

ELECTRICITY INDUSTRY ACT 2004

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**ELECTRICITY NETWORKS  
ACCESS CODE  
AMENDMENTS 2021**



## ELECTRICITY INDUSTRY ACT 2004

## ELECTRICITY NETWORKS ACCESS CODE AMENDMENTS 2021

I, Bill Johnston MLA, Minister for Energy for the State of Western Australia, hereby amend the *Electricity Networks Access Code 2004* established under section 104(1) of the *Electricity Industry Act 2004*.

Dated at Perth this 27th day of July, 2021.

BILL JOHNSTON, MLA, Minister for Energy.

Made by the Minister

**1. Citation**

These amendments may be cited as the *Electricity Networks Access Code Amendments 2021*.

**2. Commencement**

These amendments come into operation on the date on which they are published in the *Gazette*.

**3. The Electricity Networks Access Code amended**

These amendments are to the *Electricity Networks Access Code 2004*\*. [*Published in Gazette 30 November 2004, p. 5517-5700*]

**4. Section 1.3 amended**

Section 1.3 is amended—

- (a) by inserting the following definitions, in alphabetical order—

“

“bidirectional point” means a point on a *covered network* identified as such in a *contract for services* at which, subject to the *contract for services*, electricity is expected to be, on a regular basis, both transferred into the *network* and transferred out of the *network*.

”; and

“

“bidirectional service” means a *covered service* provided by a *service provider* at a *bidirectional point* under which the *user* may transfer electricity into and out of the *network* at the *bidirectional point*.

”; and

“

“entry service component” means the component of a *bidirectional service* relating to the transfer of electricity by the *user* into the *network* at the *bidirectional point*.

”; and

“

“exit service component” means the component of a *bidirectional service* relating to the transfer of electricity by the *user* out of the *network* at the *bidirectional point*.

”; and

“

“proposed generator performance standard” has the meaning given to the term “Proposed Generator Performance Standard” in the *WEM Rules*.

”; and

“

“registered generator performance standard” has the meaning given to the term “Registered Generator Performance Standard” in the *WEM Rules*.

”; and

- “
- “transmission connected generating system” has the meaning given to the term “Transmission Connected Generating System” in the *WEM Rules*.
- ”; and
- (b) by deleting the definition of “connection point” and inserting the following definition instead—
- “
- “connection point” means a point on a *covered network* identified in, or to be identified in, a *contract for services* as an *entry point*, *exit point* or *bidirectional point*.
- ”; and
- (c) by deleting the definition of “contestable” and inserting the following definition instead—
- “
- “contestable”, in relation to a *consumer*, means a *consumer* to whom the supply of electricity is not restricted under section 54 of the *Electricity Corporations Act 2005* or under another enactment dealing with the progressive introduction of *consumer* contestability.
- ”; and
- (d) by inserting the following note after the definition of “covered network”—
- “
- {Note: The term *covered network* is defined more narrowly in this Code than in the Act, and therefore the definitions of the term are not identical.}
- ”; and
- (e) in the definition of “covered service” by deleting paragraph (b) and inserting the following paragraph instead—
- “
- (b) an entry service, exit service or bidirectional service; or
- ”; and
- (f) in the definition of “excluded service” by deleting paragraph (b) and inserting the following paragraph instead—
- “
- (b) an entry service, exit service or bidirectional service; or
- ”.

### 5. Section 2.8A and 2.8B inserted

After section 2.8, sections 2.8A and 2.8B are inserted as follows—

- “
- 2.8A Nothing in section 2.7 affects the fact *registered generator performance standards* for a *transmission connected generating system* will be determined in accordance with the *WEM Rules* including that the *service provider’s* obligation to accept *proposed generator performance standards* is determined in accordance with the provisions of the *WEM Rules* and not the procedures in this Code.
- 2.8B An *arbitrator* acting under this Code may not, as part of any award, decision or determination, determine *registered generator performance standards* for a *transmission connected generating system*.
- ”.

### 6. Heading and section 4.83, 4.84 and 4.85 inserted

After section 4.82, the following heading and sections 4.83, 4.84 and 4.85 are inserted as follows—

- “
- Amendments of model documents for Western Power Network**
- 4.83 Section 4.84 to 4.85 apply only in respect of the *access arrangement* for the *Western Power Network* in force as at the time the 2021 amendments come into force, and not to any subsequent *reviews* of that *access arrangement*.
- 4.84 In sections 4.83 to 4.85—
- “2021 amendments” means the amendments to this Code made by the *Electricity Network Access Code Amendments 2021*.
- {Note: The Electricity Networks Access Code Amendments 2021 were Gazetted on 30th day of July, 2021.}
- 4.85 Notwithstanding anything else in this Code or the *access arrangement* for the Western Power Network—
- (a) the applications and queuing policy and transfer and relocation policy applicable under the *access arrangement* for the Western Power Network are deemed to be in the form set out in Appendix 2A;
- (b) the standard access contract applicable under the *access arrangement* for the Western Power Network is deemed to be in the form set out in Appendix 3A; and
- ”.

(c) the *contributions policy* applicable under the *access arrangement* for the *Western Power Network* is deemed to be in the form set out in Appendix 4A.

”

#### 7. Section 5.5(b) amended

Section 5.5(b) is amended by inserting the following words at the beginning of the paragraph—

“  
subject to section 5.38,

”

#### 8. Section 5.11(b) amended

Section 5.11(b) is amended by inserting the following words at the beginning of the paragraph—

“  
subject to section 5.38,

”

#### 9. Section 5.17(b) amended

Section 5.17(b) is amended by inserting the following words at the beginning of the paragraph—

“  
subject to section 5.38,

”

#### 10. Heading and section 5.38 inserted

After section 5.37, the following heading and section 5.38 is inserted as follows—

“

##### Assessment of model documents

5.38 Notwithstanding section 5.5(b), 5.11(b) and 5.17(b), when determining whether the *standard access contract*, *applications and queuing policy* or *contributions policy* (as applicable) included in an *access arrangement* is consistent with the *Code objective* and sections 5.3, 5.7 to 5.9, or 5.12 to 5.15 (as applicable), the *Authority* must not have regard to any provisions of the *model standard access contract*, *model applications and queuing policy* or *model contributions policy* (as applicable) that are inconsistent with section 2.4C or otherwise inconsistent with the operation of security constrained economic dispatch in the *Wholesale Electricity Market*.

”

#### 11. Section 6.5D amended

Section 6.5D is deleted and the following section is inserted instead—

“

6.5D The *Authority* must determine the amount to be added under section 6.5B in a given *access arrangement period*, provided that the *Authority* must approve an amount proposed to be added by the *Electricity Networks Corporation* in its *proposed revisions* if the amount to be recovered will not result in the forecast weighted average annual price change across all *reference tariffs* (as determined based on the *reference tariff change forecast* included in the *proposed revisions*, in nominal terms) being greater than zero for any *pricing year* of the *access arrangement period*.

”

#### 12. Section 7.3 amended

Section 7.3 is amended by inserting after the words “Subject to sections” the following—

“

7.3K,

”

#### 13. Section 7.3A amended

Section 7.3A is amended by inserting after the words “Subject to sections 7.3B,” the following—

“

7.3K,

”

#### 14. Section 7.3B amended

Section 7.3B is amended by deleting the first word “A” and inserting the following instead—

“

Subject to section 7.3K, a

”

**15. Section 7.3K inserted**

After section 7.3J, sections 7.3K and 7.3L are inserted as follows—

“

7.3K Despite sections 7.3D to 7.3H, a *reference tariff* may include a component, applicable where a *user* exceeds its contractual entitlements to transfer electricity into or out of the *network* at a *connection point*, which component is not set by reference to the *service provider's* costs, but instead is set at a level to act as a disincentive to the *user* exceeding its contractual entitlements. Such component should be determined having regard to the following principles—

- (a) the component must be set at a level which provides a material disincentive to the *user* transferring into or out of the *network* quantities of electricity above its contractual entitlements; and
- (b) in determining that level, regard is to be had to the potential adverse impact on the *network*, other *customers* and *generators*, and the *service provider* of the *user* transferring into or out of the *network* quantities of electricity above its contractual entitlements.

7.3L Unless otherwise determined by the *Authority*, section 7.3K does not apply to *connection points* servicing *end use customers* with a contract maximum demand not exceeding 1 MVA or *end use customers* with solar photovoltaic *generating plant* not exceeding 1 MVA in capacity.

”.

**16. Section 7.6 amended**

Section 7.6 is amended by inserting after the words “would better achieve the *Code objective*,” the following—

“

and subject to section 7.3K,

”.

**17. Section 12.11(e) amended**

Section 12.11(e) is deleted and the following section is inserted instead—

“

- (e) the *Authority* must consider any submissions on the draft *technical rules* made under section 12.11(d) and must, at the same time as it approves an *access arrangement* under section 4.17 or section 4.18, as applicable, approve and *publish* final *technical rules* which must be based on the draft *technical rules* and amended only to the extent necessary to comply with this Chapter 12 and the *Code objective*.

”.

**18. Section 12.54(a) amended**

Section 12.54(a) is deleted and the following section is inserted instead—

“

- (a) must consult with public in accordance with Appendix 7 (as if sections A7.12, A7.18, A7.19, A7.23 and A7.24 do not apply) before making a decision to approve or not approve the proposed amendment; and

”.

**19. Section 14.3 amended**

Section 14.3 is deleted and the following section is inserted instead—

“

On the request of a *user*, a *service provider* must promptly notify the *user* of the additional capacity that will be provided by an *augmentation* to be funded by that *user* if the quantity of that additional capacity is reasonably capable of being determined.

”.

**20. Appendix 2A inserted**

After Appendix 2, Appendix 2A is inserted in the form set out in Annexure A to these amendments.

**21. Appendix 3A inserted**

After Appendix 3, Appendix 3A is inserted in the form set out in Annexure B to these amendments.

**22. Appendix 4A inserted**

After Appendix 4, Appendix 4A is inserted in the form set out in Annexure C to these amendments.

**23. Section A7.9 amended**

Section A7.9 is deleted and the following section is inserted instead—

“

The time specified by the *decision maker* for the making of submissions must be at least 10 *business days* after the invitation is *published*, and must be at least 10 *business days* after any issues paper was *published* under clause A7.4.

”.

**24. Section A7.17 amended**

Section A7.17 is deleted and the following section is inserted instead—

“

The time specified by the *decision maker* for the making of submissions on the draft decision must be at least 10 *business days* after the draft decision is *published*.

”.

**25. Headings and sections A7.22, A7.23 and A7.24 inserted**

After section A7.21, the following headings and sections A7.22, A7.23 and A7.24 are inserted as follows—

“

**Additional consultation**

A7.22 The *decision maker* may undertake additional consultation at any point during the process if required.

**Extension of deadlines**

A7.23 The *decision maker* may on one or more occasions extend any time limit specified in this Appendix 7 for a period determined by the *decision maker* if, and only to the extent that, the *decision maker* first reasonably determines that—

- (a) a longer period of time is essential for due consideration of all the matters under consideration or satisfactory performance of its obligations under this Code, or both; and
- (b) the *decision maker* has taken all reasonable steps to fully utilize the times and processes provided for this Appendix 7.

A7.24 The *decision maker* must not exercise the power in clause A7.23 to extend a time limit unless, before the day on which the time would otherwise have expired, it *publishes* notice of, and reasons for, its decision to extend the time limit.

”.

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Annexure A

APPENDIX 2A—TRANSITIONAL WESTERN POWER NETWORK APPLICATIONS AND QUEUING POLICY

APPLICATIONS AND QUEUING POLICY

PART A—COMMON PROVISIONS

1. Operation and Objectives

1.1 Status of Figure 1

Figure 1 contains additional explanatory material regarding information provided to *applicants* and the processes contemplated by this applications and queuing policy. To avoid doubt, Figure 1 is included for explanatory purposes and does not form part of the operative provisions of this applications and queuing policy.

