Transmission and Distribution Systems (Access) Act 1994²

Electricity Transmission Regulations 1996

Part 1 — General

1. Citation

These regulations may be cited as the *Electricity Transmission Regulations 1996*¹.

2. Commencement

These regulations come into operation on 1 January 1997.

3. Definitions

(1) In these regulations, unless the contrary intention appears —

“**access agreement**”, in respect of a user —

- (a) means an agreement between a corporation and the user under which the corporation agrees to provide access services to the user; and
- (b) if the user is the Electricity Generation Corporation or the Electricity Retail Corporation, includes an agreement between a corporation and the user for the provision of access services to the user that arises as a

result of a transfer order under Part 9 Division 3 of the *Electricity Corporations Act 2005*;

“access application” means an access application made under regulation 8;

“access information” has the meaning given in regulation 14(1);

“access offer” means an offer made by a corporation to an applicant to provide the access services requested in an access application made by that applicant and, where the corporation makes an additional offer under regulation 11(4) in relation to the access application, includes that additional offer;

“access services” means —

- (a) use of system services;
- (b) common services;
- (c) connection services;
- (d) ancillary services;

“affected obligation” has the meaning given in regulation 35(2);

“affected person” has the meaning given in regulation 35(2);

“alternative services” has the meaning given in regulation 11(4);

“ancillary services” means the following services —

- (a) voltage control;
- (b) control system services;
- (c) spinning reserve; and
- (d) post-trip management;

“applicable laws” means the Act, the *Energy Operators (Powers) Act 1979*, the *Electricity Act 1945*, the *Energy Coordination Act 1994*, the *Electricity Industry Act 2004* and the *Electricity Corporations Act 2005*;

- “applicant”**, in respect of an access application, means the person who has made the access application or on whose behalf the access application has been made;
- “augment”**, in relation to the electricity transmission network, means to enhance or expand the electricity transmission network;
- “business day”** means any day other than a Saturday, Sunday and any day that is a public holiday or bank holiday in the Perth metropolitan area;
- “common services”** means a network service that ensures the integrity of the electricity transmission network and benefits all users and that cannot practically be allocated to users on a locational basis;
- “connection”** means the electrical equipment that allows the transfer of electricity between the electricity transmission network and an electrical system that is not part of that network and includes any transformers or switchgear at the point of interconnection (including those that operate at a nominal voltage of less than 66kV and a nominal frequency of 50Hz) that are necessary for that transfer but does not include the lines and switchgear at the connection that form part of the electricity transmission network;
- “connection agreement”** means an agreement between a corporation and one or more controllers in respect of a connection who are not users in respect of the connection under which the controller or controllers agree to comply with the Technical Code and any relevant parts of these regulations;
- “connection point”** means an entry point or an exit point;
- “connection services”**, in respect of a connection, means the establishment and maintenance of that connection;
- “contract maximum demand”** in respect of a connection means the contract maximum demand (expressed in kW) specified in the access agreement in respect of the connection (if any);

“control system services” means the 24-hour control of the power system through monitoring, switching and dispatch which is provided through control centres and SCADA and communication equipment;

“controllers” in respect of a connection means all of those persons who engage in one or more of the activities of owning, controlling and operating the plant or equipment transferring electricity to or taking electricity from the electricity transmission network at that connection;

“corporation” has the meaning given to that term in section 2 of the Act;

“declared sent-out capacity” in respect of a generating unit is determined in accordance with regulation 38;

“disconnect”, in respect of a connection, means to operate switching equipment so as to prevent the transfer of electricity through the connection;

“Electricity Generation Corporation” means the body established by section 4(1)(a) of the *Electricity Corporations Act 2005*;

“Electricity Networks Corporation” means the body established by section 4(1)(b) of the *Electricity Corporations Act 2005*;

“Electricity Retail Corporation” means the body established by section 4(1)(c) of the *Electricity Corporations Act 2005*;

“electricity transmission network”, in respect of a corporation, means the parts of the corporation’s system prescribed in regulation 5(1);

“embedded generating unit” means a generating unit which supplies on-site loads or loads at the same connection or which is connected to an electricity distribution network;

“encumbrance” includes a mortgage, pledge, lien, charge or other security interest;

“entry point” means a connection at which electricity is more likely to be transferred to the electricity transmission

network than to be transferred from the electricity transmission network;

“exempt connection” means a connection which is not an existing connection;

“existing connection” means a connection which exists as at 1 January 1997;

“exit point” means a connection at which electricity is more likely to be transferred from the electricity transmission network than to be transferred to the electricity transmission network;

“fee schedule”, in respect of a financial year, means the fee schedule published in respect of that financial year by a corporation;

“force majeure event” has the meaning given in regulation 35(1);

“generating unit” means an electricity generator and related equipment essential to the electricity generator’s operation, which together function as a single entity;

“good electricity industry practice” has the meaning given in regulation 28(1);

“market member” has the meaning given to that term in regulation 4 of the *Electricity Industry (Wholesale Market) Regulations 2004*³;

“network planning criteria” means the criteria prepared by a corporation under regulation 27;

“network services” in respect of the electricity transmission network means the use of the electricity transmission network to transport electricity, including —

- (a) network transmission services, including —
 - (i) the electricity transmission network’s ability to transfer electricity;
 - (ii) configuration switching capability at nodes;

- (iii) network security and stabilisation capability services; and
- (iv) voltage and reactive control capability at nodes;
- (b) network operation systems, including —
 - (i) remote operation services;
 - (ii) voice and data communication services;
 - (iii) network performance monitoring services;
 - (iv) real time operational information and control capability;
 - (v) operational information (including plant characteristics);
 - (vi) generation scheduling; and
 - (vii) maintenance services;and
- (c) the maintenance of the security of the electricity transmission network, including frequency control;

“outage” means any planned or unplanned full or partial unavailability of plant or equipment;

“post-trip management” means the maintenance of system security in the aftermath of trips;

“preliminary assessment”, in relation to an application, means a preliminary opinion of a corporation, provided for the general information of the applicant, as to the technical feasibility of the proposal in the application, the suitability of the location of the proposed connection, the likely availability of spare capacity at that proposed connection and likely extent of any augmentation;

“Regional Power Corporation” means the body established by section 4(1)(d) of the *Electricity Corporations Act 2005*;

“related body corporate” means —

- (a) in respect of a corporation, a subsidiary (as defined in section 3 of the *Electricity Corporations Act 2005*) of the corporation;
- (b) in respect of another body corporate, a body corporate that is related to the first-mentioned body by virtue of section 50 of the *Corporations Act 2001* of the Commonwealth;

“renewable energy source” means an energy source other than a fossil fuel or a man-made nuclear fission process;

“response” in respect of an access application means the response given under regulation 8(5);

“RTU” means a Remote Terminal Unit installed within a substation to enable monitoring and control of a facility from a control centre;

“SCADA” means Supervisory Control and Data Acquisition;

“sensitive information” has the meaning given in regulation 14(2);

“South West interconnected system” has the meaning given to that term in section 3 of the *Electricity Industry Act 2004*;

“spinning reserve” means the ability to immediately and automatically increase generation or reduce demand in response to a fall in frequency;

“supervising officers” means —

- (a) the directors and the chief executive officer of a corporation; and
- (b) the senior managers of a corporation whose duties include providing accounting, financial, audit or legal services, (by whatever name known);

“taxes” means taxes, levies, imposts, deductions, charges, withholdings and duties imposed by any authority (including stamp and transaction duties), together with any related interest, penalties, fines and expenses in connection with them, except if imposed on the overall net income of a corporation;

“Technical Code”, in relation to a corporation, means the Technical Code prepared by the corporation under regulation 26;

“transmission employee” means an employee or officer of the Regional Power Corporation who is engaged wholly or partly in those parts of that corporation’s business involving the granting of access to electricity transmission capacity or the planning, operation, maintenance, development or augmentation of the electricity transmission network;

“use of system services” means a network service provided to a user for use of the electricity transmission network for the transportation of electricity that can be reasonably allocated to a user on a locational basis;

“voltage control” means keeping network voltages within operational limits in normal operation and in the aftermath of trips by automatic regulation of generation MVA output or by transmission voltage control equipment such as capacitor banks and automatic tap-changers;

“wholesale electricity market commencement” means the time at which the first trading day (as defined in the *Wholesale Electricity Market Rules*) commences, as published by the Minister in the *Gazette*;

“wholesale electricity market participant” means a user who, at a time after wholesale electricity market commencement, is registered as a market generator or market customer under rule 2.28 of the *Wholesale Electricity Market Rules*.

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- (2) In these regulations, references to the electricity transmission network, or to the electricity transmission network of a corporation, are —
- (a) in relation to the Electricity Networks Corporation, references to the electricity transmission network operated by that corporation; and
 - (b) in relation to the Regional Power Corporation, references to any electricity transmission network operated by that corporation.

[Regulation 3 amended in Gazette 28 Sep 2001 p. 5357; 28 Dec 2001 p. 6718; 22 Jun 2004 p. 2165-6; 24 Jun 2005 p. 2752; 31 Mar 2006 p. 1326-9 and 1338.]

4. Interpretation

Subject to the *Interpretation Act 1984*, these regulations must be interpreted in accordance with the following rules of interpretation, unless the contrary intention appears —

- (a) a reference in these regulations to a contract or another instrument includes a reference to any amendment, variation or replacement of it;
- (b) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (c) if an event must occur on a day which is not a business day then the event must occur on the next business day;
- (d) the symbol " Σ " requires a summation to be performed over the range of variables specified in respect of the algebraic terms specified;
- (e) all data which is to be utilised in calculations made under these regulations is to be utilised to the accuracy, in terms of a number of decimal places, to which it is given in these regulations;
- (f) all indices are to be calculated to 3 decimal places;

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- (g) the calculation of a charge or fee is to be performed to the nearest cent;
- (h) any other calculation shall be performed to the accuracy, in terms of a number of decimal places, determined by a corporation in respect of all users;
- (i) if examples of a particular kind of conduct, thing or condition are introduced by the word “including”, then the examples are not to be taken as limiting the interpretation of that kind of conduct, thing or condition;
- (j) a connection is a user’s connection or a connection of a user if it is the subject of an access agreement between the user and a corporation; and
- (k) a reference to a half hour is a reference to a 30 minute period ending on the hour or on the half hour and, when identified by a time, means the 30 minute period ending at that time.

[Regulation 4 amended in Gazette 31 Mar 2006 p. 1338.]

5. Electricity transmission network

- (1) For the purposes of the definition of “electricity transmission system” in section 89(1) of the Act, all parts of the system operated by a corporation for transportation of electricity at nominal voltages of 66kV or higher and a nominal frequency of 50Hz are prescribed other than —
 - (a) any part of the system that forms part of an exempt connection; and
 - (b) any part of the system that is not owned or leased by the corporation.

[(2) repealed]

- (3) Subject to subregulation (4), a corporation must prepare and maintain an accurate description (including a geographical depiction) of its electricity transmission network.

- (4) A corporation must prepare the initial description of the electricity transmission network under subregulation (3) as at 1 April 2006 on or before 1 May 2006.
- (5) A corporation must supply a copy of the description of the electricity transmission network prepared and maintained under subregulation (3) to any person which requests a copy of it.

