



Economic Regulation Authority
PO Box 8469,
PERTH BC WA 6849

Lodged electronically: publicsubmissions@erawa.com.au

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PROPOSED REVISIONS TO WESTERN POWER'S NETWORK ACCESS ARRANGEMENT

The Australian Energy Council welcomes the opportunity to make a submission to the Economic Regulation Authority (**ERA**) in relation to the above.

The Energy Council is the industry body representing 21 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

The ERA released Western Power's proposed Access Arrangement No.4 (AA4) on 2 October 2017 for public comment. AA4 is Western Power's 5 year strategic network investment plan. Western Power is seeking to recover approximately \$7.8 billion in network revenue from 1 July 2018 to 30 June 2022. The access arrangement will affect every existing and proposed network user within the south west interconnected system during that period.

The following details the Energy Council's advice to the ERA in response to the key components of Western Power's proposed AA4.

Standard Electricity Transfer Access Contract (ETAC).

The standard ETAC is the model transport access contract approved by the ERA. Network users, such as retailers are also able to negotiate an alternative ETAC, though AEC member experience is that this is a largely theoretical construct, as monopoly suppliers have no incentive to benefit a buyer. Under the standard ETAC Western Power, the network operator, will provide the transport services (i.e. entry or exit services) as specified in its AA4 subject to the ERA's approval. Under the WA regulatory framework the standard ETAC must be reasonable, sufficiently detailed and complete to form the basis of a commercially workable contract.

The model ETAC must be consistent with Electricity Industry Access Code 2004 (WA) (Access Code). The regulatory determination must ensure that the standard ETAC is consistent with the Access Code objective of promoting economically efficient investment in, and operation and use of, the network and services of networks in order to promote competition in upstream and downstream markets.

In that regard, the ERA should ensure following matters are consistent with the Access Code in relation to the network operator's proposals to:

- impose a strict obligation on retailers to ensure contracted capacity in respect of a connection point is not exceeded;
- give itself the right (and not the retailer) to determine the transport service a retailer's customer must receive; and
- amend network liability and insurance requirements in favour of itself.

Consistency between the ETAC and the Access Code is essential. If this is not forthcoming, investment decisions may be delayed and business confidence undermined.

Reference services

A reference service is a service for which a reference tariff is specified in the access arrangement. It is a service that would typically be sought by a third party seeking access to the network and is in the nature of a 'benchmark service' for those seeking to negotiate access by way of a "non-reference service" using the reference services as the benchmark for negotiations.

Under Western Australia's arrangements, a retailer has a legal entitlement to request the network operator to provide the services a retailer requires, provided the services are likely to be sought by a significant number of retailers and retailer applicants or a substantial proportion of the market for services in the regulated network.

In Western Australia, it is the retailer that determines and nominates the transport service on behalf of its customers, not the network operator. As such the ERA must ensure that its regulatory determination of Western Power's proposed reference services meet the needs of retailers, consistent with the Access Code objective. Specifically:

- Western Power's proposal to mandate time of use reference services for any customer of a retailer who receives a type 4 meter. In the NEM it is standard for customers to be able to opt in or opt out of time of use transport charges. The Energy Council also notes in 2018/19 the proposed D1 and D3 networks will have the same price for each of the proposed three time bands. However, there is no disclosure as to what the price path will be beyond that year.
- Whether existing or prospective retailers have been adequately engaged to determine their reference service requirements. For example, to what extent has Western Power historically modified or introduced new reference services directly in response to retailer requests?

- Benchmarking Western Power’s reference services against those offered by network operators in the NEM to determine reasonableness of choice.

Model service level agreement (MSLA)

The MSLA sets out the base terms and conditions that metering services will be provided by the network operator to a retailer. The Electricity Industry Metering Code 2012 (WA) (Metering Code), amongst other matters, specifies the MSLA contents (clause 6.6) and the requirement to consult with retailers (as a Metering Code participant) and have due regard to their metering services requirements (clause 6.11).

Similar to the requirement under the Access Code that obliges the network operator to ensure its access arrangement reflects the requirements of a significant number of users and or applicants or a substantial proportion of the market for services in a covered network, a network operator must use all reasonable endeavours to accommodate a retailer’s (as a Metering Code participant) requirement to obtain a metering service.

Given Western Australia has yet to adopt the NEM’s ‘power of choice’ approach and meter service provision is still a monopoly service, it is very important the proposed MSLA (as required by the Metering Code) reflects the requirements of retailers and also delivers the Metering Code objectives to:

- (a) promote the provision of accurate metering of electricity production and consumption;
- (b) promote access to and confidence in data of parties to commercial electricity transactions;
- (c) facilitate the operation of Part 8 and Part 9 of the Act, the Customer Transfer Code and the Code of Conduct¹.

With regard to the Metering Code, the ERA must ensure in its regulatory determination that the following matters are addressed:

- Currently the Metering Code mandates Western Power owns the meters and the metering data. A change in law is required to permit metering competition. Notwithstanding this, metering and data costs could be considered in the context of preparation for metering competition, moving metering costs to Alternate Control Services, or excluded service charges. This initiative would assist any future transition. The absence of metering competition is in contrast to the NEM’s COAG driven Power of Choice reforms. In the absence of such reform the ERA needs to strictly ensure that the metering services retailers require are delivered at an efficient cost.
- Metering services must reflect the requirements of retailers and end users and not just the monopoly service provider. For example, the Energy Council notes remote interval data under the MSLA will not be provided more frequently than monthly and currently no service exists to provide manual interval data for residential customers from existing legacy meters.