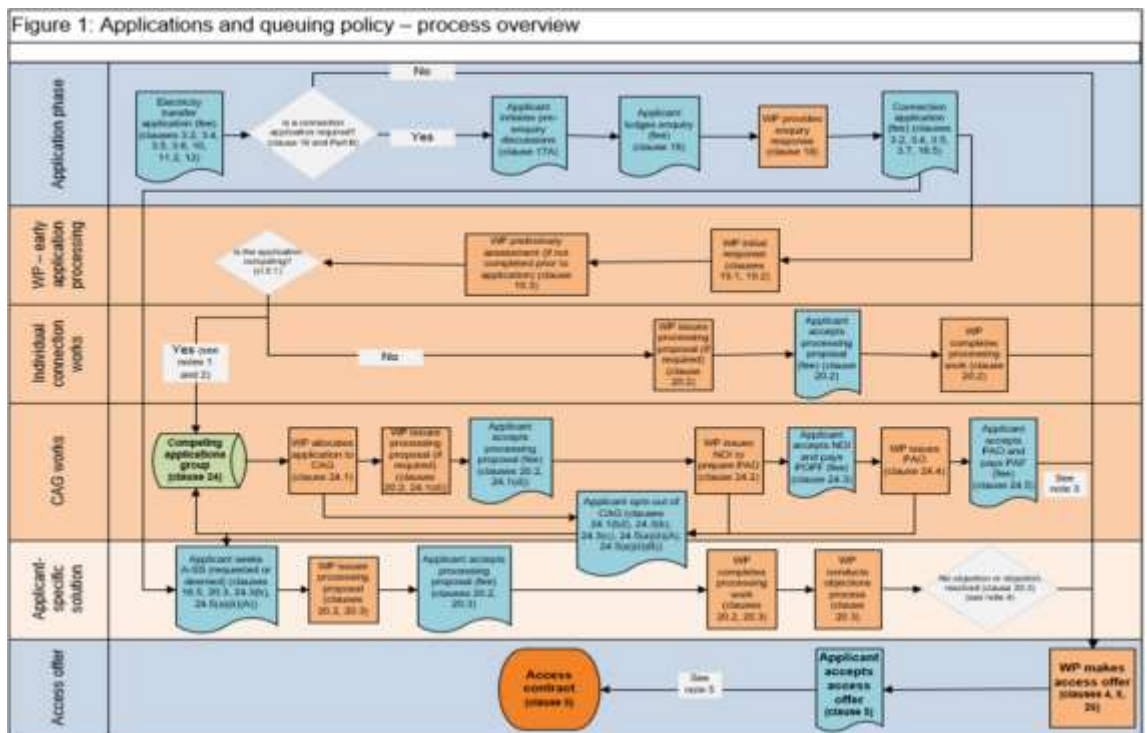
1.2 Objectives

The objectives of this applications and queuing policy are—

- (a) To provide an equitable, transparent and efficient process for assessing the suitability of plant and equipment to connect to Western Power’s *network* and to make *access offers* based on that assessment; and
- (b) To undertake assessments and to provide shared *network access offers* that facilitate access by *generators* and loads to the WA Electricity Market (WEM) on an economically efficient and non-discriminatory basis that is consistent with WEM requirements, and uses a process that is equitable, transparent and efficient; and
- (c) Where feasible and cost-effective, to facilitate joint solutions for *connection applications*.

Western Power may from time to time determine that it can provide *shared asset works* that can provide access to multiple *applicants*.

Figure 1



[Notes regarding Figure 1—

- 1. Western Power may allocate *spare capacity* to *applicants* in order of *priority date*, regardless of whether they are members of a *competing applications group* (see clause 24.8(b)).
- 2. Where an *applicant* is a member of one or more *competing applications groups*, the processing of its *application* in respect of that group(s) must progress in parallel with the processing of its *application* in respect of its individual connection *works*. Where an *applicant* receives a *preliminary access offer* or *access offer*, they will each relate to both the *competing applications group works*, and any other *works* required to connect that *applicant* to the *network*, including that *applicant's* individual connection *works*.



3. If the *preliminary acceptances* received by Western Power for the proposed *competing applications group works* cannot all be fulfilled having regard to the circumstances which lead to applications being classified as *competing*, Western Power will make *access offers* in order of *priority date*, and those who do not receive *access offers* will retain their *priority date* and be refunded the *competing applications group fees* (clause 24.6(c)). If the *preliminary acceptances* received by Western Power are insufficient to progress the proposed *works*, Western Power will revise and reissue the *preliminary access offers to applicants* (clause 24.6(b)).
4. If Western Power accepts the objection and cannot otherwise modify the *applicant-specific solution* to resolve it, Western Power cannot make an *access offer* in respect of that solution (clause 20.3(d)).
5. If the acceptances received by Western Power exceed the maximum levels set by Western Power, those acceptances which fall within those maximum levels will be effective and those which exceed those levels will be ineffective. *Applicants* whose acceptances are ineffective will be reallocated to a new *competing applications group*, unless they are eligible to receive and willing to accept an *access offer* that partially meets their requirements (clause 24.6C). If the acceptances received by Western Power are below the minimum levels set by Western Power, Western Power will revise and reissue the *access offers to applicants* (clause 24.6B).
6. Figure 1 is not intended to be an exhaustive depiction of all processes and outcomes under this applications and queuing policy nor list all clauses to each step of the process. Figure 1 depicts the successful pathways to obtaining an *access offer* only.
7. Figure 1 is limited to the processes that arise under this applications and queuing policy and does not capture processes that otherwise apply pursuant to the *access arrangement*.
8. Figure 1 should be read in conjunction with the operative provisions of this applications and queuing policy.
9. To avoid doubt, where *electricity transfer applications* and *connection applications* are required, the *electricity transfer application* may be made at the same time as the *connection application* or subsequently.}

## 2. Introduction

### 2.1 Definitions

In this applications and queuing policy, unless the contrary intention is apparent—

“**2020 (No. 2) amendments**” has the meaning given to it in the *Code*.

{Note: Under the *Code* “2020 (No. 2) amendments” means “the amendments made to this Code made by the *Electricity Networks Access Code Amendments (No. 2) 2020*”}.

“**access arrangement**” means the current *access arrangement* approved in respect of the *network* under the *Code*.

“**access contract**” means an agreement between Western Power and another person for that person to have access to *covered services*.

{Note: Under the *Code* “access contract” has the same meaning as ‘access agreement’ does in Part 8 of the Act, and under section 13.4(d) includes a *deemed access contract*. The definition of “access agreement” under the *Act* is “an agreement under the Code between a network service provider and another person (a “network user”) for that person to have access to services”}.

“**access contract number**” means the unique identifier given to each *access contract* by Western Power.

“**access dispute**” has the meaning given to it in the *Code*.

{Note: under the *Code* “access dispute” means “a dispute, in connection with an *access application*, between the *applicant* and the service provider, including a dispute in relation to any one or more of the following (and the paragraphs of this definition do not limit each other)—

- (a) whether the *applicant* or the service provider has complied with, or the manner in which the *applicant* or the service provider has purported to comply with, the applications and queuing policy; and
- (b) the terms and conditions, including service standards, on which the *applicant* should be permitted to acquire *covered services* from the service provider; and
- (c) whether work is required work and the terms and conditions applying, or proposed to apply, to any such work; and
- (ca) anything connected with or arising out of a proposed *contribution*; and
- (cb) a matter heard under section 15.7; and
- (cc) anything connected with or arising out of Appendix 8; and
- (cd) [not used]; and
- (d) whether the service provider should grant the *applicant* an exemption to the *technical rules* under section 12.34; and
- (e) the arrangements which will apply in respect of a supplementary matter connected with the *access application*”}.

“**access offer**” means a form of contract developed under this applications and queuing policy which has been *signed* by Western Power and is in such a form that it can, without anything else being required, become an *access contract* when *signed* by an *applicant*.

“**Act**” means the *Electricity Industry Act 2004*.

“**accumulation meter**” has the meaning given to it in the *Metering Code*.

{Note: Under the *Metering Code*, “accumulation meter” means “a *meter* that measures accumulated energy data and records it in one or more accumulated energy registers, and includes a *meter* with interval energy data storage capability which is deemed to be an *accumulation meter* under clause 3.2(2)”.

“**applicant**” means a person (who may be a *user* or a *customer*) who has lodged, or intends to lodge, an *application*.

“**applicant-specific solution**” means a method of satisfying a *connection application* by either—

- (a) *works* funded solely by the *applicant* whether by direct funding or through payment of tariffs and/or *contributions* by that *applicant* and not involving another *applicant*; or
- (b) an *operational solution* involving only that *applicant*; or
- (c) a combination of *works* funded solely by the *applicant* and an *operational solution* involving only that *applicant*.

“**application**” means an *electricity transfer application* or a *connection application*.

“**application form**” with regards to an *application*, means the applicable *application* form (as is specified as being applicable to the *applicant’s application* in this applications and queuing policy or on Western Power’s website) provided by Western Power on its website, or otherwise published by Western Power, for that type of *application*.

“**attachment point**” means a point on the *network* at which *network assets* are *connected* to assets owned by another person.

“**augment**” and “**augmentation**” have the meaning given to ‘work’ in the *Code*.

{Note: Under the *Code* “work” means “any activity or undertaking in connection with the covered *network*, whether of a capital or non-capital nature, including the planning, designing, development, approval, construction, acquisition and commissioning of new facilities and new *network* assets and the procurement or provision of any good or service”.

“**bidirectional point**” means a single, indivisible (except as allowed under this applications and queuing policy) point, that for purposes under the *access arrangement* involving the transfer of electricity, is deemed to consist of a single *attachment point*, *connected* or to be *connected* to a *user’s connection point*, with a single *meter* (regardless of the actual configuration of *network assets* making up the *bidirectional point*), at which electricity is to be transferred into and out of the *network*.

“**bidirectional service**” means a *covered service* provided by Western Power at a *connection point* under which the *user* may transfer electricity into and out of the *network* at the *connection point*.

“**capacity**”, with regards to a part of the *network* (including a *connection point*), refers to the maximum rate at which electricity can be transported through that part of the *network* in accordance with *good electricity industry practice*.

“**capacity allocation same connection point decrease service**” means a *covered service* to decrease *contracted capacity* at a *connection point* under one *access contract* related to a corresponding increase to the *contracted capacity* at the same *connection point* under another *access contract* for a clearly specified period of time following which the decreased *contracted capacity* is reinstated.

“**capacity allocation same connection point increase service**” means a *covered service* to increase *contracted capacity* at a *connection point* under one *access contract* related to a corresponding decrease to the *contracted capacity* at the same *connection point* under another *access contract* for a clearly specified period of time following which the increased *contracted capacity* is reinstated.

“**capacity allocation service**” means one or more of—

- (a) capacity allocation same connection point decrease service; and
- (b) capacity allocation same connection point increase service; and
- (c) capacity allocation swap decrease service; and
- (d) capacity allocation swap increase service.

“**capacity allocation swap decrease service**” means a *covered service* to decrease *contracted capacity* for an *exit service* or *exit service component* at one or more *connection points* related to a corresponding increase to the *contracted capacity* for an *exit service* or *exit service component* at another one or more *connection points* (whether under the same *access contract* or not) for a specified period of time following which the decreased *contracted capacity* is reinstated.

“**capacity allocation swap increase service**” means a *covered service* to increase *contracted capacity* for an *exit service* or *exit service component* at one or more *connection points* related to a corresponding decrease to the *contracted capacity* for an *exit service* or *exit service component* at another one or more *connection points* (whether under the same *access contract* or not) for a specified period of time following which the decreased *contracted capacity* is reinstated.

“**charge**”, for a *covered service* relating to the transfer of electricity, means the amount that is payable by a *user* to Western Power for the *covered service* under an *access contract*.

“**Code**” means the *Electricity Networks Access Code 2004* (as amended).

“**competing**”, in relation to two or more *connection applications*, means that the provision of the *covered service* sought in one *connection application* may impede Western Power’s ability to provide the *covered services* that are sought in the other *connection applications*.

“**competing applications group**” means a number of *applications* that are *competing* for access to the *network* and that have been grouped together by Western Power in accordance with clause 24.

“**complete**”, in relation to an *application* or *notice*, means where the *applicant* or *controller* (as applicable) has—

- (a) used reasonable endeavours to accurately and completely address each item in the applicable *application form* (including by the provision of any supporting information required by the *application form*); and
- (b) with respect to an *electricity transfer application*, provided all of the information required under clauses 3.5 and 3.6 for the *application*; and
- (c) with respect to a *connection application*, provided all of the information required under clauses 3.5 and 3.7 for the *application*,

to Western Power’s satisfaction, acting as a reasonable and prudent person.

“**completion date**” means, in relation to *works*, the date when the *works* are *complete* except for minor omissions and minor defects which will not prevent the use of the *works*.

“**confidential information**” means—

- (a) in the case of information disclosed by an *applicant* or a *disclosing person* to Western Power in or in connection with an *application*, information which the *disclosing person* (acting as a reasonable and prudent person) has identified as being commercially sensitive or confidential; and
- (b) in the case of information disclosed by Western Power to an *applicant* or a *disclosing person* in connection with an *application*, information which Western Power (acting as a reasonable and prudent person) has identified as being commercially sensitive or confidential, and

does not include the information referred to in clause 6.1.