[Regulation 5 amended in Gazette 31 Mar 2006 p. 1329-30 and 1338.]

6. Reports and forecasts and prescribed fees

- (1) A corporation must prepare the annual reports and forecasts required by clause 4(1) of Schedule 5 to the Act no later than 31 May each year.
- (2) A corporation must prepare the first annual report required by clause 4(1)(c) of Schedule 5 to the Act on or before 1 May 2006.

[(3), (4) repealed]

- (5) For the purposes of clauses 4(1), 6(1)(d) and 6(3) of Schedule 5 to the Act and these regulations, the prescribed fee is \$50.00.

[Regulation 6 amended in Gazette 31 Mar 2006 p. 1330.]

Part 2 — Access

7. Access procedure

The procedure to be followed under this Part is illustrated by the flow chart in Schedule 1.

8. Access application

- (1) A person who is not an existing user and who wants a corporation to provide it with one or more access services must make an access application in accordance with this regulation.
- (2) A person who is an existing user and who wants a corporation to provide it with one or more access services (including additional capacity) in addition to those which the user has access already must make an access application in accordance with this regulation.
- [(3) *repealed*]
- (4) An access application must contain the information listed in Part A of Schedule 2 and may specify that the applicant wishes the corporation to make a preliminary assessment of the access application.
- (5) The corporation must give the applicant a written response within 20 business days after receiving the access application.
- (6) A response in respect of an access application must include the following information —
 - (a) the information listed in Part B of Schedule 2;
 - (b) the period within which the corporation is able to make a preliminary assessment of the access application; and
 - (c) whether the corporation is able to make an access offer to the applicant within 65 business days of receiving the access application, and, if not, an alternative period that is reasonable for making the access offer.

- (7) The information provided under subregulation (6)(a) is indicative and is not binding on the corporation.

[Regulation 8 amended in Gazette 31 Dec 2004 p. 7139; 31 Mar 2006 p. 1330 and 1338-9.]

9. Provision and use of information in respect of an access application

- (1) A corporation may request further information from an applicant.
- (2) A request for further information under subregulation (1) must be in writing.
- (3) A corporation may only request further information under subregulation (1) if the information requested is reasonably necessary in order to —
- (a) process the access application;
 - (b) prepare a response;
 - (c) carry out a preliminary assessment; or
 - (d) make an access offer to provide access services, as the case requires.
- (4) If —
- (a) a corporation makes a request under subregulation (1) in relation to an access application; and
 - (b) the person to which the request has been made has not provided all the information requested within 15 business days of the corporation making the request or such longer time as the corporation and the person agree,
- then the access application loses its priority for the purposes of regulation 13 and lapses.
- (5) If an access application loses its priority under subregulation (4) and the person to which the request has been made subsequently provides all the information requested, then the priority of the

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access application for the purposes of regulation 13 is to be determined as if the access application had been received on the date on which that information is received by the corporation.

- (6) An applicant, in making an access application and providing information under this Part must —
 - (a) act in good faith; and
 - (b) use reasonable endeavours to ensure that the access application and the information concerned are accurate and complete.
- (7) If an applicant becomes aware of any material alteration to any information contained in or relevant to the access application, then the applicant must promptly notify the corporation in writing of that alteration.
- (8) If a corporation receives a notice under subregulation (7) or otherwise becomes aware of any material alteration to any information contained in or relevant to an access application, then the corporation may, by written notice to the applicant —
 - (a) extend the period within which the corporation must give the response under regulation 8(5) or carry out the preliminary assessment and give the report under regulation 10 or make the access offer under regulation 11(1) in respect of the access application (as the case requires), to such longer period as the corporation reasonably requires in order to do so; or
 - (b) where the material alteration to information is such as to, in the reasonable opinion of the corporation, materially alter the access services requested by the access application, the corporation may reject the access application.

[Regulation 9 amended in Gazette 31 Mar 2006 p. 1338-9.]

10. Preliminary assessment

- (1) If an access application specifies that the applicant wishes the corporation to make a preliminary assessment of the access application, then the corporation must make that preliminary assessment and give the applicant a report of that preliminary assessment within the period for making the preliminary assessment specified in the response in respect of the access application.
- (2) A report under subregulation (1) is indicative and is not binding on the corporation.

[Regulation 10 amended in Gazette 31 Mar 2006 p. 1339-40.]

11. Access offer

- (1) Subject to regulation 13, unless otherwise agreed by the applicant and the corporation, the corporation must make an access offer to provide to the applicant the access services requested in an access application —
 - (a) within 65 business days of the corporation receiving the access application; or
 - (b) if a longer period for making the access offer is specified in the corporation's response to the applicant under regulation 8(5), then within that longer period.
- (2) If the corporation makes a request for information under regulation 9(1) to an applicant, then the period referred to in subregulation (1) ceases to run until the information requested by the corporation is received by the corporation.
- (3) An access offer must —
 - [(a) deleted]*
 - (b) subject to paragraphs (e) and (f), be for the access services requested in the access application in response to which it is made and be consistent with any technical parameters specified in that access application;

- (c) be in writing and contain the proposed terms and conditions on which the corporation will provide the access services, including terms and conditions of the kind set out in Schedule 3;
 - (d) specify how the charges for the access services requested in the access application are to be calculated and how the fees used in calculating those charges are to be determined;
 - (e) be consistent with the Act, these regulations and the Technical Code; and
 - (f) to the extent that it contains terms and conditions, or sets fees and charges other than those in the fee schedule, be fair and reasonable and consistent with good electricity industry practice.
- (4) If the corporation believes that the requirements of the person making an access application would be met by the corporation providing one or more different access services (called the **“alternative services”**) to those requested in the access application, then the corporation may, in addition, make an offer in accordance with subregulation (3)(a), (c), (d), (e) and (f) in relation to those alternative services.
- (5) To avoid doubt —
- (a) subject to subregulation (3)(b), an access offer may contain terms and conditions which differ from those contained in the relevant access application;
 - (b) an access agreement may contain terms and conditions which differ from those contained in the relevant access offer; and
 - (c) subject to regulation 46, an access offer and an access agreement may contain terms and conditions (including terms and conditions related to fees and charges) which differ from those contained in another access offer or access agreement for any reason, including —
 - (i) to reflect the provisions of these regulations;

- (ii) the quantities in which the relevant access services are to be supplied or are supplied;
 - (iii) because of the different nature of the plant or equipment required to provide the relevant access services;
 - (iv) the geographical and electrical location of the relevant connections;
 - (v) the periods for which the relevant access services are supplied;
 - (vi) the electricity transmission capacity required to provide the relevant access services;
 - (vii) the characteristics of the relevant load or generation; and
 - (viii) the performance characteristics at which the relevant access services are provided.
- (6) If —
- (a) a corporation makes an access offer to an applicant; and
 - (b) the corporation and the applicant have not entered into an access agreement in relation to the access services which are the subject of the access offer within the relevant period determined in accordance with subregulation (7),
- then the access offer expires and the access application loses its priority for the purposes of regulation 13 and lapses.
- (7) The relevant period for the purposes of subregulation (6) is a period of 20 business days (or such longer period as the corporation may agree with the applicant) following the day on which the access offer is made.
- (8) The provision of access services by a corporation under an access agreement is subject to the following conditions precedent —
- (a) the corporation or the user gaining environmental and planning approvals for any necessary augmentation to

the electricity transmission network or the design, construction, installation and commissioning of any exempt connection contemplated by the access agreement;

- (b) the corporation gaining the approval of the Minister under section 68 of the *Electricity Corporations Act 2005*, if required; and
- (c) the entry into of a connection agreement with the corporation by such of the controllers as the corporation requires in relation to the connection (in form and substance satisfactory to the corporation, acting reasonably), if the person with which the corporation enters into the access agreement is not the controller or is not the only controller in respect of a connection which is the subject of the access agreement.

(9) If —

- (a) a corporation makes an access offer; and
- (b) one or more of the connections to which the access offer relates is an exempt connection,

then the access offer must —

- (c) inform the applicant that the applicant may choose not to have the connection services at the exempt connection provided by the corporation; and
- (d) contain the proposed terms and conditions on which the corporation will —
 - (i) if the applicant chooses not to have the corporation provide the connection services at the exempt connection, augment the electricity transmission network to the extent necessary to permit the transfer of electricity between the electricity transmission network and the exempt connection; or
 - (ii) if the applicant chooses to have the corporation provide the connection services at the exempt

connection, augment the electricity transmission network and provide the connection services at the exempt connection,

including terms and conditions relating to the design, construction, installation, commissioning and testing of the augmentation or the exempt connection, as the case requires.

[Regulation 11 amended in Gazette 24 Jun 2005 p. 2753; 31 Mar 2006 p. 1331 and 1338-41.]

12. Capital contributions

- (1) For the purposes of this regulation, an augmentation is commercially viable if —
- (a) in the case of the Electricity Networks Corporation, in the corporation's reasonable opinion —
 - (i) it 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 to the Act, and not increase the charges payable by existing users; and
 - (ii) it has sufficient allocated capital funds to undertake the augmentation, having regard to sections 127 and 128 of the *Electricity Corporations Act 2005*;

and

 - (b) in the case of the Regional Power Corporation, in the corporation's reasonable opinion —
 - (i) it 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 to the Act, and not increase the charges payable by existing users; and

- (ii) the division of the corporation responsible for operating its electricity transmission network has sufficient allocated capital funds to undertake the augmentation, having regard to sections 127 and 128 of the *Electricity Corporations Act 2005*.
- (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 a corporation taking into account —
 - (a) the corporation'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 the corporation'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 a corporation 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) a corporation 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) the corporation 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) a corporation and a user enter into an access agreement;
- (b) the corporation 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 to 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 the corporation 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) a corporation 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) the corporation 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 the corporation an amount equal to the amount referred to in paragraph (c).

(9) If —

(a) a corporation makes an access offer; and

(b) the access offer contemplates the provision of connection services or ancillary services using an exempt connection,

then the corporation 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.

[Regulation 12 inserted in Gazette 1 Jul 1997 p. 3251-2; amended in Gazette 28 Dec 2001 p. 6718; 31 Mar 2006 p. 1331-2 and 1338-41.]

13. First come first served

- (1) If —
 - (a) a corporation has received 2 or more access applications; and
 - (b) the corporation believes there is not sufficient spare capacity to provide the access services the subject of all of those access applications or that it does not have sufficient resources (including personnel) to process all of those access applications at the same time,then the corporation must process those access applications and make access offers in an order which reflects the priority of those access applications as determined in accordance with these regulations.
- (2) An access application (in this subregulation called the “**first access application**”) received by a corporation has priority over all later access applications received by the corporation unless the first access application loses its priority in accordance with these regulations.
- (3) The applicant making an access application may withdraw that access application by written notice given to the corporation and if an applicant does so, then the access application loses its priority and lapses.
- (4) If a corporation rejects an access application under these regulations, then the access application loses its priority for the purposes of this regulation and lapses.
- (5) If an access offer is rejected prior to the end of the relevant period determined in accordance with regulation 11(7), then the access application in response to which the access offer was made loses its priority and lapses.
- (6) Nothing in this regulation prevents a corporation from processing more than one application at the same time.