¹ The *Electricity Industry Transfer Code 2016 (WA)* and *Code of Conduct for the Supply of Electricity to Small Use Customers 2016 (WA)*.

- Metering services are adequately defined. For example, they including standing data notifications beyond field service provision
- The network service provider’s proposed advanced meter deployment arrangements are fully disclosed and reflected in the MSLA as required. For example, the Energy Council notes the network operator has yet to release its full advanced meter specification, nor its proposed communications technology to the market.
- Metering services are appropriately regulated. For example, the Energy Council notes retailers will be required to negotiate with the network operator to access services such as direct load control notwithstanding the service is being provided by an asset that forms part of the regulated asset base.
- The MSLA contains suitable mechanisms for a retailer to seek contractual redress when the network service provider fails to provide a metering service in accordance with the MSLA prescribed standards. The draft MSLA is absent of any such mechanism.
- It benchmarks the monopoly network operator’s proposed service standard benchmarks against competitive meter service providers and comparable distributors in the NEM.
- It benchmarks the monopoly network operator’s proposed advanced meter capex and opex against competitive meter service providers in the NEM.

Transfer & Relocation Policy (TARP)

The TARP is an Access Code requirement that gives retailers the right to transfer their access (transport) rights to another person and to relocate their contracted network capacity at a connection point to another connection point, in doing so minimising the cost retailers have to pay to augment the network. Novation is a standard practice in commercial agreements.

The Energy Council advocates the ERA ensures in its regulatory determination the network operator’s TARP meets the Access Code’s objectives, specifically whether:

- the proposed changes are a reasonable apportionment of risk between retailer and network operator;
- the amendments provide the network operator with excessive discretion in determining the extent to which a retailer may be permitted to exercise its transfer and relocation rights;
- the requirement for the TARP to be subservient to the Applications and Queuing Policy is consistent with, or contrary to the Access Code; and
- the proposed changes replicate commercial market conduct.

Applications and queuing policy (AQP)

The AQP sets out the detailed processes, timelines and responsibilities in relation to when a retailer requires a modification or an augmentation to the network. This includes a retailer’s requirement to:

- connect facilities and equipment at a new connection point; or
- increase consumption or generation at an existing connection point; or
- materially modify facilities and equipment connected at an existing connection point; or

- augment the network for any other reason.

Transparency, simplicity and timeliness are the key elements in relation to connecting equipment and gaining access to the network cost effectively and consistent with the Access Code's objectives. Barriers to entry must also be minimised in relation to connecting behind the meter embedded generation, batteries and advanced energy efficiency appliances².

However, the Energy Council considers the AQP has not effectively achieved this, including the objectives detailed in section 1.2 of the AQP. The reason for this appears to be that the proposed changes do not balance the interests of the network operator and a retailer seeking a network connection. Instead it appears the proposed changes and resulting ambiguity are aimed at increasing Western Power's discretion at the cost of reducing a retailer's network connection rights.

In that regard, the Energy Council advocates the ERA ensures in its regulatory determination the following matters are consistent with the Access Code requirements and objective in relation to:

- whether the AQP applies to all services provided by Western Power under the Access Code or just covered services;
- the treatment of confidential information;
- whether dormant applications are dealt with in a legitimate, transparent and consistent manner;
- whether there is a mandatory preliminary connection assessments in all instances;
- what constitutes a modification to equipment and facilities; for example, embedded generation and behind the meter energy efficient appliances; and
- whether there is sufficient clarity on the concept of "multiple trading" relationships.

Price control and pricing methods

The Access Code specifies the price control objectives and pricing method requirements in relation to determining the efficient revenue the network operator will earn and the structure of reference tariffs used to recover costs from retailers over the life of AA4³.

The Energy Council notes a key Access Code requirement in relation to price control is that it must enable retailers to predict what the likely cost impact is and avoid price shock. In that regard the Energy Council advocates the ERA ensures in its regulatory determination the following matters are consistent with the Access Code requirements and objective in relation to:

- whether the network operator has adequately publicly substantiated its demand forecasts and revenue model;
- whether the incentive schemes actually deliver efficient network investment and operational outcomes;
- whether the gain sharing mechanism actually delivers efficient investment and operational outcomes;

² AEMC draft determination, Contestability of Energy Services

³ Refer Access Code subchapter section 6.1 "Target revenue".

- determining the appropriate allocation method for recovery from transmission customers and distribution customers; and
- whether the weighted average cost of capital is reasonable.

In that regard, the Energy Councils considers the ERA should have due regard to the Australian Energy Regulator's level of public information disclosure and network regulatory determinations in the NEM⁴.

Conclusion

The ERA regulatory determination is the opportunity to ensure that the AA4 meets the needs of retailers (as network users) and their customers. Well made, it promotes economically efficient investment in, and operation and use of, the network and network services. Well made, it addresses and it mitigates barriers to competition in markets upstream and downstream of the transmission and distribution network.

Any questions regarding this submission should be addressed to David Markham, email david.markham@energycouncil.com.au, or by telephone on 0419 523 351.

Yours sincerely,

Fiona Simon
General Manager Strategy

⁴ AER Rate of Return Guideline Review, July 2017