“**connection application**” means an *application* in relation to a *covered service* lodged with Western Power under this applications and queuing policy that has the potential to require a modification to the *network*, including an *application* to—

- (a) connect facilities and equipment at a new *connection point*; or
- (b) increase *consumption* or generation at an existing *connection point*; or
- (c) materially modify *facilities and equipment* connected at an existing *connection point* in a way that means that they no longer meet the eligibility criteria for the *covered service* at the relevant *connection point* or if the modification is likely to adversely impact the security, safety or reliability of the *network*; or
- (d) *augment* the *network* for any other reason,

and includes any additional information provided by the *applicant* in regard to the *application*.

“**connection asset**” has the meaning given to it in the *Code*.

{Note: Under the *Code* “*connection assets*” for a *connection point* means “all of the *network assets* that are used only in order to provide *covered services* at the *connection point*” .}

“**connection point**” means—

- (a) an *exit point*; or
- (b) an *entry point*; or
- (c) a *bidirectional point*;

identified or to be identified as such in an *access contract*.

“**consume**” has the meaning given to it in the *Code*.

{Note: Under the *Code*, “*consume*” means “to consume electricity” .}

“**consumption**”, for a *connection point*, means the amount of electricity *consumed* at the *connection point*, and is measured in Watt-hours.

“**constraint**” means a limitation on the capability of the *network* (including arising by reference to the technical limitations and configuration of the *network*) such that it is unsafe, inconsistent with the maintenance of the reliability and security of the *network* or otherwise unacceptable to transfer (including accept the transfer of electricity into or out of the *network* at a *connection point*) the level of electricity that would occur if the limitation was removed. Constraints affecting the *network* may increase over time due to changes in load or generation connected to the *network*.

“**contestable customer**” means a *customer* to whom the supply of electricity is not restricted under section 54 of the *Electricity Corporations Act 2005* or under another enactment dealing with the progressive introduction of *customer* contestability.

{Note: At the time this applications and queuing policy comes into effect, the relevant instrument under section 54 of the *Electricity Corporations Act 2005* was the *Electricity Corporations (Prescribed Customers) Order 2007*, gazetted 29 June 2007.}

“**contract for services**” has the meaning given to it in the *Code*.

{Note: Under the *Code* “*contract for services*” means “an agreement between a service provider and another person for the person to have access to services, and includes an *access contract*”.

“**contracted capacity**”, for a *connection point*, means the maximum rate at which a *user* is permitted to transfer electricity to or from the *network* at the *connection point*, being either—

- (a) the rate specified in the *user’s access contract* from time to time; or
- (b) if no rate is specified in the *user’s access contract*, the maximum rate of electricity permitted to be transferred under the *reference service* eligibility criteria for the *reference service* for that *connection point* in the *user’s electricity transfer access contract*; or
- (c) if no rate is specified in the *user’s access contract* or in the *reference service* eligibility criteria, the maximum rate of electricity permitted to be transferred through the *connection assets* under the *technical rules*,

as applicable, and is measured in Watts or Volt-Amps.

“**contribution**” means any *contribution* applicable under the *contributions policy*.

“**contributions policy**” means the *contributions policy* in the *access arrangement*.

“**controller**” means a person, which includes a *customer*, who owns, operates or controls (or will own, operate or control) *facilities and equipment* at a *connection point*, and who is specified by an *applicant* in an *application* in respect of the *connection point*.

“**covered service**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “covered service” means “a *service* provided by means of a *covered network*, including—

- (a) a connection service; or
- (b) an entry service, exit service or bidirectional service; or
- (c) a network use of system service; or
- (d) a common service; or
- (e) a service ancillary to a service listed in paragraph (a) to (d) above,

but does not include an *excluded service*”.

“**customer**” has the meaning given to it in the *Act*.

“**Customer Transfer Code**” means the *Electricity Industry Customer Transfer Code 2016*, made under section 39(2)(a) of the *Act* in respect of the matter referred to in section 39(2)(b) of the *Act*, and includes all rules, policies or other subordinate documents developed under the *Customer Transfer Code*.

“**customer transfer request**” has the meaning given to it in the *Customer Transfer Code*.

{Note: Under the *Customer Transfer Code*, “customer transfer request” means “a request by a *retailer* to a *network* operator made using the form published under clause 4.1 to transfer a *contestable customer* at a *connection point* in the *network* operator’s *network* from one *retailer* to another”.

“**de-energise**” in respect of a *connection point*, means to operate, modify or remove switching or other equipment to prevent the transfer of electricity through the *connection point*.

“**disclosing person**”, in relation to an *application*, means a person who discloses *confidential information* to Western Power in, or in connection with, an *application*.

“**distributed energy or other non-network solution**” means the *generation* and export of electricity or provision of other services by a *user* at a *connection point* on the distribution *network* where that electricity or other service provides a *network* benefit.

“**dormant application**” means a *connection application* in respect of which—

- (a) no work has been undertaken by Western Power; or
- (b) no work has been agreed by Western Power and the *applicant* to be undertaken by Western Power,

to progress the *application*, including a system or other study, the preparation of a detailed cost estimate or other work, under clauses 20.2, 20.3 or 24, for a period of 12 continuous months calculated retrospectively from the date that the assessment as to dormancy is made, with the exception that an *application* is not a *dormant application* where—

- (c) the *application’s* lack of progress is due to Western Power not progressing the *application*; or
- (d) the *application* has a *priority date* that is less than 3 years before the date that the assessment as to dormancy is made.

“**electricity transfer application**” means an *application* in relation to a *covered service* lodged with Western Power under this applications and queuing policy seeking to obtain or modify an *entry service* or an *exit service* or a *bidirectional service* or a *supply abolishment service* or a *capacity allocation service* and includes any additional information provided by the *applicant* in regard to the *application*.

“**electricity transfer access contract**” means a type of *access contract* that provides the *user* with an *entry service* or *exit service* or *bidirectional service*, or any combination of the three, at a *connection point* or *connection points*.

“**enquiry**” means an *enquiry* by an *applicant* under clause 18.

- “**entry point**” means a single, indivisible (except as allowed under this applications and queuing policy) point, that for purposes under the *access arrangement* involving the transfer of electricity, is deemed to consist of a single *attachment point, connected* or to be *connected* to a *user’s connection point*, with a single *meter* (regardless of the actual configuration of *network assets* making up the *entry point*), at which electricity is more likely to be transferred into the *network* than out of the *network*.
- “**entry service**” means a *covered service* provided by Western Power at a *connection point* under which the *user* may transfer electricity into the *network* at the *connection point*.
- “**entry service component**” means the component of a *bidirectional service* relating to the transfer of electricity by the *user* into the *network* at the *connection point*.
- “**exit point**” means a single, indivisible (except as allowed under this applications and queuing policy) point, that for purposes under the *access arrangement* involving the transfer of electricity, is deemed to consist of a single *attachment point, connected* or to be *connected* to a *user’s connection point*, with a single *meter* (regardless of the actual configuration of *network assets* making up the *exit point*), at which electricity is more likely to be transferred out of the *network* than into the *network*.
- “**exit service**” means a *covered service* provided by Western Power at a *connection point* under which the *user* may transfer electricity out of the *network* at the *connection point*.
- “**exit service component**” means the component of a *bidirectional service* relating to the transfer of electricity by the *user* out of the *network* at the *connection point*.
- “**final notice**” has the meaning given in clause 20A.
- “**generate**” has the meaning given to it in the *Code*.  
{Note: Under the *Code*, “generate” means “to produce electricity”.}
- “**generating plant**” has the meaning given to it in the *Code*.  
{Note: Under the *Code*, “generating plant” means in relation to a *connection point* “all equipment involved in generating electricity”.}
- “**generation**”, for a *connection point*, means the amount of electricity *generated* at the *connection point*, and is measured in kilowatts.
- “**generation application**” means a *connection application* which relates to *generating plant* to be established or modified or an increase in *contracted* capacity for *entry services* or *entry service components* servicing a *generating plant* but excluding any *generating plant* which is not expected to be registered under the *WEM Rules* as a registered facility (as defined in the *WEM Rules*) participating in security constrained economic dispatch.
- “**generator**” has the meaning given to it in the *Code*.  
{Note: Under the *Code* “generator” means a person who *generates* electricity”}
- “**Ideal Generator Performance Standard**” has the meaning given to it in the *WEM Rules*.
- “**incoming retailer**” has the meaning given to it in the *Customer Transfer Code*.  
{Note: Under the *Customer Transfer Code*, “incoming retailer”, in relation to a *customer transfer request* or *transfer*, means “the *retailer* that will supply a *contestable customer* after the *transfer time*”}
- “**initial response**” means the *initial response* of Western Power to an *applicant* under clause 19.1 in relation to a *connection application*.
- “**interval meter**” has the meaning given to it in the *Metering Code*.  
{Note: Under the *Metering Code*, “interval meter” means “a *meter* that measures *interval energy data* and records it in a *data logger*, and excludes a *meter* with *interval energy data* storage capability which is deemed to be an *accumulation meter* under clause 3.2(2)”}
- “**law**” means “written law” and “statutory instruments” as defined in the *Code*, orders given or made under a written law or statutory instrument as so defined or by a government agency or authority, *Codes of Practice* and Australian Standards deemed applicable under a written law and rules of the general law including the common law and equity.
- “**LED replacement service**” means to replace an existing streetlight luminaire with an LED luminaire.
- “**lodgement fee**” means the fee specified for an *enquiry* or an *application* in the *price list*.
- “**loss factor**” has the meaning given to it in the *WEM Rules*.  
{Note: Under the *WEM Rules*, “loss factor” means “(a) a factor representing *network* losses between any given node and the Reference Node where the Loss Factor at the Reference Node is 1, expressed as a product of a Transmission Loss Factor and a Distribution Loss Factor and determined in accordance with clause 2.27.5 [of the *WEM Rules*]; and (b) in relation to the Balancing Portfolio, the Portfolio Loss Factor”}
- “**market operator**” means the entity conferred the functions in respect of the ‘Wholesale Electricity Market’ under the *WEM Rules* which, as at the date this version of the applications and queuing policy comes into effect, is the Australian Energy Market Operator Limited.
- “**market participant**” means a person who, at a time after “energy market commencement” (as defined in the *WEM Rules*) is a “market participant” (as defined in the *WEM Rules*).

“**meter**” has the meaning given to it in the *Metering Code*.

{Note: Under the *Metering Code*, “meter” means “a device which measures and records electricity production or *consumption*”;}.

“**Metering Code**” means the code made under section 39(1) of the *Act* in respect of a matter referred to in section 39(2)(a) of the *Act*, and includes any service level agreement, metering data agency agreement, communications rules, metrology procedure, mandatory link criteria and registration process developed under that code.

“**metering database**” means the “metering database” (as defined in the *Metering Code*) operated by Western Power under the *Metering Code*.

“**metering equipment**” means a *meter* or *meters* and associated equipment complying with the *Metering Code* used to measure and record electricity transferred to or from the *network* at a *connection point*, which may include the measurement of the rate of transfer and the quantity and quality of the transferred electricity.

“**metering installation**” has the meaning given to it in the *Metering Code*.

{Note: Under the *Metering Code*, “metering installation” means “the *devices* and methods for the purpose of metrology which lie between: (a) at one boundary, a *metering point*; and (b) at the other boundary, either: (i) if a telecommunications *network* is used for the delivery of *energy data* from the *metering point*—the point of connection to the telecommunications *network*; or (ii) if there is no such telecommunications *network*—the interface port of either the *meter* or *data logger* or both.”}

“**Negotiated Generator Performance Standard**” has the meaning given to it in the *WEM Rules*.

“**network**” has the meaning given to “Western Power Network” in the *Code*.

{Note: Under the *Code*, “Western Power Network” means “the *covered network* that is *covered* under section 3.1”. The “Western Power Network” is the portion of the SWIN that is owned by the Electricity Networks Corporation.}

“**network assets**” has the meaning given to it in the *Code*.

{Note: Under the *Code*, “network assets”, in relation to a *network* means “the apparatus, equipment, plant and buildings used to provide or in connection with providing *covered services* on the *network*, which assets are either *connection assets* or *shared assets*”;}.

“**Network Control Services**” has the meaning given to Network Control Service in the *WEM Rules*.

“**NMI**” means National Market Identifier, which is the unique identifier assigned by Western Power to each *connection point*.

“**operational solution**” means a method of satisfying a *connection application* that does not rely primarily on construction of new *network assets* or *augmentation* of existing *network assets*.

{Note: Examples of *operational solutions* could include *generator* runback schemes, load inter-trips, and off grid voltage support.}

“**preliminary acceptance**” has the meaning given to it in clause 24.5(b).

“**preliminary access offer**” mean an indicative and non-binding *access offer* that is made to an *applicant* within a *competing applications group* in accordance with clause 24.

“**premise**” has the meaning given to it in the *Energy Operators (Powers) Act 1979*.

“**previous retailer**” has the meaning given to it in the *Customer Transfer Code*.

{Note: Under the *Customer Transfer Code* “previous retailer”, in relation to a transfer, “means the *retailer* that supplied the *contestable customer* before the transfer time”;}.