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- (7) Notwithstanding any other provision of these regulations, if an access application lapses, then a corporation is not required to take any further action in relation to the access application (including making a preliminary assessment of the access application and giving a report under regulation 10 or making an access offer under regulation 11 in relation to the access application).

[Regulation 13 amended in Gazette 31 Mar 2006 p. 1338-40.]

14. Confidentiality

- (1) In this regulation —

“access information”, in respect of a person, means all information contained in the following documents —

- (a) an access application made by that person;
 - (b) the response by a corporation to the access application made by that person;
 - (c) the report of a preliminary assessment under regulation 10(1) of that access application;
 - (d) the access offer made to that person in respect of the access services which are the subject of the access application;
 - (e) any information provided by that person in response to a request under regulation 9 in relation to the access application;
 - (f) in respect of a person which takes electricity from the electricity transmission network, the quantity taken; and
 - (g) in respect of a person which transfers electricity to the electricity transmission network, the quantity transferred.
- (2) An item of access information is sensitive information until an access agreement is entered into in respect of the access services

the subject of the relevant access application, at which time it ceases to be sensitive information.

- (3) A corporation must use all reasonable endeavours to —
 - (a) keep confidential any access information which comes into the possession or control of the corporation or of which the corporation becomes aware; and
 - (b) ensure that the only officers and employees of the corporation who have possession of access information are those permitted by subregulation (4).

- (4) This regulation does not prevent —
 - (a) the disclosure of an item of sensitive information to —
 - (i) a transmission employee;
 - (ii) a supervising officer who requires the item for the purposes of these regulations or to discharge his or her duties; or
 - (iii) a legal or other professional adviser, auditor or other consultant of the corporation who requires the item for the purpose of advising the corporation;
 - (b) the disclosure of an item of access information that is not sensitive information to —
 - (i) an employee or officer of the corporation or a related body corporate of the corporation; or
 - (ii) a legal or other professional adviser, auditor or other consultant of the corporation or a related body corporate of the corporation who requires the item for the purpose of advising the corporation or that related body corporate;
 - (c) the disclosure of an item of information to any regulatory authority having jurisdiction over the corporation; and

- (d) the disclosure, use or reproduction of an item of information —
 - (i) if the item is at the time generally and publicly available other than as a result of a breach of this regulation by the corporation;
 - (ii) with the consent of the person or persons which would be affected by the disclosure, use or reproduction of that item;
 - (iii) to the extent required by law;
 - (iv) if required in connection with legal proceedings, arbitration, expert determination or other dispute resolution mechanism relating to these regulations, or for the purpose of advising a person in relation to any such matter;
 - (v) that is trivial in nature;
 - (vi) if required to protect the safety of personnel, plant or equipment;
 - (vii) by or on behalf of the corporation to the extent reasonably required in connection with the corporation's financing arrangements, investment in the corporation or a disposal of the corporation's assets;
 - (viii) of an historical nature in connection with the preparation and giving of reports under these regulations and the Technical Code;
 - (ix) as an unidentifiable component of an aggregate sum.

[Regulation 14 amended in Gazette 31 Mar 2006 p. 1338-41.]

15. Access agreements

- (1) A corporation is taken to have given a person a grant of access under clause 2 of Schedule 5 to the Act when the corporation and the person enter into an access agreement.

[(2)-(6) repealed]

*[Regulation 15 amended in Gazette 20 Jan 2006 p. 377-8;
31 Mar 2006 p. 1332, 1338-1340.]*

16. Cost of processing access applications

An applicant must, when requested by a corporation, reimburse the corporation for all reasonable expenses incurred by the corporation by reason of processing the access application, making an access offer under regulation 11 and negotiating an access agreement.

[Regulation 16 amended in Gazette 31 Mar 2006 p. 1338-40.]

16A. Suspension of time periods

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*.

[Regulation 16A inserted in Gazette 1 Jul 1997 p. 3252.]

Part 3 — Pricing, prices and charges

17. Pricing methods and prices

Before a corporation adopts pricing methods under clause 6(2) of Schedule 5 to the Act or determines prices to be paid by users, it must —

- (a) provide the Coordinator of Energy with such information relating to the pricing methods or prices as the Coordinator reasonably requires for the purpose of performing his or her functions under section 6 of the *Energy Coordination Act 1994*; and
- (b) take into consideration any recommendations made by the Coordinator as to those pricing methods or prices.

[Regulation 17 amended in Gazette 31 Mar 2006 p. 1338-9.]

18. Charges

- (1) The charges that a user must pay a corporation for access services under an access agreement are calculated in accordance with the access agreement and the fees used in calculating those charges are determined in accordance with the access agreement.
- (2) If, as a result of an imposition of a tax or an increase in the amount of a tax or the passing of a new law or an amendment to an existing law after the date of an access agreement, there is any increase in the cost to a corporation of providing the access services under the access agreement which was not contemplated at the time the access agreement was entered into, then the user must pay the corporation such additional amounts as are necessary to compensate the corporation for the increased cost.

[Regulation 18 amended in Gazette 31 Mar 2006 p. 1338-40.]

Part 4 — Balancing

19. Standby arrangements

(1a) This regulation does not apply to a user's access agreement for using any part of the South West interconnected system during a period for which the user is a wholesale electricity market participant.

(1) A user must keep a corporation informed of its arrangements for the provision of standby power and must promptly provide to the corporation such information concerning those arrangements as the corporation reasonably requests.

(2) If —

(a) a user has an arrangement with a person in relation to the provision of electricity or standby power to the user; and

(b) the user becomes aware that that arrangement has terminated or changed or will terminate (other than by expiration of the term of the arrangement) or change in a material particular,

then the user must promptly notify the corporation accordingly and provide to the corporation details of any substitute arrangements in relation to the provision of electricity or standby power to be put in place by the user.

[Regulation 19 amended in Gazette 24 Jun 2005 p. 2753; 31 Mar 2006 p. 1332.]

20. Loss factors

(1a) This regulation does not apply to a user's access agreement for using any part of the South West interconnected system during a period for which the user is a wholesale electricity market participant.

- (1) In this regulation —
 “Prices and Charges Paper”, in relation to a corporation,
 means a document prepared by the corporation containing
 details of pricing methods referred to in clause 6(3)(c) of
 Schedule 5 to the Act.
- (2) The loss factor for a particular connection or a connection of a
particular class is the factor for that connection or class
specified in the most recent Prices and Charges Paper.
- (3) If an exempt connection is commissioned and is not specified or
of a class specified in the most recent Prices and Charges Paper,
then the loss factor for the exempt connection is equal to the
loss factor for the connection located electrically closest to the
exempt connection.
- (4) A corporation may amend the Prices and Charges Paper —
 - (a) to change a loss factor or to include a new loss factor; or
 - (b) to change the description of a class of connections, or to
include a new class of connections, for loss factors.
- (5) An amendment of a kind described in subregulation (4) must
not be made more than once in any financial year.
- (6) Before a corporation —
 - (a) makes an amendment of a kind described in
subregulation (4); or
 - (b) changes the methodology used to calculate loss factors
specified in the Prices and Charges Paper,

it must provide details of the proposed amendment or change to
the Coordinator and take into consideration any
recommendations made by the Coordinator as to the amendment
or change.

- (7) A corporation must review annually the loss factors specified in the Prices and Charges Paper.

[Regulation 20 inserted in Gazette 29 Oct 2002 p. 5343-4; amended in Gazette 24 Jun 2005 p. 2753; 31 Mar 2006 p. 1333 and 1338-9.]

21. Interpretation of regulations 22, 23 and 25

In this regulation and regulations 22, 23 and 25 —

- (a) the “**group of connections**” in respect of a user’s access agreement consists of the entry points and exit points specified in the access agreement and the entry points from which standby power is being supplied to one or more of those connections;
- (b) if the Electricity Generation Corporation is providing standby power under an arrangement with a user, then that standby power is to be taken to have been supplied at the connection for Muja power station;
- (c) the “**energy entry amount**” for the group of connections in respect of an access agreement for a period is determined by applying the following formula:

$$EEA = \sum_{j=1}^{j=n} (ETEntry_j \times LFEntry_j)$$

where —

EEA (in kWh) is the energy entry amount for the group of connections in respect of the access agreement for the period;

ETEntry_j (in kWh) is the quantity of electricity transferred at entry point_j to the electricity transmission network during the period under the access agreement;

LFEntry_j (a rate) is the loss factor for entry point_j determined under regulation 20;

the variable “j” represents an entry point which is one of the group of connections;

the variable “n” represents the number of entry points in the group of connections;

- (d) the “**energy exit amount**” for the group of connections in respect of a user’s access agreement for a period is determined by applying the following formula:

$$EEXA = \sum_{i=1}^{i=n} (ETExit_i \times LFExit_i)$$

where —

EEXA (in kWh) is the energy exit amount for the group of connections in respect of the access agreement for the period;

ETExit_i (in kWh) is the quantity of electricity transferred at exit point_i from the electricity transmission network during the period under the access agreement;

LFExit_i (a rate) is the loss factor for exit point_i determined under regulation 20;

the variable “i” represents an exit point which is one of the group of connections;

the variable “n” represents the number of exit points in the group of connections;

- (e) the “**permitted tolerance**” for a group of connections is —

- (i) an amount expressed in kWh equal to 3% of the relevant amount in respect of the group of connections; or

- (ii) in a case where —
 - (I) the access agreement is for transporting electricity any of which is derived from a renewable energy source; and
 - (II) the user was a party to an agreement of that kind when the *Electricity Distribution Amendment Regulations (No. 2) 2004* commenced,

1500 kWh;

and

- (f) the “**relevant amount**” (expressed in kWh) in respect of a group of connections is equal to the aggregate of the contract maximum demand figures for all of the exit points in respect of the group of connections divided by 2.

[Regulation 21 amended in Gazette 28 Dec 2001 p. 6718; 22 Jun 2004 p. 2166; 31 Mar 2006 p. 1333.]

22. Balancing

- (1a) This regulation does not apply to a user’s access agreement for using any part of the South West interconnected system during a period for which the user is a wholesale electricity market participant.
- (1aa) This regulation does not apply to a user’s access agreement for transporting electricity using any part of the South West interconnected system during a period for which the user is a market member.
 - (1) A user must use reasonable endeavours to ensure that the energy entry amount for the group of connections in respect of each of its access agreements for each half hour is equal to the energy exit amount for the group of connections for that half hour.
 - (2) For the purposes of subregulation (3), the “**revised net amount**” for the group of connections in respect of a user’s

access agreement for a half hour is an amount equal to the energy entry amount for the group of connections for the half hour minus the energy exit amount for the group of connections for the half hour, except where —

- (a) that amount is positive and is equal to or less than the permitted tolerance for the group of connections; or
- (b) that amount is negative and is greater than or equal to zero minus the permitted tolerance,

in which case, the revised net amount for the group of connections is equal to zero.