“**price list**” means the then current approved price list (as defined in the *Code*) applying under the *Code*.

{Note: under the *Code*, “approved price list” means “a *price list* approved by the *Authority*”}

{Note: Some costs and fees that may be levied under this applications and queuing policy may not be specified as firm values in the *price list*.}

“**priority date**” has the meaning given to it in clause 3.21(c).

“**Proposed Generator Performance Standard**” has the meaning given to that term in the *WEM Rules*.

“**Proposed Negotiated Generator Performance Standard**” has the meaning given to that term in the *WEM Rules*.

“**reallocated applicant**” has the meaning given to it in clause 24.6C(a).

“**re-energise**”, in respect of a previously *de-energised connection point*, means to operate switching or other equipment so as to permit the transfer of electricity through the *connection point*.

“**reference service**” means a *covered service* designated in the *access arrangement* as a *reference service* (as defined by the *Code*).

{Note: under the *Code*, “reference service” means “a *covered service* provided to a *user* and designated as a reference service in an *access arrangement* under section 5.1(a) for which there is a reference tariff, a standard *access contract* and service standard benchmarks.”}

“**Registered Generator Performance Standard**” has the meaning given to it in the *WEM Rules*.

- “**remote de-energise service**” means to de-energise a *meter* associated with a *connection point* on a non-permanent basis by a command sent to the *meter* from a remote locality.
- “**remote re-energise service**” means to re-arm a previously de-energised *meter* by a command sent to a *meter* from a remote locality.
- “**remote load control service**” means to control the load at a *connection point* by way of sending commands to an activated device associated with the *connection point* from a remote locality.
- “**remote load limitation service**” means to limit the load at a *connection point* by way of sending commands to an activated device associated with the *connection point* from a remote locality.
- “**retailer**” has the meaning given to it in the *Act*.
- “**revenue meter**” has the meaning given to it in the *Metering Code*.  
 {Note: Under the *Metering Code*, “revenue meter” means “subject to clause 3.13(5), a *meter* that is used under this *Code* as the source of energy data, unless this *Code* permits an alternative source of energy data to be used”.}
- “**services end date**” means, in respect of a *connection point*, the date on which Western Power ends the provision of *covered services* to the *user* in respect of that *connection point*.
- “**services start date**” means, in respect of a *connection point*, the date on which Western Power commences providing *covered services* to the *user* in respect of that *connection point*.
- “**shared assets**” has the meaning given to it in the *Code*.  
 {Note: Under the *Code* “*shared assets*” mean “those *network assets* which are not *connection assets*”.
- “**signed**” by Western Power or the *applicant* means duly *signed* or otherwise executed by or on behalf of all persons who comprise Western Power or the *applicant*, as the case may be.
- “**spare capacity**” means the *capacity*, from time to time, of the *network*, as configured at the time of an *application*, to provide an *exit service* or *exit service component* sought in the *application*, having regard to matters including Western Power’s contractual obligations in respect of the *network*.
- “**standard access contract**”, with respect to a *reference service*, means the *access contract* applicable to that *reference service* under the *access arrangement*.
- “**standing data**” has the meaning given to it in the *Metering Code*.
- “**supply abolishment service**” means a service to permanently disconnect electricity supply, remove the *meter* and abolish a *connection point*.
- “**technical requirement**” has the meaning given to the term “Technical Requirement” in the *WEM Rules*.
- “**technical rules**” means the *technical rules* (as defined in the *Code*) applying from time to time to the *network* under Chapter 12 of the *Code*, as modified in accordance with the *Code* and in the case of a *transmission connected generating system* or proposed *transmission connected generating system* also includes the *Registered Generator Performance Standards* for that *transmission connected generating system*.
- “**transfer and relocation policy**” has the meaning given to it in the *Code* .  
 {Note: Under the *Code* “transfer and relocation policy” means “the provisions of an *access and queuing policy* that relate to a *user’s* rights to *transfer* its *access rights* to another person”.
- “**transition application**” means an *application* which—
- (a) seeks modifications to an *access contract* or any other *contract for services*; and
  - (b) the modifications, if implemented, would not materially impede Western Power’s ability to provide a *covered service* sought in one or more other *applications* compared with what the position would be if the modifications were not implemented.
- “**transmission connected generating system**” has the meaning given to the term “Transmission Connected Generating System” in the *WEM Rules*.
- “**unmetered connection**”, with respect to a *connection point*, has the same meaning as the term “type 7 *connection point*” when that term is used in the *Metering Code*.
- “**user**” has the meaning given to it in the *Code*.  
 {Note: Under the *Code* “user” means “a person, including a *generator* or a *consumer*, who is a party to a *contract for services* with a *service provider*, and under section 13.4(e) includes an *other business* as a party to a *deemed access contract*”.
- “**verifiable consent**” has the meaning given to it in the *Customer Transfer Code*.  
 {Note: Under the *Customer Transfer Code* “*verifiable consent*”, in relation to a request for historical *consumption* data or a *customer transfer request*, means “consent that is given by a *contestable customer*—
- (a) expressly; and
  - (b) either—
    - (i) orally, if the oral consent is evidenced in such a way that it can be verified and made the subject of a record under clause 3.9.4; or
    - (ii) in writing; and

- (c) after the *retailer* obtaining the consent has in plain language appropriate to the *contestable customer* disclosed all matters materially relevant to the giving of the consent, including each specific purpose for which the consent will be used; and
- (d) by a person whom a *retailer* (acting reasonably) would consider competent to give consent on the *contestable customer's* behalf; and
- (e) which has not expired under clause 1.5”.

“WEM Rules” means the market rules referred to in section 123(1) of the Act.

“works” has the meaning given to it in the *contributions policy*.

{Note: Under the *contributions policy*, “works” means “headworks and all *works* required to be undertaken to provide an *applicant* with the *covered services* sought by the *applicant* in a *connection application*, including *works* associated with—

- (a) augmentation of connection assets;
- (b) augmentation of shared assets;
- (c) alternative options; and
- (d) other non-capital works”.

## 2.2 Application of this Applications and Queuing Policy to Connection Applications and Electricity Transfer Applications

- (a) Part A and Part B but not Part C of this applications and queuing policy apply to an *electricity transfer application*.
- (b) Part A and Part C but not Part B of this applications and queuing policy apply to a *connection application*.
- (c) To avoid doubt, this applications and queuing policy only applies to *applications* in relation to *covered services*.
- (d) An *applicant* and Western Power may agree to deal with any matter in connection with an *application* in a manner different to the treatment of the matter in this applications and queuing policy as long as the ability of Western Power to provide a *covered service* that is sought by another *applicant* is not impeded.
- (e) Part D of this applications and queuing policy sets out the *transfer and relocation policy* for the purposes of the *Code*.

## 2.3 Interpretation

- (a) Unless—
  - (i) the contrary intention is apparent; or
  - (ii) the term has been redefined in clause 2,
 a term with a defined meaning in the *Code* has the same meaning in this applications and queuing policy.
- (b) Unless the contrary intention is apparent—
  - (i) a rule of interpretation in the *Code*; and
  - (ii) the *Interpretation Act 1984*,
 apply to the interpretation of this applications and queuing policy.

## 2.4 Prior Applications

- (a) Unused.
- (b) To the extent permitted by *law*, an *application* made prior to the date of commencement of this applications and queuing policy shall be deemed to have been made under this applications and queuing policy, with its *priority date* being the date it was lodged under the previous version of the applications and queuing policy, but if the *application* was taken to be amended under that version of the policy such that its priority was determined by the time of amendment, then the *priority date* is that time of amendment.
- (c) To the extent permitted by *law*, for the purposes of timeframes within this applications and queuing policy only, an *application* made prior to the current *access arrangement period* shall be deemed to have been made on the day the current *access arrangement period* commences.

## 2.5 Supplementary Matters Apply

Western Power and the *applicant* must, in accordance with section 5.28 of the *Code*, comply with any provisions of the *supplementary matters* relating to this applications and queuing policy.

## 2.6 Exercising an Option Not Affected

An option granted to a *user* as part of the terms of an *access contract* to extend the duration of the *access contract* is not an *application* and is not subject to this applications and queuing policy if it is exercised in accordance with its terms.

## 2.7 Nature of Capacity Available for transferring electricity into the Network

- (a) This clause 2.7 applies to *entry services* and *entry service components*.
- (b) *Contracted capacity* for *entry services* and *entry service components* is provided on a non-firm basis and the provision of such services is subject to interruption or curtailment for *constraints*.



- (c) In the case of *entry services* and *entry service components*, *capacity* and *contracted capacity* represent the maximum capacity available to provide such services in the absence of *constraints*.
- (d) A *user* provided with an *entry service* or *entry service component* under an *access contract* has no greater priority to the *capacity* of the *network* than any other *user*.
- (e) The definition of *spare capacity* does not apply to *entry services* and *entry service components* or to *applications* for *entry services* and *entry service components*.
- (f) This clause 2.7 does not affect the operation of *access contracts* entered into prior to the date of the 2020 (No. 2) *amendments* unless such *access contract* is amended so as to increase the *contracted capacity* for *entry services* and *entry service components*.

### 3. The Application

#### 3.1 Applications to be Made in Good Faith

Western Power and an *applicant* must act reasonably and in good faith with regard to each other in relation to an *application*.

#### 3.2 Commencing the Application Process

- (a) The *application* process is commenced by the *applicant* submitting an *enquiry* to Western Power.
- (b) Following Western Power's response to the *enquiry*, the *applicant* must submit—
  - (i) an *application* to Western Power on the appropriate *application form*; or
  - (ii) where permitted under this applications and queuing policy, notice to Western Power, that is *complete*.
- (c) Western Power will stamp *complete applications* with the date on which the *applications* are lodged and *complete*, and this date will be the *priority date*. The *priority date* may change in accordance with the provisions of clause 24A or otherwise be determined in accordance with clauses 10 or 11.2.

#### 3.3 Applicant to be Market Participant

An *applicant* who seeks an *exit service* or an *entry service* or a *bidirectional service* or a *supply abolishment service* or a *capacity allocation service*—

- (a) must submit an *electricity transfer application*; and
- (b) must be, or intend to be (providing reasonable proof of intent), a *market participant* at the time the electricity transfer is to take place.

#### 3.4 Related Electricity Transfer Application and Connection Application

Where—

- (a) a *retailer* seeks to obtain or modify an *exit service* or an *entry service* or a *bidirectional service* or a *supply abolishment service* or a *capacity allocation service* on behalf of a *customer*; or
- (b) a *generator* seeks to obtain or modify an *entry service* or a *bidirectional service* or a *capacity allocation service* on behalf of a *controller* who is not the *generator*,

and both a *connection application* and an *electricity transfer application* will be required under this applications and queuing policy, then the *applications* may—

- (c) be submitted concurrently by the *retailer* or *generator*; or
- (d) be submitted at different times by the *retailer* or *generator* and the *customer* or *controller* as applicable, in which case both parties are *applicants*.

#### 3.5 Information Required With All Applications

All *applicants* must provide the following information to Western Power in respect of an *application* at the time of submitting the *application*—

- (a) details of the *applicant*, including—
  - (i) the full name and address of the *applicant*; and
  - (ii) whether the *applicant* is acting as agent for any person in making the *application*, and if so, details of the *applicant's* principals; and
  - (iii) whether the *applicant* is an existing *user*, and if so, details of the *applicant's* existing *access contract*,

and

- (b) any conditions precedent that the *applicant* seeks to include in the resulting *access offer*; and

- (c) details of the *connection point*, including—

- (i) the location or *NMI* of the *connection point*, as applicable; and
- (ii) the forecast annual *consumption* of electricity, if applicable; and
- (iii) the forecast annual *generation* of electricity, if applicable,

and

- (d) such information concerning the *applicant* as Western Power requires, acting as a reasonable and prudent person, to assess the *applicant's* ability to meet its obligations under the resulting *access contract*.

### 3.6 Information Required with Electricity Transfer Applications

The *applicant* must provide the following information to Western Power in respect of an *electricity transfer application* at the time of submitting the *electricity transfer application*—

- (a) the *covered services* requested, and for each requested *covered service*—
  - (i) the requested *services start date* and requested *services end date*;
  - (ii) if the *covered service* is a *non-reference service*, then a description of the *non-reference service*, including any deviation sought from the applicable tariff, service standard or standard *access contract* for an equivalent *reference service*;
  - (iii) if applicable, the contracted *capacity* sought or sought to be increased or decreased for the *covered service*; and
  - (iv) the *applicant's* eligibility for the *covered service* sought; and
- (b) details of the *connection point*, including—
  - (i) for an existing *connection point*, any changes to be made to the *standing data* for that *connection point* as a result of the *application*; and
  - (ii) for a new *connection point*—
    - (A) such information regarding the *connection point* required as *standing data*; and
    - (B) any *facilities and equipment* likely or required to be connected at the *connection point*; and
  - (iii) for the abolishment of an existing *connection point*, details of the *connection point* to be abolished and the *connection assets* to be removed or disconnected; and
  - (iv) if the *applicant* will not be the *controller*, information regarding the *controller* in compliance with the relevant provisions of the *Metering Code* in regard to the provision of *controller* information (with all references to a '*customer*' under the relevant provisions of the *Metering Code* to be read as references to the *controller* for the purposes of this clause 3.6).

### 3.7 Information Required with Connection Applications

The *applicant* must provide the following information to Western Power in respect of a *connection application* at the time of submitting the *connection application*—

- (a) the *covered services* requested; and
- (b) the requested *services start date* and requested *services end date* for *covered services* involving the transfer of electricity that are likely to be sought under an associated *electricity transfer application*,  
as applicable; and
- (c) the *capacity* sought or sought to be increased or decreased, if applicable; and
- (d) such information regarding the *facilities and equipment* likely or required to be connected at the *connection point* to the extent required by—
  - (i) the *technical rules*; and
  - (ii) Western Power acting as a reasonable and prudent person; and
- (e) where the *connection application* relates to a *transmission connected generating system*—
  - (i) whether, for each *technical requirement*, it is proposed that the *Ideal Generator Performance Standard* will apply or a *Proposed Negotiated Performance Standard* will be submitted for that *technical requirement*; and
  - (ii) if the *applicant* proposes to submit a *Proposed Negotiated Generator Performance Standard* for a *technical requirement*, the *Proposed Negotiated Generator Performance Standard* for that *technical requirement*; and
- (f) a full description of any exemptions to the *technical rules* sought by the *applicant* under Chapter 12 of the *Code*.

### 3.8 One Electricity Transfer Access Contract per Connection Point

Each *connection point* must be included in one and only one *electricity transfer access contract* to allow the transfer of electricity at that *connection point* except to the extent necessary to facilitate a *capacity allocation same connection point decrease service* or *capacity allocation same connection point increase service*.

### 3.9 Forecasts of Information

When an *application* contains estimates or forecasts of any information—

- (a) Western Power may treat that estimated or forecast information as factual information; and
- (b) the *applicant* warrants to Western Power that each such estimate or forecast is the *applicant's* best estimate or forecast acting as a reasonable and prudent person.

### 3.10 Errors or Omissions in an Application

- (a) If Western Power becomes aware of any material error or omission in an *application* it must immediately notify the *applicant* about it and may request information under clause 3.11.
- (b) If an *applicant* is notified by Western Power under clause 3.10(a), or otherwise becomes aware of any material error or omission in an *application*, it must amend the *application* to remedy it as soon as practicable after becoming aware of it.

- (c) If Western Power has notified the *applicant* under clause 3.10(a), the *applicant* must amend the *application* to remedy the material error or omission within 20 business days, or the *application* and, as applicable, any associated *electricity transfer application* or *connection application* will be deemed to have been withdrawn.
- (d) If remedying an error or omission in an *application* amounts to a material amendment to the *application*, clause 24A.2 applies.

### 3.11 Additional Information

- (a) At any time, Western Power may, acting as a reasonable and prudent person, request the *applicant* to provide further information that Western Power reasonably requires to enable it to process the *application*.
- (b) If Western Power has notified the *applicant* under clause 3.11(a), the *applicant* must amend the *application* to provide the additional information within 20 business days, or the *application* and, as applicable, any associated *electricity transfer application* or *connection application* will be deemed to have been withdrawn.
- (c) If providing additional information for an *application* amounts to a material amendment to the *application*, clause 24A.2 applies.

### 3.12 Western Power must be Expeditious and Diligent

Western Power must process an *application* expeditiously and diligently.

### 3.13 Amendment and Withdrawal of Application

- (a) An *applicant* may at any time by notice in writing to Western Power, amend an *application*.
- (b) If an amendment to an *application* results in a change to the original *lodgement fee*, Western Power may *charge* the *applicant* the new *lodgement fee* or refund part of the original *lodgement fee*, having regard to the work already *completed* in processing the *application*.
- (c) An *applicant* may at any time before it enters into an *access contract*, by notice in writing to Western Power, withdraw an *application*.
- (d) Unused.
- (e) Without limiting this clause 3.13, an amendment to an *application* may include a change to the identity of the *applicant* in which case the other information in the *application* must also be amended.

### 3.14 Applications Do Not Expire

Unless expressly provided otherwise by this applications and queuing policy, an *application* does not expire due to the passage of time.

### 3.15 Network Planning

- (a) In processing *applications* (including as *applicant-specific solutions* or *competing applications groups*) Western Power must have regard to the general network planning otherwise being undertaken by Western Power and seek to develop solutions and process *applications* in a manner which most effectively enables *applicants* to benefit from any efficiencies and costs savings provided by that network planning.
- (b) Due to the range of potential network constraints and related solutions, timeframes for the development of solutions will be variable. Western Power will keep *applicants* informed on a regular basis of the network constraints that affect them and expected timeframes for the development of solutions.
- (c) The information Western Power will provide to *applicants*, and the further studies it may be requested to undertake, extend to information and studies as to how *applications* co-ordinate with network planning being undertaken by Western Power.
- (d) In undertaking network planning Western Power will have regard to the nature and number of *enquiries* and *applications* Western Power has received under this applications and queuing policy, it being acknowledged that in doing so Western Power will need to make a good faith assessment as to the likelihood that specific projects will proceed.

## 4. The Access Offer

### 4.1 Access Offer to be Signed by Western Power

Western Power must present the *access offer* in such a form that it can, without anything else being required, become or modify an *access contract* or *access contracts* when *signed* by an *applicant*.

### 4.2 If Application Requests Reference Services

If an *application* requests a *reference service*, then the *access offer* must be on materially the same terms as the *standard access contract* applicable to the *reference service*.

### 4.3 If Application Requests Non-Reference Service

If an *application* requests a *non-reference service*, then the terms of the *access offer* must be—

- (a) consistent with the *Code objective*; and
- (b) reasonable; and
- (c) subject to this applications and queuing policy, as similar as practicable to those terms requested in the *application* dealing with the relevant matter, and negotiated in good faith by the *applicant* and Western Power during the processing of the *application*.

#### 4.4 *Services Start Date and Services End Date*

The *services start date* and the *services end date* specified in the *access offer* must be as close as practicable to the *services start date* and the *services end date* sought in the *application*.

#### 4.5 *Conditions Precedent Permitted in Access Contract*

Western Power and an *applicant* must negotiate in good faith regarding any conditions precedent that the *applicant* or Western Power seek to have included in an *access contract* in order to achieve the objectives set out in clause 4.6. For the avoidance of doubt, Western Power may require a condition precedent in the *access contract* that—

- (a) the *works* involved in providing access to the *applicant* pass a regulatory test (if required); and
- (b) other *applicants* that—
  - (i) are in the same *competing applications group* as the *applicant*; and
  - (ii) have been or are subsequently offered *access contracts*,

enter those *access contracts* with Western Power and that any conditions precedent in those *access contracts* are fulfilled.

#### 4.6 *Objectives with Regard to Conditions Precedent*

The objectives of this applications and queuing policy with regard to conditions precedent are—

- (a) conditions precedent in *access contracts* should facilitate the development of electricity *consuming* and *generating* projects and provide flexibility; and
- (b) conditions precedent should not unduly impede the ability of Western Power to provide *covered services* to *competing applicants* or cause uncertainty and delay; and
- (c) conditions precedent should not constitute an inappropriate barrier to entry into a market or be for the purpose of hindering or preventing *access* by any person to *covered services*.

#### 4.7 *Conditions Precedent and Determination of Spare Capacity*

In determining whether there is sufficient *spare capacity* to provide *covered services* requested in an *application*, Western Power must regard any existing *access contracts* with conditions precedent as being unconditional.

#### 4.8 *Conditions Precedent Not Longer Than 8 Months*

- (a) Western Power and an *applicant* must not enter into an *access contract* that contains a condition precedent that may be fulfilled more than 8 months from the date the *access contract* was entered into, unless the condition precedent relates to the completion of the related *works* and the *applicant* and Western Power agree that a longer period is reasonably necessary due to the nature of *works* to be conducted, in which case the period of 8 months may be extended by agreement between the *applicant* and Western Power.
- (b) If, after the period of time agreed under clause 4.8(a), a condition precedent in an *access contract* has not been fulfilled, then—
  - (i) if there is no *competing application*, Western Power and the relevant *user* may agree within 20 business days to extend the period in the *access contract* allowed for the satisfaction of the condition precedent by up to a further 6 months; or
  - (ii) if there is a *competing application*, then, subject to clause 6, Western Power and the existing *user* must negotiate in good faith within 20 business days to accommodate both the *user's* and the *competing applicant's* requirements.

{Note: this might mean sharing the costs of *augmentation* as calculated under the *contributions policy*, or some *other means* of resolving the conflict.}

- (c) If no agreement is reached under clause 4.8(b), then either Western Power or the *user* may—
  - (i) terminate the *access contract*; or
  - (ii) waive any conditions precedent that are for the benefit of that party if that would result in the *access contract* becoming unconditional; or
  - (iii) refer this matter to the *Arbitrator* as an *access dispute*.

#### 4.9 *Security*

- (a) Subject to clause 4.9(b), if there is a material risk that the *applicant* will be unable to meet any or all of its liabilities under an *access contract* resulting from the *applicant's application*, then Western Power may require the *applicant* to procure—
  - (i) an indemnifier acceptable to Western Power (acting as a reasonable and prudent person) who will agree to be a party to the *access contract* and indemnify Western Power in respect of those liabilities; or
  - (ii) a guarantor acceptable to Western Power (acting as a reasonable and prudent person) to provide a guarantee in favour of Western Power substantially in the form set out in Schedule 1,
- (b) If an *applicant* has an unqualified credit rating of at least—
  - (i) BBB from Standard and Poor's Australia Pty Ltd; or
  - (ii) BAA from Moody's Investor Service Pty Ltd,

and provides evidence to this effect to Western Power, without limiting the *User's* security obligations related to clause 4.9(c), then Western Power is not entitled to require the *User* to provide the security under clause 4.9(a).

- (c) Notwithstanding an *applicant* providing evidence that it has an unqualified credit rating in accordance with clause 4.9(b), Western Power may, as a condition under an *access contract* or otherwise, require the *user or indemnifier* to provide an irrevocable and unconditional bank guarantee or equivalent financial instrument in terms acceptable to Western Power (acting as a reasonable and prudent person), guaranteeing the value of any amount of any *contribution* that remains unpaid or not provided at the time of requirement.
- (d) Western Power may perform a security assessment under this clause 4.9 prior to making an *access offer*.

#### **4.10 Arbitrator's Powers Preserved**

Nothing in this clause 4 limits the *Arbitrator's* power to make an award compelling Western Power to provide *access* to a *covered service* on terms specified in the award.

### **5. Entering Into or Modifying an Access Contract**

#### **5.1 When Access Offer Becomes Access Contract**

- (a) An *access offer* becomes an *access contract*, or modifies an existing *access contract* in accordance with the terms of that *access contract*, as applicable, when *signed* by both parties.
- (b) Western Power must *sign* the *access offer* before giving the *access offer* to the *applicant*.

#### **5.2 Applicant's Options on Receipt of an Access Offer**

The *applicant* must as soon as practicable, and in any event within 30 business days after receipt of an *access offer*, either—

- (a) *sign* the *access offer*, thereby entering into an *access contract* or modifying an existing *access contract*, as applicable; or
- (b) by notice to Western Power reject the *access offer* and request amendments to the *application*; or
- (c) by notice to Western Power withdraw the *application*,

and if 30 Business Days after receipt of the *access offer* the *applicant* has not complied with any of clauses 5.2(a), 5.2(b) or 5.2(c), then (unless the *Arbitrator* makes an order extending the time limit on the ground that the delay is beyond the *applicant's* reasonable control) the *applicant* is to be taken to have withdrawn its *application* and any, as applicable, associated *electricity transfer application* or *connection application*.

#### **5.3 If Applicant Rejects Access Offer and Requests Amendments**

If the *applicant* rejects an *access offer* and requests amendments to the *application* under clause 5.2(b), Western Power and the *applicant* must negotiate in good faith regarding the *application*, but if Western Power and the *applicant* have not *signed* an *access contract* (including an *access contract* with conditions precedent) within 30 business days, then the *application* and any, as applicable, associated *electricity transfer application* or *connection application* will be deemed to have been withdrawn.