- (3) The half hourly out of balance charge in respect of an access agreement for a half hour is determined by applying the following formula:

$$\text{HOBC} = \text{RNA} \times \text{HOBF} \times \frac{1}{100}$$

where —

HOBC (in \$) is the half hourly out of balance charge in respect of the access agreement for the half hour;

RNA (in kWh) —

- (a) if the revised net amount for the group of connections in respect of the access agreement for the half hour is positive, then is equal to that revised net amount minus the permitted tolerance for the group of connections; or
- (b) if the revised net amount for the group of connections in respect of the access agreement for the half hour is negative, then is equal to that revised net amount plus the permitted tolerance for the group of connections;

HOBF (in ¢/kWh) is —

- (a) if RNA is negative, then the half hourly out of balance (sell) fee set out in the fee schedule for

-
- the financial year in which the half hour falls applicable to the half hour; or
- (b) if RNA is positive, then the half hourly out of balance (buy) fee set out in the fee schedule for the financial year in which the half hour falls applicable to the half hour.
- (4) If the sum of the half hourly out of balance charges for the half hours in a month is negative, then an amount equal to -1 multiplied by that sum is payable by the user to the corporation, except if the user is the Electricity Generation Corporation, the Electricity Retail Corporation or the Regional Power Corporation.
- (5) If the sum for the half hourly out of balance charges for the half hours in a month is positive, then an amount equal to that sum is payable by the corporation to the user, except if the user is the Electricity Generation Corporation, the Electricity Retail Corporation or the Regional Power Corporation.
- (6) For the purposes of subregulation (7), the “**adjusted net amount**” for the group of connections in respect of a user’s access agreement for a half hour is an amount equal to the energy entry amount for the group of connections for the half hour minus the energy exit amount for the group of connections for the half hour, except where —
- (a) the result is positive and is greater than the permitted tolerance for the group of connections, in which case the adjusted net amount for the group of connections is equal to that permitted tolerance; or
- (b) the result is negative and is less than zero minus that permitted tolerance, in which case the adjusted net amount for the group of connections is equal to zero minus that permitted tolerance.

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- (7) The out of balance charge in respect of an access agreement for a month is determined by applying the following formula:

$$\text{OBC} = \text{ANA} \times \text{OBF} \times \frac{1}{100}$$

where —

- OBC (in \$) is the out of balance charge in respect of the access agreement for the month;
- ANA (in kWh) is the sum of the adjusted net amounts for the group of connections in respect of the access agreement for all of the half hours falling within the month;
- OBF (in ¢/kWh) is determined as follows —
- (a) if ANA is negative, then OBF is the out of balance (sell) fee set out in the fee schedule for the financial year in which the month falls;
 - (b) if ANA is positive, then OBF is the out of balance (buy) fee set out in the fee schedule for the financial year in which the month falls.

- (8) If the out of balance charge for a month is negative, then the amount equal to -1 multiplied by that out of balance charge is payable by the user to the corporation, except if the user is the Electricity Generation Corporation, the Electricity Retail Corporation or the Regional Power Corporation.
- (9) If the out of balance charge for a month is positive, then an amount equal to that out of balance charge is payable by the corporation to the user, except if the user is the Electricity Generation Corporation, the Electricity Retail Corporation or the Regional Power Corporation.

[Regulation 22 amended in Gazette 28 Dec 2001 p. 6718; 22 Jun 2004 p. 2167; 24 Jun 2005 p. 2753; 31 Mar 2006 p. 1333.]

23. Excess standby generation charge

- (1a) This regulation does not apply to a user's access agreement for using any part of the South West interconnected system during a period for which the user is a wholesale electricity market participant.
- (1aa) This regulation does not apply to a user's access agreement for transporting electricity using any part of the South West interconnected system during a period for which the user is a market member.
- (1) In this regulation —

- (a) the “**demand exit rate**” for the group of connections in respect of a user's access agreement for a half hour is determined by applying the following formula:

$$\text{DERA} = \sum_{i=1}^{i=n} (\text{PTExit}_i \times \text{LFExit}_i)$$

where —

DERA (in kW) is the demand exit rate for the group of connections in respect of the access agreement for the half hour;

PTExit_i (in kW) is the average rate at which electricity is transferred at exit point_i from the electricity transmission network during the half hour under the access agreement;

LFExit_i (a rate) is the loss factor for exit point_i determined under regulation 20;

the variable “i” represents an exit point which is one of the group of connections;

the variable “n” represents the number of exit points in the group of connections;

- (b) the “**demand entry rate**” for the group of connections in respect of an access agreement for a half hour is determined by applying the following formula:

$$DER = \sum_{j=1}^{j=n} (PTEnter_j \times LFEnter_j)$$

where —

DER (in kW) is the demand entry rate for the group of connections in respect of the access agreement for the half hour;

PTEnter_j (in kW) is the average rate at which electricity is transferred at entry point_j to the electricity transmission network during the half hour under the access agreement;

LFEnter_j (a rate) is the loss factor for entry point_j determined under regulation 20;

the variable “j” represents an entry point which is one of the group of connections;

the variable “n” represents the number of entry points in the group of connections;

- (c) the “**standby generation reservation**” (in kW) for a group of connections is the aggregate rate at which the Electricity Generation Corporation may be required to transfer standby power to the connections in the group of connections under the access agreement;

- (d) the “**excess demand**” (in kW) in respect of a group of connections for a half hour is equal to —

(i) the demand exit rate for the group of connections for the half hour;

minus

(ii) the demand entry rate for the group of connections for the half hour;

minus

- (iii) the standby generation reservation for the group of connections for the half hour,
but if the result of this calculation is negative, then the excess demand in respect of the group of connections for the half hour is zero;
- (e) if the excess demand in respect of a group of connections for a half hour is not zero, then an excess demand period in respect of the group of connections commences at the start of that half hour, except if that half hour already falls within an excess demand period in respect of the group of connections;
- (f) each excess demand period in respect of a group of connections includes 336 half hours.
- (2) If an excess demand period in respect of a group of connections in respect of a user's access agreement commences during a month, then the excess standby generation capacity charge payable by the user in respect of the group of connections for the month is determined by applying the following formula:

$$\text{ESCC} = \sum_{i=1}^{i=n} (E_i \times \text{ESGF})$$

where —

ESCC (in \$) is the excess standby generation capacity charge in respect of the group of connections for the month;

E_i (in kW) is the highest excess demand in respect of the group of connections for any half hour falling within excess demand period_{*i*};

ESGF (in \$/kW) is the excess standby generation capacity fee set out in the fee schedule for the financial year in which the month falls;

the variable “*i*” represents an excess demand period in respect of the group of connections that commenced during the month;

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the variable “n” represents the number of excess demand periods in respect of the group of connections that commenced during the month.

[Regulation 23 amended in Gazette 28 Dec 2001 p. 6718; 22 Jun 2004 p. 2167; 24 Jun 2005 p. 2753-4; 31 Mar 2006 p. 1333.]

24. Excess network usage charge

(1aa) This regulation does not apply to a user whose access agreement is for transporting electricity using any part of the South West interconnected system during a period for which the user is a market member.

(1) In this subregulation and subregulation (2) —

(a) the “**excess amount**” in respect of an entry point for a half hour is equal to —

(i) the average aggregate rate (in kW) at which the generating units connected at the entry point transferred electricity to the electricity transmission network during that half hour;
minus

(ii) the aggregate of the declared sent-out capacity figures (in kW) for those generating units,

but if the result of this calculation is negative, then the excess amount in respect of the entry point for the half hour is zero;

(b) if the excess amount in respect of an entry point for a half hour is more than zero, then an excess period in respect of the entry point commences at the start of that half hour, except if that half hour already falls within an excess period in respect of the entry point; and

(c) each excess period in respect of an entry point includes 336 half hours.

- (2) If an excess period in respect of a user's entry point commences during a month, then the excess network usage charge payable by the user in respect of the entry point for the month is determined by applying the following formula:

$$\text{ENUC} = \sum_{i=1}^{i=n} (E_i \times \text{USF} \times \text{EF})$$

where —

ENUC (in \$) is the excess network usage charge in respect of the entry point for the month;

E_i (in kW) is the highest excess amount for any of the half hours which fall within excess period $_i$;

USF (in \$/kW) is the use of system fee in respect of the entry point determined in accordance with the user's access agreement;

EF (a rate) is the excess network usage factor set out in the fee schedule for the financial year in which the month falls;

the variable "i" represents an excess period in respect of the entry point which commences during the month;

the variable "n" represents the number of excess periods in respect of the entry point which commence during the month.

- (3) In this subregulation and subregulation (4) —

(a) the "**excess rate**" in respect of an exit point for a half hour is equal to —

(i) the average rate (in kW) at which electricity is transferred from the electricity transmission network at the exit point during that half hour; minus

(ii) the contract maximum demand for the exit point, but, if the result of this calculation is negative, then the excess rate in respect of the exit point for the half hour is zero;

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- (b) if the excess rate in respect of an exit point for a half hour is more than zero, then an excess demand period in respect of the exit point commences at the start of that half hour, except if that half hour already falls within an excess demand period in respect of the exit point; and
 - (c) each excess demand period in respect of an exit point includes 336 half hours.
- (4) If an excess demand period in respect of a user's exit point commences during a month, then the excess network usage charge payable by the user in respect of the exit point for the month is determined by applying the following formula:

$$\text{ENUC} = \sum_{i=1}^{i=n} (E_i \times (\text{USF} + \text{CSF}) \times \text{EF})$$

where —

ENUC (in \$) is the excess network usage charge in respect of the exit point for the month;

E_i (in kW) is the highest excess rate for any of the half hours which fall within excess demand period;

USF (in \$/kW) is the use of system fee in respect of the exit point determined in accordance with the user's access agreement;

CSF (in \$/kW) is the common service fee determined in accordance with the user's access agreement;

EF (a rate) is the excess network usage factor set out in the fee schedule for the financial year in which the month falls;

the variable "i" represents an excess demand period in respect of the exit point which commences during the month;

the variable "n" represents the number of excess demand periods in respect of the exit point which commence during the month.

*[Regulation 24 amended in Gazette 28 Dec 2001 p. 6719;
22 Jun 2004 p. 2167.]*

25. Other consequences of being out of balance

(1a) This regulation does not apply to a user's access agreement for using any part of the South West interconnected system during a period for which the user is a wholesale electricity market participant.

(1aa) This regulation does not apply to a user's access agreement for transporting electricity using any part of the South West interconnected system during a period for which the user is a market member.

(1) For the purposes of this regulation, a user is materially out of balance in respect of an access agreement for a half hour if the difference between —

- (a) the energy entry amount for the group of connections in respect of that access agreement for the half hour; and
- (b) the energy exit amount for the group of connections for the half hour,

is more than the permitted tolerance for the group of connections.

(2) If a corporation becomes aware that —

- (a) a user is materially out of balance in respect of one of its access agreements for a period; and
- (b) as a result, the operation of the electricity transmission network or the electricity distribution network as defined in the *Electricity Distribution Regulations 1997* is likely to be materially adversely affected or persons with electrical installations connected to the electricity transmission network or the electricity distribution network as defined in the *Electricity Distribution Regulations 1997* are likely to be materially adversely affected,

then, subject to subregulation (3), the corporation may interrupt or curtail the transfer of electricity to or from one or more of the

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group of connections in respect of that access agreement in order to remove or reduce that material adverse effect.