#### **5.4 If Applicant Accepts Access Offer**

If the *applicant* signs the *access offer*, it must—

- (a) forthwith give written notice of the *signing* to Western Power;
- (b) as soon as practicable procure the stamping of the *signed access contract*, if applicable, and pay all duties that are assessed by the Office of State Revenue on the *access contract*; and
- (c) as soon as practicable thereafter give to Western Power at least one original copy of the *signed* and stamped *access contract*.

#### **5.5 Connection Application Ceases to Exist After Signing**

Without limiting any other circumstances in which an *application* may cease to exist, an *application* is satisfied, and ceases to exist, upon—

- (a) both Western Power and the *applicant* signing an *access contract* as a result of the making of that *application*, and any conditions precedent in the *access contract* have been satisfied or waived;
- (b) the *access contract* being terminated due to a failure by the *applicant* to satisfy the conditions precedent in the *access contract*; or
- (c) the *access contract* being terminated due to a breach or default of the *applicant*.

### **6. Confidentiality**

#### **6.1 Confidential Information**

Information which Western Power is required to disclose under clauses 18.2A, 24.9(a), 24.9(b) and 24.9(c) is not *confidential information*.

#### **6.2 Confidential Information Must Not be Disclosed**

Western Power, an *applicant* or a *disclosing person* must not disclose *confidential information* unless—

- (a) the disclosure is made to the Authority on a confidential basis; or
- (b) the disclosure, where it is made by an *applicant* or a *disclosing person*, is made to a worker of Western Power who is bound by an adequate confidentiality undertaking; or
- (c) the disclosure is made with the consent of the *disclosing person*; or

- (d) the disclosure is required or allowed by *law*, or by the *Arbitrator* or another court or tribunal constituted by *law*; or
- (e) the information has entered the public domain other than by breach of this clause 6.2; or
- (f) the information could be inferred by a reasonable and prudent person from information already in the public domain;
- (g) the disclosure is made in accordance with clauses 24.9(d) or 24.10;
- (h) the disclosure is made in accordance with clause 16.6;
- (i) the disclosure is made in accordance with clause 6.3.

### 6.3 Disclosure to AEMO

Western Power may disclose the following information relating to *connection applications* to AEMO—

- (a) information relating to a *generation application* required to be provided to current other *applicants* under clause 16.6 and, in addition, in respect of each such *generation application* the identity of the *applicant* and the forecast in service date for their *generating plant*, modified *generating plant* or increased *contracted capacity*;
- (b) any information required for AEMO to undertake its system management functions under the *WEM Rules* (including any information AEMO notifies Western Power it requires to discharge those functions);
- (c) that a particular *access contract* has been executed and the key details of that contract such as the parties' names, the name and location of the *generating plant* and of any facilities which will consume load, and the initial *contracted capacity*; and
- (d) that all conditions precedent in an *access contract* have been satisfied or waived.

## PART B—ELECTRICITY TRANSFER APPLICATIONS

### 7. Costs and Timing of Processing *Electricity Transfer Applications*

#### 7.1 Where *Applicant* Seeks a *Reference Service*

- (a) An *applicant* who seeks a *reference service* must pay to Western Power the *lodgement fee* in the *price list* specified as being applicable to the *applicant's application* in this applications and queuing policy, which will be—
  - (i) a new *connection point* fee;
  - (ii) an *access contract* modification fee;
  - (iii) a new *access contract* fee;
  - (iv) a *capacity allocation service* fee;
  - (v) a *remote load control service*, *remote load limitation service*, *remote energise service* or *remote de-energise service* fee; or
  - (vi) a *distributed energy* or other *non-network solution* assessment fee.
- (b) If the *applicant* is not an existing *user*, then the *lodgement fee* must be paid at the time the *applicant* lodges its *electricity transfer application*.
- (c) If the *applicant* is an existing *user*, then the *lodgement fee* will be added to the next invoice under the *user's* existing *access contract*.
- (d) Western Power must notify the *applicant* that it has received the *applicant's electricity transfer application* within 5 business days.
- (e) Subject to Western Power performing a security assessment under clause 4.9, if the *applicant* is an existing *user* and selects a *reference service*, then Western Power must use reasonable endeavours to make an *access offer*, by notice to the *applicant*, to modify the *applicant's access contract*—
  - (i) within 5 business days of receiving the *complete electricity transfer application*; or
  - (ii) within 5 business days of an *access offer* being *signed* by an *applicant* for any associated *connection application*,
 whichever is later.
- (f) Subject to Western Power performing a security assessment under clause 4.9, if the *applicant* is not an existing *user*, and selects a *reference service*, Western Power must use reasonable endeavours to make an *access offer*—
  - (i) within 10 business days of receiving the *complete electricity transfer application*; or
  - (ii) within 5 business days of an *access offer* being *signed* by an *applicant* for any associated *connection application*,
 whichever is later.

#### 7.2 Where *Applicant* Seeks a *Non-Reference Service*

- (a) An *applicant* seeking a *non-reference service*, including, but not limited to, an *exit service* or an *entry service* or a *bidirectional service* with a different *tariff* or a different *access contract* than for an equivalent *reference service*, must, when requested by Western Power, pay an amount to Western Power in respect of a reasonable cost incurred, or to be incurred within a reasonable timeframe, in processing the *application*.

- (b) The total of the costs referred to in clause 7.2(a) must not exceed the reasonable costs which would be incurred by a prudent *service provider*, acting efficiently and in good faith, seeking to achieve the lowest practicable cost of processing the *application*.
- (c) The costs referred to in clause 7.2(a) must not include any costs of Western Power in relation to an *access dispute* (which are to be awarded by the *Arbitrator* under Chapter 10 of the *Code*).
- (d) If an *applicant* selects a *non-reference service*, then Western Power must make an *access offer* as soon as practicable after the *complete application* is lodged, having regard to the nature of the *non-reference service* being sought by the *applicant*.

### 7.3 Connection Application Costs Not Affected

Nothing under this Part B affects costs applicable for a *connection application*.

### 7.4 Unused

## 8. Eligibility Criteria for Reference Services

If an *applicant* seeks a *reference service* under this Part B and Western Power is satisfied as a reasonable and prudent person that the *applicant* does not meet the eligibility criteria given in the *access arrangement* for the *reference service*, then Western Power may reject the *applicant's electricity transfer application*.

## 9. Electricity Transfer Application for a New Connection Point

### 9.1 Customer Transfer Request

- (a) An *incoming retailer* may lodge a *customer transfer request* with Western Power with respect to an *exit point* at which electricity is proposed to be supplied to a *contestable customer*. With respect to the *customer transfer request*—
  - (i) Western Power, the *incoming retailer* and the *previous retailer* must comply with the *Customer Transfer Code*; and
  - (ii) except as specified in this clause 9, this applications and queuing policy does not apply.
- (b) Western Power must not process the *customer transfer request* if it determines under clause 13 that the *customer transfer request* relates to the supply of electricity to a *customer* who is not a *contestable customer*.
- (c) Western Power must process a *customer transfer request* such that the *incoming retailer* receives the same *covered service* at the same *contracted capacity* as the *previous retailer*.
- (d) The *exit point* must be transferred as a complete and indivisible unit such that all associated *meters* are transferred in one transaction.
- (e) If the *incoming retailer* seeks to modify the *covered service* with respect to an *exit point* that has been the subject of a *customer transfer request*, then that *incoming retailer* must make an *application* under this applications and queuing policy as a separate transaction after the *customer transfer request* has been processed.

### 9.2 Creating a New Connection Point or Connecting New Generating Plant

- (a) An *applicant* who seeks to create a new *connection point* or to install new *generating plant* at an existing *connection point* must—
  - (i) submit an *electricity transfer application* on the *application form* that is applicable for the type of *facilities and equipment* to be *connected* at the *connection point*; and
  - (ii) submit, or procure that its *customer* submits, a *connection application*.
- (b) If the *applicant* is seeking a *reference service*, then—
  - (i) if the *applicant* is an existing *user*, the new *connection point lodgement fee* applies to the *application*; or
  - (ii) if the *applicant* is not an existing *user*, the new *access contract lodgement fee* applies to the *application*,
 but if the *applicant* is seeking a *non-reference service* then clause 7.2 applies to the *application*.
- (c) If an *applicant* submits an *electricity transfer application* subsequent to Western Power making an *access offer* for an associated *connection application* (to the *applicant*, its *customer* or another person) and—
  - (i) the *capacity*; or
  - (ii) the *services start date* (as relates to the transfer of electricity); or
  - (iii) the *services end date* (as relates to the transfer of electricity),
 sought in the *connection application* and the *electricity transfer application* are not the same, such that the application of the contributions policy based on the information in the *electricity transfer application* would produce a contribution different to that specified in the *access offer* for the associated *connection application*, then Western Power may—
  - (iv) where the *contribution* would be higher to that specified in the *access offer*, require the *applicant* to pay the difference; or
  - (v) where the *contribution* would be lower to that specified in the *access offer* and the *contribution* specified in the *access offer* has been paid by the *applicant*, rebate the difference to the person who paid a *contribution* in respect of the *connection application*, as applicable.

- (d) The *services start date* for the *covered services* sought under the electricity transfer application will be the later of—
- (i) the *services start date* (as relates to the transfer of electricity) sought in the *connection application*; or
  - (ii) the *services start date* sought in the *electricity transfer application*; or
  - (iii) the *completion date* of any *works* resulting from the *connection application*.

## 10. Electricity Transfer Application to Modify an Existing Covered Service

### 10.1 Selection of Different Covered Service or Selection or Modification of an Existing Non-Reference Service

- (a) An *applicant* may make an *electricity transfer application* to—
- (i) select a different *exit service*, *entry service* or *bi-directional service*;
  - (ii) modify an *exit service*, *entry service* or *bi-directional service* by selecting a component reference service (metering) under Appendix E to the *access arrangement*;
  - (iii) select a *supply abolishment service*;
  - (iv) select a *LED replacement service*;
  - (v) select a *remote load control service*, *remote load limitation service*, *remote de-energisation service* or *remote re-energisation service*;
  - (vi) select or modify a *non-reference service*,
- with respect to a *connection point* in the *applicant's access contract*, by notice to Western Power.
- (b) If the *applicant* is seeking—
- (i) an *exit service*, *entry service* or *bi-directional service*, then the new *connection point lodgement fee* applies to the *application*;
  - (ii) a different *exit service*, *entry service* or *bi-directional service*, then the *access contract modification fee* applies to the *application*;
- (c) If the *applicant* is seeking a *non-reference service* or a modification to a *non-reference service* then clause 7.2 applies to the *application*.
- (d) If Western Power considers, as a reasonable and prudent person, that the requested change in *covered service* indicates that the *applicant* will require a greater *capacity*, then—
- (i) Western Power must notify the *applicant* within 5 business days whether the *applicant* must also submit, or procure that its *controller* submits, a *connection application* for an increase in *contracted capacity*; and
  - (ii) the *priority date* of such *connection application* shall comprise—
    - (A) if a *complete connection application* is received by Western Power within 20 business days of the notice sent to the *applicant* under clause 10.1(d)(i), the date Western Power received the *electricity transfer application* under clause 10.1(a); and
    - (B) otherwise, the date Western Power received the *complete connection application*.
- (e) If the *application* requests a new *covered service* that is serviced at a different voltage than the existing *covered service*, then Western Power must notify the *applicant* that it must submit, or procure that its *controller* submits, a *connection application*.

### 10.2 Increase or Decrease in Contracted Capacity

- (a) An *electricity transfer application* to increase or decrease *contracted capacity* with respect to an existing *covered service* under the *applicant's access contract*, may be made by notice to Western Power.
- (b) The *lodgement fee* for an *access contract* modification applies to the *applicant's application*, plus any costs for any associated *connection application*.
- (c) Western Power must notify the *applicant* whether or not it accepts the increase or decrease in *contracted capacity* within 5 business days of receipt by Western Power of the *applicant's* notice under clause 10.2(a) (or such further time as a prudent *service provider* would reasonably require to consider such *application*).
- (d) Western Power must accept the increase or decrease in *contracted capacity* if it forms the view as a reasonable and prudent person that—
- (i) accepting the increase or decrease in *contracted capacity* would not be likely to impede the ability of Western Power to provide a *covered service* sought in an *application* lodged by another *applicant*; and
  - (ii) it is not likely that an *augmentation* or any work would be required to provide the increase or decrease in *contracted capacity*; and
  - (iii) in the case of a second or further *application* or notice in any rolling period of 12 months, the additional *application* or notice satisfies clause 10.3.
- (e) If Western Power determines that it cannot form the view required for acceptance of the increase or decrease in *contracted capacity* under clause 10.2(d), then—
- (i) Western Power must notify the *applicant* that it must submit, or procure that its *controller* submits, a *connection application*; and



(ii) the *priority date* of such *connection application* shall comprise—

- (A) if a *complete connection application* is received by Western Power within 20 business days of the notice sent to the *applicant* under clause 10.2(e)(i), the date Western Power received the *electricity transfer application* under clause 10.2(a); and
- (B) otherwise, the date Western Power received the *complete connection application*.