- (3) A corporation must give notice to a user of its intention to exercise its powers under subregulation (2) in relation to a connection of the user a reasonable time before doing so.
- (4) This regulation does not limit regulations 29 or 30.

[Regulation 25 amended in Gazette 1 Jul 1997 p. 3252; 28 Dec 2001 p. 6719; 22 Jun 2004 p. 2167; 24 Jun 2005 p. 2754; 31 Mar 2006 p. 1338-40.]

Part 5 — Technical regulation

26. Technical Code

- (1) A corporation must prepare and make publicly available a Technical Code in respect of its electricity transmission network on or before 1 May 2006.
- (2) A corporation may from time to time thereafter prepare and make publicly available amendments to the Technical Code but before doing so the corporation must provide details of the proposed amendment to users and give users a reasonable period of time within which to comment on the proposed amendments.
- (3) The Technical Code must contain the following —
 - (a) performance standards in respect of service quality parameters in relation to the electricity transmission network;
 - (b) the technical requirements which apply to the design or operation of plant or equipment connected to the electricity transmission network;
 - (c) requirements relating to the operation of the electricity transmission network (including the operation of the electricity transmission network in emergency situations or where there is a possibility of a person suffering injury);
 - (d) obligations on users to test plant or equipment in order to demonstrate compliance with the technical requirements referred to in paragraph (b) and the operational requirements referred to in paragraph (c);
 - (e) procedures which apply if the corporation believes that a user's plant or equipment does not comply with the requirements of the Technical Code;
 - (f) procedures relating to the inspection of a user's plant or equipment;

- (g) procedures which apply to system tests carried out in relation to all or a part of the electricity transmission network;
 - (h) requirements which relate to control and protection settings for plant or equipment connected to the electricity transmission network;
 - (i) procedures which apply in the case of the commissioning and testing of new plant or equipment connected to the electricity transmission network;
 - (j) procedures which apply to the disconnection of plant or equipment from the electricity transmission network;
 - (k) procedures relating to the operation of generating units and other plant or equipment as part of or connected to the electricity transmission network (including the giving of dispatch instructions and compliance with those instructions);
 - (l) metering requirements in relation to connections;
 - (m) the information which each user is required to provide to the corporation in relation to the operation of plant or equipment connected to the electricity transmission network at the user's connections and how and when that information is to be provided;
 - (n) requirements in relation to under frequency load shedding with which users must comply; and
 - (o) any other matters relating to the power system (including the electricity transmission network) or plant or equipment connected directly or indirectly to the electricity transmission network.
- (4) Subject to subregulation (10), the corporation and all users must use all reasonable endeavours to comply with the Technical Code.
- (5) Subject to subregulation (10), if the user in respect of a connection is not the controller, or is not the only controller, of the plant or equipment connected at the connection, then the

user must use all reasonable endeavours to ensure that all of the controllers of that plant or equipment comply with these regulations and the Technical Code in respect of the plant or equipment.

- (6) A user may apply to a corporation for a determination that a specified provision or provisions of the Technical Code not apply, or apply with variations, to the user.
- (7) If a corporation receives an application under subregulation (6), then the corporation may determine that the provisions of the Technical Code are to apply in relation to the user (either generally or in a particular case or class of cases) as if a specified provision or provisions were omitted or were modified or varied in a specified manner.
- (8) A determination under subregulation (7) must be consistent with good electricity industry practice.
- (9) A determination under subregulation (7) must —
 - (a) be in writing to the user or users affected by the determination;
 - (b) specify the period for which the determination applies.
- (10) If a corporation makes a determination under subregulation (7), then the Technical Code applies to a user the subject of the determination in the manner contemplated by the determination during the period for which the determination applies.
- (11) On or before 30 September each year, a corporation must make available to users a report providing details of any determination made under subregulation (7) during the preceding financial year.

[Regulation 26 amended in Gazette 31 Mar 2006 p. 1334 and 1338-40.]

27. Network planning criteria

- (1) A corporation must prepare criteria relating to the planning of its electricity transmission network on or before 1 May 2006.
- (2) The network planning criteria must be consistent with the Technical Code and must contain the following —
 - (a) contingency criteria;
 - (b) steady-state criteria;
 - (c) stability criteria, including —
 - (i) transient stability criteria;
 - (ii) dynamic stability criteria;
 - (iii) voltage stability criteria; and
 - (iv) frequency stability criteria;
 - (d) quality of supply criteria, including —
 - (i) voltage limits;
 - (ii) voltage fluctuation criteria;
 - (iii) system frequency criteria;
 - (iv) harmonic voltage criteria;
 - (v) harmonic current criteria;
 - (vi) voltage unbalance criteria; and
 - (vii) electro-magnetic interference criteria;and
 - (e) environmental criteria.
- (3) A corporation may from time to time amend the network planning criteria but before doing so the corporation must provide details of the proposed amendment to users and give users a reasonable period of time within which to comment on the proposed amendment.

- (4) A corporation must provide a copy of the network planning criteria (as amended) to any user or applicant who requests a copy of it.

[Regulation 27 amended in Gazette 31 Mar 2006 p. 1334 and 1338-40.]

28. Good electricity industry practice

- (1) Good electricity industry practice means the exercise of that degree of skill, diligence, prudence and foresight that reasonably would be expected from a significant proportion of operators of facilities forming part of a power system for the generation, transmission or supply of electricity under conditions comparable to those applicable to the relevant facility consistent with applicable laws, these regulations, the Technical Code, licences, codes, reliability, safety and environmental protection.
- (2) The determination of comparable conditions for the purposes of subregulation (1) is to take into account factors such as the relative size, function, age and technological status of the relevant facility and the applicable laws, these regulations, the Technical Code, licences and codes.
- (3) A corporation must comply with good electricity industry practice when providing access services and in planning, operating, maintaining, developing and augmenting the electricity transmission network.
- (4) A user must comply with good electricity industry practice in operating, maintaining, constructing and commissioning plant or equipment connected to the electricity transmission network or in transferring electricity to or taking electricity from the electricity transmission network.

[Regulation 28 amended in Gazette 31 Mar 2006 p. 1338.]

29. Interruption and curtailment powers

- (1) Subject to subregulation (2), a corporation may interrupt or curtail the transfer of electricity to or from a connection or the provision of an access service in respect of a connection to the extent, and for such period of time, as the corporation considers is necessary —
 - (a) to carry out planned augmentation, maintenance, testing or repair of that part of the electricity transmission network which has the ability to transfer electricity to or from the connection or the plant or equipment used to provide the access service in respect of the connection;
 - (b) to carry out unplanned maintenance, testing or repair of that part of the electricity transmission network which has the ability to transfer electricity to or from the connection or the plant or equipment used to provide the access service in respect of the connection, if the corporation considers that doing so is necessary to avoid injury to any person or material damage to any property or the environment;
 - (c) in the event of breakdown of or damage to that part of the electricity transmission network which has the ability to transfer electricity to or from the connection or the plant or equipment used to provide the access service in respect of the connection which affects the corporation's ability to transfer electricity to or from the connection or provide the access service; or
 - (d) if a *force majeure* event occurs which affects the corporation's ability to transfer electricity to or from the connection or to provide the access service.
- (2) A corporation must —
 - (a) give a user at least 10 business days' prior notice of any planned augmentation, maintenance, testing or repair that will require interruption to or curtailment of the transfer of electricity to or from, or the provision of an access service to, one or more of the user's connections

under these regulations and must liaise with the user concerning the timing of that planned augmentation, maintenance, testing or repair; and

- (b) use reasonable endeavours to promptly notify a user of any unplanned interruptions to or curtailments of the transfer of electricity to or from, or the provision of an access service to, one or more of the user's connections under these regulations.
- (3) Subject to subregulation (2), a corporation has no responsibility to inform any person of any interruption or curtailment to the transfer of electricity to or from, or the provision of an access service to, a connection.
 - (4) If a corporation notifies a user of any interruption to or curtailment of the transfer of electricity to or from, or the provision of an access service to, a connection (under this regulation or otherwise), then the user must —
 - (a) comply with any reasonable requirements concerning the interruption or curtailment set out in the notice; and
 - (b) if the connection is an exit point, must use all reasonable endeavours to ensure that the persons taking a supply of electricity through the connection also comply with those requirements.

[Regulation 29 amended in Gazette 31 Mar 2006 p. 1338-41.]

30. Safety and security of electricity transmission network

- (1) If a corporation is satisfied that it is necessary so to do for reasons of public safety or the security of its electricity transmission network, then the corporation may direct a user to do any one or more of the following —
 - (a) establish or remove a connection;
 - (b) disconnect a connection;
 - (c) to switch off a generator;
 - (d) to call plant or equipment into service;

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- (e) to take plant or equipment out of service;
 - (f) to commence operation of any plant or equipment or maintain, increase or reduce generation or absorption of active or reactive power output by any plant or equipment;
 - (g) to shut down or vary operation of any plant or equipment;
 - (h) to shed or restore load; or
 - (i) to do any other act or thing necessary to be done.
- (2) A direction under subregulation (1) must specify the period within which the direction must be complied with and for how long the direction must be complied with.
- (3) A direction under subregulation (1) must be recorded by the corporation.
- (4) If a person (in this regulation called the “**first person**”) is directed to do something under subregulation (1) but does not comply with the direction, then the corporation may authorise an employee of the corporation or another person to carry out that direction and the first person must do all such things as the first person is requested by the authorised person to do in order to assist the authorised person to carry out that direction.
- (5) Regulations 25 and 29 and this regulation do not limit any power or right conferred by any other law or by agreement on a corporation.

[Regulation 30 amended in Gazette 31 Mar 2006 p. 1334 and 1338-40.]

31. Operation, maintenance and extension planning

- (1) The purpose of this regulation is to ensure that, so far as possible, outages of plant or equipment forming part of, or connected to, a corporation’s electricity transmission network are coordinated.

- (2) On or before 30 September each year, each user must provide to the corporation —
- (a) a maintenance schedule in respect of the plant and equipment connected at each of its connections for the following financial year; and
 - (b) a non-binding indicative planned maintenance plan in respect of the plant and equipment connected at each of its connections for each of the 2 financial years following the financial year to which the maintenance schedule provided under paragraph (a) relates.
- (3) A user must provide the corporation with any information that the corporation reasonably requests concerning maintenance of plant and equipment connected at the user's connections.
- (4) A user must ensure that a maintenance schedule provided by the user under subregulation (2) is complied with, unless otherwise agreed with the corporation.
- (5) A maintenance schedule or a maintenance plan must —
- (a) specify the dates and duration of planned outages for the relevant plant or equipment which may have an impact on the electricity transmission network;
 - (b) specify the work planned to be carried out during each such outage;
 - (c) be in writing in substantially the form requested by the corporation; and
 - (d) be consistent with good electricity industry practice.
- (6) If a user becomes aware that a maintenance plan provided by the user under subregulation (2) in respect of one of its connections will not be complied with, then the user must promptly notify the corporation.

[Regulation 31 amended in Gazette 31 Mar 2006 p. 1335 and 1339.]