### 10.3 More than 1 Change or Modification Within 12 Months

If Western Power receives—

- (a) more than 1 *application* or notice under clause 10.1; or
- (b) more than 1 *application* or notice under clause 10.2,

seeking to change the *covered service*, including to decrease or increase the *contracted capacity*, with respect to a single *connection point* in any rolling period of 12 months, then in relation to each additional *application* or notice, Western Power—

- (c) must, subject to this clause 10 and acting as a reasonable and prudent person, accept the change of *covered service*, where the new *covered service* will be sufficient to meet the actual requirements of the *applicant*, and it is required by reason of one or more of the following circumstances—
  - (i) a change in the actual *consumption* or *generation* by the *applicant* in respect of that *connection point* over the 12 month period prior to the *applicant* giving notice under clause 10.1(a) or 10.2(a) (as applicable), as recorded by the *metering equipment*; or
  - (ii) a change in the nature of the business or operation conducted at the *connection point*; or
  - (iii) a shutdown of the business or operation conducted at the *connection point* (including a shutdown for maintenance purposes) for longer than 1 continuous month; or
  - (iv) a rapid increase or decline in the business at the *connection point*; or
  - (v) a decrease in the number of *capacity credits* (as defined in the *WEM Rules*) allocated to any *generating plant* at the *connection point* under the *WEM Rules*; or
  - (vi) as part of a *relocation*; or
  - (vii) some other special circumstance,
 and
- (d) is entitled to refuse the change in *covered service* where Western Power is satisfied, as a reasonable and prudent person, that the change is sought by reason of the seasonal nature of the business or operation at the *connection point*.

### 10.4 Modification of *Generating Plant*

- (a) An *applicant* must make a *connection application* before materially changing any of those characteristics of *generating plant connected at a connection point* required to be provided in the applicable *application form*.
- (b) If the *applicant signs an access offer* in respect of the *connection application*, then the parties must amend the *applicant's access contract* accordingly.

### 10.5 Capacity Allocation services

An *applicant* may make an *electricity transfer application* for a *capacity allocation service*.

Western Power must notify the *applicant* whether or not it accepts the increases and decreases in capacity included in the *capacity allocation service application* within 5 business days of receipt by Western Power of the *application* or such further time as a prudent service provider would reasonably require to consider such *application*.

Western Power must approve the increases and decreases in capacity in the *capacity allocation service application* if it forms the view as a reasonable and prudent person that accepting the *capacity allocation service* would not be likely to impede the ability of Western Power to provide *covered services* to existing *users* and no *augmentation* or any work would be required to provide the *capacity allocation service*.

The *capacity allocation service fee* applies to the *application*.

## 11. De-energisation and Re-energisation

### 11.1 De-energisation

A request by a *user* to Western Power to *de-energise* an existing *connection point* under the *user's access contract* or applicable *laws* is not an *application* and this applications and queuing policy does not apply to it.

### 11.2 Re-energisation

- (a) An *applicant* who seeks to *re-energise* an existing *de-energised connection point* must submit an *electricity transfer application* on the *application form* that is applicable for the type of *facilities and equipment connected* or to be *connected* at the *connection point*.
- (b) If the *applicant* does not have an *electricity transfer access contract*, then the *lodgement fee* for a new *access contract* applies to the *application*, plus costs associated with the *re-energisation* under the *Metering Code*.

- (c) If the *de-energised connection point* is not on the *applicant's electricity transfer access contract*, then the *lodgement fee* for a new *connection point* applies to the *application*, plus costs associated with the *re-energisation* under the *Metering Code*.
- (d) If the *de-energised connection point* is on the *applicant's electricity transfer access contract*, then only the costs associated with the *re-energisation* under the *Metering Code* apply to the *application*.
- (e) Subject to clause 11.2(g), Western Power must determine, as a reasonable and prudent person, within 5 business days whether it will accept the request for *re-energising*.
- (f) If Western Power determines that it cannot accept the request for *re-energising* under clause 11.2(e), then—
  - (i) Western Power must notify the *applicant* that it must submit, or procure that its *controller* submits, a *connection application*; and
  - (ii) the *priority date* of such *connection application* shall comprise—
    - (A) if a *complete connection application* is received by Western Power within 20 business days of the notice sent to the *applicant* under clause 11.2(f)(i) the date Western Power received the *electricity transfer application* under clause 11.2(a); and
    - (B) otherwise, the date Western Power received the *complete connection application*.
- (g) Nothing in clause 11.2 derogates from the obligations of Western Power to *re-energise a connection point* within the timeframes specified in clause 8.2 of the *Code of Conduct for the Supply of Electricity to Small Use Customers 2004* or regulations 7 and 8 of the *Electricity Industry (Obligation to Connect) Regulations 2005*.

## 12. *Electricity Transfer Application to Obtain a New Access Contract*

- (a) An *applicant* who seeks a new *access contract*, other than under clauses 8 to 11 may make an *electricity transfer application* by notice to Western Power.
- (b) If an *applicant* makes an *application* under clause 12(a), then—
  - (i) if the *applicant* seeks a standard *access contract*, the *lodgement fee* for a new *access contract* applies to the *application*; or
  - (ii) if the *applicant* seeks an *access contract* that is materially different to a standard access contact, then clause 7.2 applies to the *application*.

## 13. *Contestability Assessment*

### 13.1 *Western Power Must Perform Contestability Assessment*

- (a) When—
  - (i) an *applicant* makes an *electricity transfer application* or a *connection application* to establish a new *exit point*; or
  - (ii) an *incoming retailer* makes a *customer transfer request* with regard to an *exit point*,
 Western Power must determine if the *application* or *customer transfer request* is being made for the purpose of the supply of electricity to a *contestable customer* at that *exit point*.
- (b) Western Power must perform an assessment under this clause 13 within 5 business days of the event that triggered the assessment.

### 13.2 *Unused*

### 13.3 *Rejection of Application*

Western Power must reject an *application* where it is not authorised under the *Electricity Corporations Act 2005* or other *written law* to make an *access offer* for the purpose of the supply of electricity to a *customer* because that *customer* is not a *contestable customer*.

{Note: Under section 54 of the *Electricity Corporations Act 2005*, Western Power is prohibited from supplying services for the purpose of the supply of electricity to a *customer* that is not a *contestable customer* by a person other than the 'Electricity Generation and Retail Corporation' (as defined in section 3 of the *Electricity Corporations Act 2005*) or a subsidiary of that corporation.}

## 14. *Connection Point Configuration*

### 14.1 *Rules for Mapping Network Assets to a Single Connection Point*

Western Power must comply with the following when determining the configuration of a *connection point*—

- (a) the proposed configuration must meet the *WA Electrical Requirements*, made pursuant to regulation 49 of the *Electricity (Licensing) Regulations 1991*; and
- (b) a *connection point* may be associated with one or more *revenue meters* which measure and record *energy data*, or none if it is an *unmetered connection point*; and
- (c) if the *connection point* is associated with more than one *revenue meter*, they must be either all *interval meters* or all *accumulation meters*, and not a combination of more than one type of *revenue meter*; and
- (d) a *connection point* may comprise more than one *attachment point* to the *network* provided that each *attachment point* is to the same lot or *premises* and is operated at the same voltage; and
- (e) a *connection point* must have one and only one *controller* at the *connection point*; and

- (f) a *connection point* must have only one type of *exit service*, if any, and only one type of *entry service*, if any, and only one type of *bidirectional service*, if any; and
- (g) a *connection point* must have only one applicable *loss factor*.

#### 14.2 One *NMI* per *Connection Point*

Western Power must allocate one *NMI* per *connection point*.

#### 14.3 Combining Multiple *Connection Points* into a Single *Connection Point*

- (a) A person may make an *electricity transfer application* to have multiple *connection points* supplying a single *premise* or adjacent *premises* of a single commercial or industrial complex combined into a single *connection point*, subject to clause 14.1, by notice to Western Power.
- (b) The *lodgement fee* for a new *connection point* applies to an *application* made under clause 14.1.
- (c) Where an *applicant* applies under clause 14.3(a) the *applicant* must demonstrate that the *connection points* are integral to a single business.  
{For example, a supermarket acquiring adjacent *premises* to its existing *premises* with the intention of expanding its operation across these *premises* can combine the two *exit points* into a single *exit point*.}
- (d) Where an *application* is made under clause 14.3(a) by an *applicant* who is not the *retailer* in relation to a relevant *connection point*, the *applicant* must obtain the consent of the *retailer*.
- (e) A *retailer* must have *verifiable consent* from its *customer* before making an *electricity transfer application* to change the configuration of a *connection point*.
- (f) Western Power must determine, as a reasonable and prudent person, within 5 business days whether it will accept the *application*.
- (g) If Western Power determines that it cannot accept the *application* under clause 14.3(f), then—
  - (i) Western Power must notify the *applicant* that it must submit, or procure that its *controller* submits, a *connection application*; and
  - (ii) the *priority date* of such *connection application* shall be determined—
    - (A) if a *complete connection application* is received by Western Power within 20 business days of the notice sent to the *applicant* under clause 14.3(g)(i), from the date Western Power received the *electricity transfer application* under clause 14.3(a); and
    - (B) otherwise, from the date Western Power received the *complete connection application*.

#### 14.4 Separating a Single *Connection Point* to Create Multiple *Connection Points*

- (a) An *applicant* may make an *electricity transfer application* to divide a single *connection point* into multiple *connection points*, subject to clause 14.1.  
{Note: This might occur, for example, to allow the new *connection points* to be migrated to a different *user's access contract*.}
- (b) Each *connection point* created under clause 14.4(a) must have its own *metering equipment*.
- (c) Where an *application* is made under clause 14.4(a) by an *applicant* who is not the *retailer* in relation to the *connection point*, the *applicant* must obtain the consent of the *retailer*.
- (d) A *retailer* must have *verifiable consent* from its *customer* before making an *electricity transfer application* to change the configuration of a *connection point*.
- (e) Western Power must determine, as a reasonable and prudent person, within 5 business days whether it will accept the *application*.
- (f) If Western Power determines that it cannot accept the *application* under clause 14.4(e), then—
  - (i) Western Power must notify the *applicant* that it must submit, or procure that its *controller* submits, a *connection application*; and
  - (ii) the *priority date* of such *connection application* shall be determined—
    - (A) if a *complete connection application* is received by Western Power within 20 business days of the notice sent to the *applicant* under clause 14.4(f)(i), from the date Western Power received the *electricity transfer application* under clause 14.4(a); and
    - (B) otherwise, from the date Western Power received the *complete connection application*.

### 15. Time to Perform Obligations

#### 15.1 Extension of Time to Perform Obligations

- (a) If—
  - (i) Western Power (acting as a reasonable and prudent person) has requested further information from an *applicant* under clause 3.11 which it reasonably requires to process an *electricity transfer application*; and
  - (ii) the request was made as soon as Western Power became aware that it required the information; and

- (iii) Western Power has expeditiously and diligently progressed the processing of the *electricity transfer application* before making the request, after receiving the information and (to the extent possible) between making the request and receiving the information, then the time period for complying with any obligation under this applications and queuing policy is extended by an amount of time equal to the time taken by the *applicant* to comply with the request.
- (b) Without limiting the generality of clause 15.1(a), an *applicant* and Western Power may agree to extend any one or more of any of the time periods set out in this applications and queuing policy on one or more occasions, and—
  - (i) the time period is extended by the amount of time agreed; and
  - (ii) unless otherwise agreed, the time for complying with any other obligation is extended by the same amount of time.

### 15.2 Concurrent Applications

Western Power must use reasonable endeavours to comply with the timeframes set out in this applications and queuing policy in respect of each *electricity transfer application* which is lodged with Western Power, whether or not it is processing more than one *electricity transfer application* concurrently.

## PART C—CONNECTION APPLICATIONS

### 16. Specific Connections Applications

#### 16.1 Connection Application for a New Connection Point

An *applicant* who seeks to create a new *connection point* or to install new *generating plant* at an existing *connection point* must—

- (a) submit a *connection application* on the *connection application form* that is applicable for the type of *facilities and equipment* to be *connected* at the *connection point*; and
- (b) submit, or procure that its *retailer* submits, an *electricity transfer application* under Part B—*Electricity Transfer Applications* of this applications and queuing policy.

#### 16.2 Connection Application for an Increase or Decrease of Contracted Capacity

- (a) If, after processing an *electricity transfer application* under clause 10.2, Western Power requires a *connection application*, then the *user* must submit or, if applicable, procure that its *customer* submits, a *connection application* on the *connection application form* that is applicable for the type of *facilities and equipment* that is *connected* at the *connection point* or for the *capacity allocation service* sought.
- (b) If a *customer* submits a *connection application* with respect to a *connection point* that will result in an increase to the *contracted capacity* of the *customer's retailer* for that *connection point*, then the *customer* must procure that its *retailer* submit an associated *electricity transfer application* under Part B of this applications and queuing policy.