32. Information required to prepare annual reports

- (1) Each user must, on or before 31 July in each year, provide a corporation with such electricity generation and load forecast information in relation to each of its connections as is reasonably required by the corporation to enable the corporation to comply with its obligations under clause 4(1) of Schedule 5 to the Act.
- (2) Each user must use reasonable endeavours to provide accurate and complete information under subregulation (1).

[Regulation 32 amended in Gazette 31 Mar 2006 p. 1338-9.]

33. Augmentation of the electricity transmission network

- (1) Without limiting a corporation's obligations under the Act, any proposal to augment its electricity transmission network must be consistent with the network planning criteria to the extent that the corporation reasonably believes the network planning criteria are applicable in the circumstances.
- (2) Subject to regulation 14, if a corporation believes that it is necessary or desirable to augment its electricity transmission network, then the corporation must consult with any person who is —
 - (a) a user or who has made an access application; and
 - (b) in the corporation's opinion, likely to be materially affected by the proposed augmentation.

[Regulation 33 amended in Gazette 31 Mar 2006 p. 1335 and 1338-41.]

Part 6 — Access terms

34. Reasonable endeavours

Notwithstanding the terms of any access agreement, an obligation on a corporation to provide access services or to ensure service quality parameters in relation to its electricity transmission network is to be read and construed as an obligation to use all reasonable endeavours to provide those services or ensure those parameters.

[Regulation 34 amended in Gazette 31 Mar 2006 p. 1335 and 1338.]

35. Force majeure and interruption

- (1) A *force majeure* event in respect of a party to an access agreement or a person to which these regulations apply means any event outside the party's control, including —
 - (a) any act of God, lightning, earthquake, storm, fire, flood, subsidence, land slide, mud slide, wash-out, explosion or natural disaster;
 - (b) any insurrection, revolution or civil disorder, act of public enemies, malicious damage, sabotage, vandalism, war (whether declared or undeclared) or a military operation, blockade or riot;
 - (c) any determination, award or order of any court or tribunal, or any regulatory authority or the award of any arbitrator;
 - (d) any act or omission of government or any government or regulatory department, body, instrumentality, ministry, agency, fire brigade or any other authority other than the corporation or the user (including restraint, expropriation, prohibition, intervention, direction or embargo);

- (e) any inability or delay in obtaining any governmental, quasi-governmental or regulatory approval, consent, permit, licence or authority;
 - (f) any industrial disputes of any kind, strike, lock-out, ban, limitation or other industrial disturbances;
 - (g) any significant plant or equipment failure which could not have been avoided by the exercise of good electricity industry practice;
 - (h) where the person is party to an access agreement, any act or omission of any person with facilities connected to the electricity transmission network which frustrates the party's ability to perform its obligations under the access agreement;
 - (i) any application of any law of the Commonwealth, any Commonwealth authority, the State, any State authority or any local government.
- (2) If a user, a corporation or a person who makes an access application (called the **"affected person"**) is unable wholly or in part to perform on time and as required any obligation under the access agreement or these regulations (other than an obligation to pay money) because of the occurrence of a *force majeure* event, then, subject to this regulation, that obligation (called the **"affected obligation"**) is suspended to the extent that and for so long as the affected person's ability to perform the affected obligation is affected by that *force majeure* event.
- (3) Without limiting subregulation (2), a corporation's obligation to transfer electricity to or from a connection by means of the electricity transmission network or provide an access service is suspended during any period that the transfer of electricity to or from that connection or the provision of the access service in respect of that connection is interrupted or curtailed under regulation 25 or regulation 29 to the extent of the interruption or curtailment.

- (4) Subject to subregulations (5), (6) and (7), if a *force majeure* event occurs, then the affected person must —
- (a) notify any person who in the affected person's reasonable opinion is likely to be adversely affected by the suspension of the affected obligations; and
 - (b) use reasonable endeavours (including incurring any reasonable expenditure of funds and rescheduling man power and resources) to mitigate the consequences and minimise any resulting delay in the performance of the affected obligation.
- (5) If an affected person fails to comply with subregulation (4)(b), then the only consequence of that failure is that the period of suspension of the affected obligation is reduced by the period of any delay in the performance of the affected obligation attributable to that failure.
- (6) The settlement of a labour dispute which constitutes a *force majeure* event is a matter which is within the absolute discretion of the affected person.
- (7) An affected person is not obliged to incur any expenditure in complying with subregulation (4)(b) if the *force majeure* event is constituted by a breach of, or failure to comply with, the access agreement by another party to the access agreement or these regulations by another person to which these regulations apply.

[Regulation 35 amended in Gazette 31 Mar 2006 p. 1339-41.]

36. Effect of access to capacity

By executing or complying with its obligations under an access agreement or making any capital contribution under an access agreement, a user does not acquire any right, title or interest in or to the electricity transmission network.

37. Minimum term and renewal

- (1) The term of an access agreement is such term as the parties agree and set out in the access agreement, but in any event must not be less than 3 months.
- (2) Subject to the terms of the access agreement, an access agreement with an original term of one year or more may be renewed by the user for a further term equal to the original term —
 - (a) if the original term is less than or equal to 3 years, then by written notice to the corporation received at least 3 months prior to expiration of the original term; or
 - (b) if the original term is more than 3 years, then by written notice to the corporation received at least 6 months prior to expiration of the original term,without the requirement for a further access application.
- (3) In assessing whether or not there is a spare capacity, it must be assumed that an access agreement which may be renewed in accordance with subregulation (2) will be renewed in accordance with that regulation until the time for exercising the option to renew contemplated by that regulation has expired without that option being exercised.

[Regulation 37 amended in Gazette 31 Mar 2006 p. 1339-40.]

38. Contract maximum demand and declared sent-out capacity

- (1) If the user's access agreement in respect of a connection sets out a contract maximum demand for that connection, then the user must use reasonable endeavours to ensure that the user's actual demand at that connection does not exceed that contract maximum demand.
- (2) The declared sent-out capacity of a generating unit which is not an embedded generating unit is the capacity of the generating unit to generate and transfer electricity to the electricity

transmission network, taking into account any electricity used at the connection.

- (3) The declared sent-out capacity of an embedded generating unit is the capacity of the generating unit to generate and transfer electricity to the electricity transmission network, taking into account any electricity used at the connection or supplied to persons otherwise than through the electricity transmission network.
- (4) Subject to subregulation (10), the declared sent-out capacity for a generating unit is the figure published by a corporation in respect of the generating unit from time to time.
- (5) A corporation must publish the declared sent-out capacity for generating units as at 1 April 2006 on or before 1 May 2006.
- (6) Subject to the terms of the relevant access agreement, if a user wishes to change the declared sent-out capacity of a generating unit connected at a connection of the user for a financial year, then the user must notify the corporation in writing of the new declared sent-out capacity of the generating unit not less than 30 business days prior to the start of the financial year.
- (7) If a user does not give a notice in accordance with subregulation (6) in respect of a generating unit connected at one of its entry points prior to the start of a financial year, then, subject to subregulation (10), the declared sent-out capacity of the generating unit for that financial year is the same as it was for the preceding financial year.
- (8) Subject to subregulation (10), the declared sent-out capacity for a financial year for a generating unit connected at a connection commissioned during the financial year is the figure agreed between the corporation and the user in respect of the entry point prior to electricity first being transferred between the electricity transmission network and the connection.
- (9) The declared sent-out capacity of a generating unit for a financial year set out in a notice given under subregulation (6)

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must not exceed the declared sent-out capacity of the generating unit for the immediately preceding financial year without the prior written agreement of the corporation.

- (10) A corporation and a user may vary the declared sent-out capacity of a generating unit connected at a connection of the user for a financial year by agreement.

[Regulation 38 amended in Gazette 31 Mar 2006 p. 1335 and 1338-40.]

39. Commencement date

- (1) An access agreement commences on the day it is entered into by the corporation and the user and the term of the access agreement runs from that day.
- (2) An access agreement may provide for a later day on which the provision of access services is to commence, and, if it does so, then the corporation is under no obligation to provide access services under that access agreement until that later day.

[Regulation 39 amended in Gazette 31 Mar 2006 p. 1339-40.]

Part 7 — Enforcement, liability and insurance

40. Enforcement

- (1) If a user fails to observe or perform any of its obligations under an access agreement (in this regulation called a “**default**”), then a corporation may —
 - (a) notify the user of the default and require the user to remedy the default;
 - (b) if the default is a default in the payment of any amount and has not been remedied by the end of the 3rd business day after the notice was given, then disconnect the user’s connections from the electricity transmission network whilst that default is continuing;
 - (c) if the default is any other type of default and at the end of the 5th business day after the notice was given —
 - (i) the default has not been remedied; or
 - (ii) the user has not to the reasonable satisfaction of the corporation commenced to remedy the default or has commenced to remedy the default but is not diligently proceeding to remedy the default,then disconnect the user’s connections from the electricity transmission network whilst that default is continuing; and
 - (d) if the default has not been remedied at the end of the 20th business day after the notice was given, then treat the default as a repudiation of the access agreement and terminate the access agreement.
- (2) The rights of a corporation under this regulation (except the periods of notice) are in addition to and are not to limit any other rights which the corporation has under an access agreement or any other rights or remedies which it has under any other written law, at law, in equity or otherwise.

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- (3) Specifically, the imposition by a corporation of a charge under Part 4 or otherwise for the use of any access service other than in accordance with the access agreement does not affect the corporation's rights under this regulation and is not to be taken as any commitment by the corporation to provide any additional access services.
- (4) Termination of an access agreement under this regulation does not prejudice the rights or remedies accrued to either party at the date of termination.

*[Regulation 40 amended in Gazette 28 Dec 2001 p. 6719;
31 Mar 2006 p. 1338-41.]*

41. Liability, insurance and indemnity

- (1) In this regulation —
 - “**direct damage**” suffered by a person means loss or damage suffered by the person which is not indirect damage;
 - “**indirect damage**” suffered by a person, means —
 - (a) any consequential loss, consequential damage or special damages however caused suffered by the person including any —
 - (i) loss of (or loss of anticipated) use, production, revenue, income, profits, business and savings; or
 - (ii) business interruption,
whether or not the consequential loss or damage or special damages was foreseeable;
 - (b) in respect of contractual damages, damages which would fall within the second limb of what is known as the rule in *Hadley v Baxendale*; and
 - (c) any liability of the person to any other person, or any claim, demand, action or proceeding brought against the person by any other person, and the costs and expenses connected with the claim.

- (2) To the maximum extent permitted by law, the only warranties and terms which apply to the provision of access services by a corporation are those expressly contained in an access agreement, and all warranties and terms (except those expressly set out in an access agreement) implied by law, including implied by the provisions of the *Trade Practices Act 1974* of the Commonwealth or any legislation (whether Commonwealth or otherwise) to similar effect, on the part of the corporation, do not apply to the provision of access services by the corporation.
- (3) If at law, the exclusion of any warranty or term is prohibited, then a corporation's liability in respect of a breach of such warranty or term, is limited to the maximum extent permitted by law. For example, where any law permits a corporation to limit its liability in respect of a breach of an implied warranty or condition to the replacement or resupply of equivalent goods and services, then the corporation's liability will be so limited.
- (4) A corporation or a user who is negligent, or defaults in respect of its obligations under an access agreement, is liable to the other party (including its directors, servants, consultants, independent contractors and agents) for, and is to indemnify the other party (including its directors, servants, consultants, independent contractors and agents) against, any direct damage caused by, consequent upon or arising out of the negligence or default.
- (5) A party to an access agreement who is fraudulent in respect of its obligations to the other party under the access agreement, is liable to the other party for, and is to indemnify the other party against, any direct damage or indirect damage caused by, consequent upon or arising out of the fraud.
- (6) Except as provided in subregulation (5), neither a corporation nor any user is in any circumstances to be liable to the other for indirect damage, however arising.
- (7) Each user must indemnify a corporation for all liability on the part of the corporation to any customer of the user or any

generator of the user (including for direct and indirect damage) which the corporation may suffer because of the provision of or failure to provide access services to the user, except only to the extent that such liability is caused by, is consequent upon or arises out of the negligence of the corporation or the breach by the corporation of any term of the relevant access agreement.

- (8) Each user must indemnify a corporation for all liability (including direct and indirect damage) which the corporation may suffer to any third party by reason of the default of that user under these regulations or under the access agreement or the negligence of that user.
- (9) The terms of an access agreement may contain additional provisions relating to liability of a corporation and a user, including a cap on liability, the terms of an indemnity on the part of a user to the corporation and the requirement of a user to maintain insurances to the reasonable satisfaction of the corporation.

*[Regulation 41 amended in Gazette 20 Jan 2006 p. 378;
31 Mar 2006 p. 1338-41.]*

Part 8 — Other matters

42. Ancillary services

- (1) A corporation must acquire the following ancillary services —
- (a) spinning reserve;
 - (b) post-trip management; and
 - (c) voltage control,

through an open procurement process described in subregulation (3).

- (2) The Electricity Networks Corporation may acquire ancillary services from the Electricity Generation Corporation.

- (3) A corporation must —

- (a) whenever it procures any of the ancillary services referred to in subregulation (1), seek to minimise the total delivered cost of the ancillary service, subject only to maintaining the security and safety of the provision of that ancillary service by the corporation to users and of the electricity transmission network;
- (b) ensure that all proposals for the provision of the ancillary services referred to in subregulation (2) receive fair and equitable consideration;
- (c) ensure that, if the Electricity Generation Corporation participates as a prospective supplier in a procurement process required by subregulation (1), it is treated equally with all other existing or prospective suppliers of the ancillary service and does not receive any special treatment or benefit; and
- (d) take into consideration the effect that each proposal for the provision of an ancillary service referred to in subregulation (1) will have upon the utilisation and operation of the electricity transmission network and upon the corporation's existing contracts for the purchase and sale of that ancillary service.

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- (4) On or before 1 May 2006, a corporation must prepare a description of the process to be adopted in the procurement of any of the ancillary services referred to in subregulation (1), which reflects the principles set out in subregulation (3).
- (5) Subject to subregulation (3), a corporation may amend the process developed under subregulation (4).
- (6) A corporation must provide a copy of the process to be adopted in the procurement of any of the ancillary services under subregulation (1) (as amended) to any person who requests a copy.

[Regulation 42 amended in Gazette 31 Mar 2006 p. 1335-6 and 1338-41.]

43. Prudential requirements

- (1) A user other than the Electricity Generation Corporation or the Electricity Retail Corporation must provide and maintain a bank guarantee in a form and with a bank acceptable to a corporation under which the corporation may draw in aggregate an amount equal to or more than the amount last nominated by the corporation for the purposes of this regulation under subregulation (2).
- (2) Subject to subregulation (3), a corporation may from time to time nominate an amount for the purposes of subregulation (1) by written notice given to the user based on a good faith assessment of the credit risk of the user to the corporation.
- (3) If —
 - (a) a user fails to pay to a corporation any amount when due under these regulations or an access agreement; or
 - (b) a user pays an amount under these regulations or an access agreement which a corporation is subsequently required to disgorge or repay under laws relating to insolvency, the protection of creditors or similar matters,

then the corporation may exercise its rights under the bank guarantee in respect of that amount.

[Regulation 43 amended in Gazette 31 Mar 2006 p. 1336 and 1338-40.]

44. Title to electricity

- (1) Title to, and risk in, electricity which is transferred to the electricity transmission network passes to a corporation at the time it passes through the relevant connection.
- (2) Title to, and risk in, electricity which is transferred from the electricity transmission network passes from a corporation at the time it passes through the relevant connection to the user in respect of the connection.
- (3) This regulation does not affect an obligation of the user, arising under Part 4 or otherwise, to pay any charge relating to the transport of the electricity.

[Regulation 44 amended in Gazette 28 Dec 2001 p. 6719; 31 Mar 2006 p. 1338-9.]

45. Assignment of access agreements

- (1) A user must not —
 - (a) assign, novate, declare itself a trustee of, or otherwise dispose of, any of its rights under an access agreement or a grant of access under clause 2 of Schedule 5 to the Act;
 - (b) subcontract the performance of its obligations under an access agreement or a grant of access under clause 2 of Schedule 5 to the Act;
 - (c) create an encumbrance over any of its rights or obligations under an access agreement or a grant of access under clause 2 of Schedule 5 to the Act,

without the prior written consent of a corporation (such consent not to be unreasonably withheld).

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- (2) Prior to giving any consent under this regulation, a corporation may require any assignee or person having the benefit of an encumbrance to enter into documents in form and substance satisfactory to the corporation agreeing to be bound by the terms of the access agreement.
- (3) A corporation may assign all of its rights and obligations under an access agreement to any person who may own or operate all or any part of the electricity transmission network.

[Regulation 45 amended in Gazette 31 Mar 2006 p. 1338-40.]

46. Essential terms

The following provisions of these regulations are essential terms and conditions for the purposes of clause 2(4) of Schedule 5 of the Act:

Part 3	Part 7
Part 4	regulation 44
regulation 26	regulation 45
Part 6	regulation 47.

47. Representations and warranties

- (1) The user, by entering into an access agreement, represents and warrants to the corporation that —
 - (a) it has duly complied, and will up to the termination of the access agreement continuously comply, with all environmental and safety laws with respect to any of its obligations connected with, arising out of or in relation to the Act, these regulations or the access agreement;
 - (b) it will, as at the date electricity is first transferred through the relevant connection under the access agreement, have in full force and effect all necessary authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all law to enable it to observe its obligations under the Act, these

regulations and the access agreement, and to allow those obligations to be enforced;

- (c) it will, as at the date electricity is first transferred through the relevant connection under the access agreement, have in full force and effect all necessary leases, licences or easements to construct, operate and maintain any connection and other facilities for which it is responsible under these regulations or an access agreement;
- (d) its obligations under the access agreement are valid and binding and are enforceable against it in accordance with their terms;
- (e) the access agreement and any other transaction under it does not contravene the user's constituent documents or any law or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its or its directors' powers;
- (f) its obligations to make payments under the access agreement rank at least equally with all unsecured and unsubordinated indebtedness of the user except debts mandatorily preferred by law;
- (g) neither the user nor any of its related bodies corporate is in default under a law affecting any of them or their respective assets, or any obligation or undertaking by which it or any of its assets are bound;
- (h) there is no pending or threatening action or proceeding affecting the user or any of its related bodies corporate or any of their respective assets before a court, the governmental agency, commission, arbitrator or other tribunal which will, or might reasonably be expected to, materially affect its ability to perform its obligations under the access agreement;
- (i) neither the user nor any of its related bodies corporate have immunity from the jurisdiction of a court or from legal process (whether through service of notice,

attachment prior to judgment attachment in aid of execution, execution or otherwise); and

- (j) the user is not an agent or trustee (except if and to the extent that it is disclosed as such in its application under Part 2) in relation to the access agreement or the electricity transferred under the access agreement.
- (2) These representations and warranties are by force of this regulation to be taken to be made on each day on which —
- (a) electricity is transferred to or from the connection; or
 - (b) any amount payable by the user to the corporation under an access agreement is or may be outstanding.

[Regulation 47 amended in Gazette 31 Mar 2006 p. 1339-40.]

48. Payment arrangements

- (1) A corporation may invoice a user in respect of the charges payable in respect of access services, and a user must pay those charges, in accordance with the procedures set out in the access agreement between the corporation and the user.
- (2) A user may invoice a corporation in respect of the charges payable under these regulations, and the corporation must pay those charges, in accordance with the procedures set out in the access agreement between the user and the corporation.
- (3) An access agreement may provide for the payment by a user of interest in respect of overdue amounts.
- (4) A user must pay the charges payable in respect of access services under an access agreement from the commencement date for the provision of access services specified in the access agreement, regardless of whether or not access services are used on and from that date, except if the failure to provide such access services is due to the default of a corporation.

[Regulation 48 amended in Gazette 31 Mar 2006 p. 1338-40.]

Part 9 — Committed capacity and transitional provisions

49. Regional Power Corporation's existing capacity

The Regional Power Corporation must on or before 1 May 2006 publish a description of the electricity transmission capacity utilised by that corporation, in its role as a retailer of electricity, as at 1 April 2006 and that electricity transmission capacity is to be taken to be committed to that corporation.

[Regulation 49 inserted in Gazette 31 Mar 2006 p. 1336-7.]

49A. Contract maximum demand for existing connections

The contract maximum demand in respect of an existing connection as at 1 April 2006 is the figure published in respect of the connection by a corporation on or before 1 May 2006.

[Regulation 49A inserted in Gazette 31 Mar 2006 p. 1337.]

50. Existing agreements

- (1) The terms and conditions on which a corporation provides access to electricity transmission capacity, the subject of an agreement listed below, are set out in that agreement —
 - (a) Interim Access Agreement with Normandy Power Pty Ltd dated 2 October 1996 (and due to expire on 1 July 1997);
 - (b) Interconnection Deed with WMC Resources Ltd dated December 1996 (and due to expire on 10 October 1999);
 - (c) Access and Standby Agreement with Pilbara Energy Pty Ltd dated 19 June 1996;
 - (d) Agreement for the Supply of Electricity with Alcoa of Australia Ltd dated 7 September 1990 (and due to expire after one year's notice which can be given after 29 September 2001);

r. 50

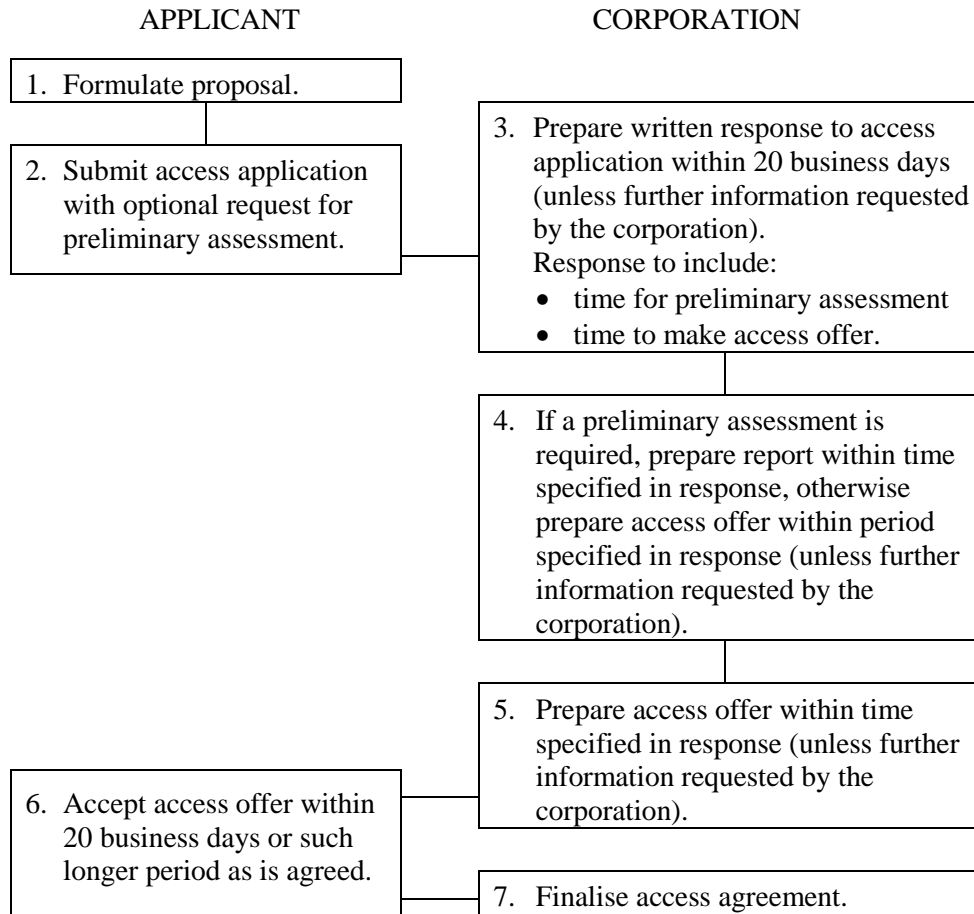
- (e) Agreement for the supply of electricity with Worsley Alumina Pty Ltd dated 19 September 1994 (and due to expire on 10 July 1998 unless terminated earlier by Worsley Alumina, or an extension is agreed between both parties); and
 - (f) Agreement for the Supply of Electricity with Hamersley Iron Pty Ltd dated 26 June 1991 (and due to expire on 31 October 1998).
- (2) Nothing in these regulations affects the rights of any party under an agreement listed in subregulation (1).

[Regulation 50 amended in Gazette 31 Mar 2006 p. 1338-9.]

Schedule 1 — Access application flow chart

[r. 7]

RESPONSIBILITY



NOTE: The process shown in this flow chart is in simplified form, is for illustrative purposes only and otherwise has no force or effect. The process and times for performing activities are subject to conditions and variations set out in Part 2.

[Schedule 1 amended in Gazette 31 Mar 2006 p. 1337.]

Schedule 2 — Access information

[r. 8(4) & (6)]

Part A — Information to be included in an access application

An access application must contain the following information:

- (a) the name and address of the person making the access application and of any other persons for whom that person is acting in making the access application;
- (b) the type of access services requested, when those access services are required and for how long they will be required;
- (c) the connection points in respect of which access is being applied for and the capacity (expressed in MW) for each of those connection points which access is being applied for;
- (d) the type of plant in respect of which the access services are required and the configuration of that plant;
- (e) where the connection points are to be on the electricity transmission network and any alternative points (in order of preference);
- (f) the expected maximum demand of the plant connected or to be connected at each of the connection points;
- (g) the maximum generation capacity and the proposed declared sent out capacity of the generating units (including embedded generating units) connected or to be connected at each of the connection points;
- (h) the expected electricity production and consumption of the plant connected or to be connected at each of the connection points;
- (i) when the applicant expects the plant to be connected at each of the connection points to be in service (if appropriate);
- (j) details of the controllers of the plant connected or to be connected at each of the connection points;
- (k) the proposed design of each of the connections (if appropriate);

- (l) the arrangements which the applicant proposes to enter into in relation to the construction and supply of the connection in respect of the plant;
- (m) the nature of any disturbing load (size of disturbing component MW/MVAr, duty cycle, nature of power electronic plant which may produce harmonic distortion);
- (n) any information as required by the Technical Code;
- (o) commercial information concerning the applicant to allow the corporation to make an assessment of the ability of the applicant to meet its obligations under any access agreement that results from the access application; and
- (p) any other information reasonably required by the corporation.

[Part A amended in Gazette 24 Jun 2005 p. 2754; 31 Mar 2006 p. 1337.]

Part B — Information to be included in a response

A response must contain the following information:

- (a) whether it is likely that there is sufficient spare capacity to provide the access services requested in the access application or whether the electricity transmission network will have to be augmented to provide those services;
- (b) whether it is likely that any connection will have to be installed or upgraded to provide the connection services (if any) requested in the access application; and
- (c) if the corporation believes that the electricity transmission network will have to be augmented to provide the access services requested or a new connection will have to be installed or an existing connection augmented to provide the connection services (if any) requested, then whether or not a capital contribution will be required of the user under regulation 12 and, if so, an indication of the likely amount of that capital contribution.

[Part B amended in Gazette 31 Mar 2006 p. 1337.]

Schedule 3 — Terms of an access offer

[r. 11(3)]

In addition to any matters outlined elsewhere in the regulations, an access offer may include terms and conditions of the following kind:

- (a) details of each connection point;
- (b) the contract maximum demand (if any) in respect of each connection;
- (c) if more than one person is selling or purchasing the electricity transferred at the connection, then the mechanism for determining how much of the electricity transferred at that connection is sold or purchased by each of those persons;
- (d) a requirement that the user complies with the provisions of these regulations and the Technical Code;
- (e) any metering arrangements and, if appropriate, a methodology to adjusting losses where the point of metering is significantly different to the connection point;
- (f) the payment conditions;
- (g) if the relevant connection is a new connection, then the date on which payments in respect of the access services are to commence (whether or not the connection is actually commissioned by that date);
- (h) the duration and termination conditions of the proposed access agreement;
- (i) terms and conditions in relation to the carrying out of works to establish a connection;
- (j) testing and commissioning requirements;
- (k) agreed protocols for maintenance coordination;
- (l) provision, installation, operation and maintenance of automatic load shedding facilities;
- (m) circumstances under which the terms of the resulting access agreement would require renegotiation.

[Schedule 3 amended in Gazette 24 Jun 2005 p. 2754.]

[Schedule 4 repealed in Gazette 29 Oct 2002 p. 5344.]

Notes

- ¹ This reprint is a compilation as at 2 June 2006 of the *Electricity Transmission Regulations 1996* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Electricity Transmission Regulations 1996</i>	31 Dec 1996 p. 7257-320	1 Jan 1997 (see r. 2)
<i>Electricity Transmission Amendment Regulations 1997</i>	1 Jul 1997 p. 3251-2	1 Jul 1997 (see r. 2)
<i>Electricity Transmission Amendment Regulations 2001</i>	31 Aug 2001 p. 4877-81	31 Aug 2001
<i>Corporations (Consequential Amendments) Regulations 2001 Pt. 8</i>	28 Sep 2001 p. 5353-8	15 Jul 2001 (see r. 2 and Cwlt <i>Gazette</i> 13 Jul 2001 No. S285)
<i>Electricity Transmission Amendment Regulations (No. 2) 2001</i>	28 Dec 2001 p. 6717-19	28 Dec 2001 (see r. 2)
Reprint of the <i>Electricity Transmission Regulations 1996</i> as at 24 May 2002 (includes amendments listed above)		
<i>Electricity Transmission Amendment Regulations 2002</i>	29 Oct 2002 p. 5343-5	1 Jan 2003 (see r. 2)
<i>Electricity Transmission Amendment Regulations (No. 2) 2004</i>	22 Jun 2004 p. 2165-7	23 Jun 2004 (see r. 2 and <i>Gazette</i> 22 Jun 2004 p. 2161)
<i>Electricity Transmission Amendment Regulations (No. 3) 2004</i>	31 Dec 2004 p. 7139	31 Dec 2004
<i>Electricity Transmission Amendment Regulations 2005</i>	24 Jun 2005 p. 2752-4	24 Jun 2005
<i>Electricity Transmission Amendment Regulations 2006</i>	20 Jan 2006 p. 377-8	20 Jan 2006
<i>Electricity Corporations (Consequential Amendments) Regulations 2006 Pt. 5</i>	31 Mar 2006 p. 1299-357	1 Apr 2006 (see r. 2)
Reprint 2: The <i>Electricity Transmission Regulations 1996</i> as at 2 Jun 2006 (includes amendments listed above)		

- ² Formerly referred to the *Electricity Corporation Act 1994* the short title of which was changed to the *Electricity Transmission and Distribution Systems (Access) Act 1994* by the *Electricity Corporations Act 2005* s. 139.

³ Repealed by the *Electricity Industry (Wholesale Market) Repeal Regulations 2006*.

Defined Terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined Term	Provision(s)
access agreement.....	3(1)
access application	3(1)
access information	3(1), 14(1)
access offer	3(1)
access services	3(1)
adjusted net amount	22(6)
affected obligation	3(1), 35(2)
affected person.....	3(1), 35(2)
alternative services.....	3(1), 11(4)
ancillary services.....	3(1)
applicable laws.....	3(1)
applicant.....	3(1)
augment.....	3(1)
business day	3(1)
common services.....	3(1)
connection.....	3(1)
connection agreement	3(1)
connection point.....	3(1)
connection services	3(1)
contract maximum demand.....	3(1)
control system services	3(1)
controllers	3(1)
corporation.....	3(1)
declared sent-out capacity.....	3(1)
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demand exit rate.....	23(1)(a)
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Electricity Generation Corporation.....	3(1)
Electricity Networks Corporation	3(1)
Electricity Retail Corporation	3(1)
electricity transmission network	3(1)
embedded generating unit	3(1)
encumbrance	3(1)
energy entry amount	21(c)
energy exit amount.....	21(d)
entry point	3(1)
excess amount	24(1)

Defined Terms

excess demand	23(1)(d)
excess rate	24(3)
exempt connection	3(1)
existing connection	3(1)
exit point	3(1)
fee schedule.....	3(1)
first access application	13(2)
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force majeure event.....	3(1)
generating unit	3(1)
good electricity industry practice	3(1)
group of connections.....	21(a)
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indirect damage.....	41(1)
market member	3(1)
network planning criteria	3(1)
network services	3(1)
outage.....	3(1)
permitted tolerance	21(e)
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preliminary assessment	3(1)
Prices and Charges Paper.....	20(1)
Regional Power Corporation.....	3(1)
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revised net amount	22(2)
RTU	3(1)
SCADA.....	3(1)
sensitive information.....	3(1)
South West interconnected system	3(1)
spinning reserve	3(1)
standby generation reservation.....	23(1)(c)
supervising officers.....	3(1)
taxes	3(1)
Technical Code	3(1)
transmission employee.....	3(1)
use of system services	3(1)
voltage control	3(1)
wholesale electricity market commencement	3(1)
wholesale electricity market participant.....	3(1)