#### 16.3 Connection Application to Modify Generating Plant

If an *applicant* seeks to materially change the characteristics of *generating plant connected* at a *connection point*, then the *applicant* must *complete* those parts of the appropriate *application form* that deal with those characteristics, and include any additional information specified in the *application form* (which might include equipment schedules, drawings and computer models) that Western Power, as a reasonable and prudent person and acting in accordance with good electricity industry practice, might require to assess the impact of the modification on the *network* and other *users*, compliance of the modified *generating plant* with the *technical rules*, and in the case of a *transmission system connected generator*, the *Proposed Generator Performance Standards* proposed by the *applicant*.

#### 16.4 Connection Application to Modify or Augment the Network

- (a) An *applicant* who seeks to modify or *augment* the *network* for the purpose of receiving a *covered service* other than under clause 16.1 must submit a *connection application* on the applicable *connection application form*.
- (b) If there is no applicable *application form* provided for a *connection application* then the *applicant* may submit its *connection application* by notice to Western Power.

#### 16.5 Opt-out of Competing Applications Group Process

- (a) An *applicant* may, at the time of making a *connection application* under clause 16, elect that the *connection application* is to be processed as an *applicant-specific solution* and is not to be considered as part of a *competing applications group*.
- (b) If an *applicant* makes an election under clause 16.5(a), it will be deemed to have made a request for a study under clause 20.3(a) and clause 20.3 shall apply to the processing of that *application*.

#### 16.6 Publication

- (a) In respect of each *generation application* Western Power must within a reasonable time (to the extent the information is available to Western Power) notify all other *applicants* with *generation applications* of—
  - (i) the *contracted capacity* sought in the *generation application* (and if applicable the existing *contracted capacity* relevant to that *generating plant*);

- (ii) the location, voltage and arrangement of the proposed (or if applicable upgraded) *connection point*;
  - (iii) the fuel type of the *generating plant*;
  - (iv) the *priority date* of the *generation application*.
- (b) If there is any material change to the information in clause 16.6(a) as it relates to a *generation application* Western Power will, within a reasonable time of becoming aware of the change, notify all *applicants* with *generation applications*.

### 17. Lead Time for Connection Applications

An *applicant* must endeavour to lodge a *connection application* to Western Power within a reasonable time before the requested *services start date*, having regard for—

- (a) the time required to determine if any *works* are required, and if so then the time required to plan, design, cost, approve, finance, construct and commission the *works*, including, if applicable, the time required to perform a *regulatory test*; and
- (b) the time required to finalise an *access offer* for the *connection application*; and
- (c) if the *applicant* has requested a derogation from the *technical rules*, then the time required to process this request; and
- (d) in the case of a *connection application* which relates to a *transmission system connected generator*, the time required to determine (in accordance with the *WEM Rules*) the *Registered Generator Performance Standards* that will apply to that *transmission system connected generator*.

### 17A. Pre-enquiry Discussions

#### 17A.1 Applicant May Contact Western Power

A party considering making a *connection application* may contact Western Power to discuss a proposed *connection application* with Western Power. Western Power will provide reasonable assistance to such *applicants* but this will not include undertaking studies for the *applicant*.

#### 17A.2 Informal Discussions Not Binding

The discussions under this clause 17A are not binding on Western Power, and Western Power is not liable for any error or omission that is made as a reasonable and prudent person in the discussions under this clause 17A.

#### 17A.3 Provision of Information on Request

On request by the party, Western Power will, subject to clauses 17A.4 and 6.2, provide the party with all existing commercial and technical information that is in Western Power's possession, custody or control that is reasonably required or requested by the party to help it decide whether to make an *application*.

#### 17A.4 Provision of Confidential Information

- (a) Where commercial or technical information referred to in clause 17A.3 is *confidential information*—
  - (i) which is confidential to Western Power and in Western Power's possession, custody or control, Western Power will use reasonable endeavours to enter into an adequate confidentiality undertaking with respect to the disclosure of the *confidential information* to the party deciding whether to make an *application*;
  - (ii) disclosed to Western Power by a *disclosing person*, an *applicant* or a third party, except where clause 24.9(d) applies, Western Power will request the consent of the relevant *disclosing person* or *applicant* to the disclosure of the *confidential information* to the *applicant* and, in the event that the relevant *disclosing person* or *applicant* does not consent to such disclosure, Western Power will use reasonable endeavours to provide the relevant *confidential information* to the party who has requested the information in an aggregated or other form in which its confidential aspects cannot be identified.
- (b) Where the relevant *disclosing person* or *applicant* ("*first person*"), under clause 17A.4(a)(ii), notifies Western Power it will consent to the disclosure of the *confidential information* to the other *applicant* ("*second person*") if the second person executes a confidentiality undertaking in favour of the first person, then Western Power will seek to facilitate the process of conclusion of such undertaking but the first and second person must directly negotiate the terms of that undertaking between themselves.

### 18. Enquiry State

#### 18.1 Compulsory Enquiry Notification

- (a) Where an *applicant* expects, in good faith, to proceed to a *connection application*, then prior to lodging a *connection application* with Western Power, the *applicant*—
  - (i) must lodge an *enquiry* with Western Power to notify Western Power of the proposed *connection application*; and
  - (ii) may request that a preliminary assessment is undertaken under clause 19.3 prior to the *applicant* lodging the *connection application*.
- (b) Western Power must engage in discussions in good faith and use all reasonable endeavours to satisfactorily and promptly address any matters raised by the *applicant*.

## 18.2 Applicant May Request Studies and Information

An *applicant* may request Western Power to undertake system studies or perform other work necessary to assist the *applicant* in preparing its *connection application*, in which case—

- (a) Western Power must endeavour to perform such work within a reasonable time; and
- (b) unused; and
- (c) clause 20 applies.

{This might occur, for example, if the *applicant* needs input into feasibility studies to determine which of its potential projects proceeds to an *application*.}

### 18.2A Western Power to Issue an Enquiry Response Letter at Conclusion of Enquiry Stage

- (a) At the conclusion of the *enquiry* stage, Western Power must issue an *enquiry* response letter to the *applicant* setting out—
  - (i) a description of the information required for a *complete application*, and the results of any assessment that it may have carried out to indicate the extent of any *spare capacity* available to provide *exit services* or *exit service components*;
  - (ii) the existence of any *competing applications*; and
  - (iii) any constraints known to Western Power on the ability of the *network* to provide the *capacity* proposed as *contracted capacity* in the *connection application* by the *applicant* to the extent the *connection application* relates to *exit services* or *exit service components*.
- (b) Western Power will provide the *enquiry* response letter to the *applicant* within 20 business days of the lodgement of the *enquiry*, or within 20 business days of completion of any system studies or other *works* requested by the *applicant* under clause 18.2. If not all the information is available within that timeframe, Western Power will provide the *applicant* with as much information as possible within 20 business days and an estimated time, being not greater than 20 business days, when the balance of the outstanding information will be provided.

### 18.3 Enquiry Response Letter and Discussions Not Binding

The *enquiry* response letter and discussions under this clause 18 are not binding on Western Power, and Western Power is not liable for any error or omission that is made as a reasonable and prudent person in the *enquiry* response letter and discussions under this clause 18.

### 18.4 Fees Payable

At the time that the *applicant* lodges an *enquiry* under this clause 18, Western Power may *charge* a non-refundable fixed fee for processing the *enquiry* as specified in the *price list*. For the avoidance of doubt, this is in addition to any other payment, *charge* for costs, or fee.

## 19. Reporting During the Processing of the Connection Application

### 19.1 Initial Response

- (a) Subject to clause 19.1(b), Western Power must provide an *initial response* to the *applicant* within 20 business days of receiving the *applicant's connection application*, specifying—
  - (i) the time by which Western Power will provide a preliminary assessment under clause 19.3 of the *connection application* (if such an assessment was not provided under clause 18.1 before the *connection application* was submitted and is required under clause 19.3); and
  - (ii) the time by which Western Power expects to make an *access offer*.
  - (iii) unused.
- (b) If, by the time by which Western Power is required to give an *applicant* an *initial response* under clause 19.1, Western Power has given the *applicant* an *access offer*, Western Power is not required to provide an *initial response* to the *applicant*.

### 19.2 Initial Response is Not Binding

An *initial response* is not binding on Western Power, and Western Power is not liable for any error or omission, which is made as a reasonable and prudent person, in an *initial response*.

### 19.3 Preliminary Assessment

A preliminary assessment with regards to a *connection application* may consist of an assessment as to—

- (a) to the extent the *connection application* relates to *exit services* or *exit service components*, whether it is likely that there is sufficient *spare capacity* to provide the requested *covered services* or whether any *works* might be required to provide the *covered services*, including whether it is likely that any *new connection assets* will be required to provide the *covered services* requested in the *application*;
- (b) to the extent the *connection application* relates to *entry services* or *entry service components*, the nature of the *works* which may be required to provide those *entry services* or *entry service components*, including whether it is likely that any *new connection assets* will be required to provide the *covered services* requested in the *application*, and the *contracted capacity* which will be available if those *works* are undertaken and the *contracted capacity* (if any) available in the absence of such *works*; and

- (b2) whether any other *applications* are *competing* with the *application* and the possible grouping of the *application* with *competing applications* into one or more *competing applications groups*; and
- (c) if it is likely that *works* will be required—operational and technical details of the *works*; and
- (d) if it is likely that *works* will be required—whether or not a *contribution* will likely be required from the *applicant* under the *contributions policy* and a good faith estimate of the approximate amount of the *contribution*; and
- (e) if it is likely that *works* will be required—a good faith estimate of the likely time required for the planning, designing, approving, financing, construction and commissioning, as applicable, of any necessary *augmentation* or *works*; and
- (f) Western Power’s proposal for processing the *application*, if applicable under clause 20.2.

To avoid doubt, a preliminary assessment must be undertaken in relation to a *connection application* either before that *application* is submitted in accordance with a request under clause 18.1 or after that *connection application* is lodged as advised by Western Power under clause 19.1(a)(i), unless otherwise agreed by Western Power.

#### 19.4 Updates and Progress Reporting

- (a) An *applicant* must advise Western Power if there is a material change in any information previously provided by the *applicant* as part of the *applicant’s application*.
- (b) Western Power must upon request by the *applicant* (which request must not be made more frequently than once per month, and must not be made less than one month following the provision of an *initial response*) provide a progress report to the *applicant* containing information in reasonable detail regarding the processing of the *connection application*, including whether there has been any material change in any estimates of scope, costs or times, either for processing the *connection application* or for any *works* that might result from the *connection application*, previously provided by Western Power.

### 20. Connection Application Costs

#### 20.1 Applicant Must Pay Costs

- (a) If—
  - (i) the *applicant* lodges an *enquiry* under clause 18, and the *applicant* requests Western Power to perform any system or other studies, prepare detailed cost estimates or do any other work to assist the *applicant* prior to the *applicant* lodging a *connection application*;
  - (ii) an *applicant* has submitted a *connection application* and has agreed for Western Power to perform any system or other studies, prepare detailed cost estimates or do any other work to process the *application*, under clause 20.2, clause 20.3 or clause 24.1(d); or
  - (iii) an actual or prospective *applicant* has sought information or assistance from Western Power and Western Power has agreed to perform any system or other studies, prepare detailed cost estimates or do any other work to provide, or in connection with, that information or assistance,

then the *applicant* must, when requested by Western Power, pay to Western Power its reasonable costs incurred, or to be incurred within a reasonable timeframe, in processing the *enquiry* or *connection application* or otherwise undertaking the studies, cost estimates and work referred to in paragraphs (i), (ii) and/or (iii) above.

- (b) The total of the costs referred to in clause 20.1(a) must not exceed a genuine pre-estimate of the reasonable costs which would be incurred by a prudent *service provider*, acting efficiently and in good faith, in accordance with *good electricity industry practice*, seeking to achieve the lowest practicable cost of processing the *connection application*.
- (b1) For the avoidance of doubt, Western Power may *charge applicants* other fees and *charges* in addition to the costs referred to in this clause, and the provisions of clause 20.1(b) do not apply to such other fees and *charges*. Such fees include the *application* fees referred to in clause 7.1, the *enquiry* fee referred to in clause 18.4, the preliminary offer processing fee referred to in clause 24.3, and the *preliminary acceptance* fee referred to in clause 24.5(b).
- (c) The costs referred to in clause 20.1(a) must not include any costs of Western Power in relation to an *access dispute* (which are to be awarded by the *Arbitrator* under Chapter 10 of the *Code*).

#### 20.2 Processing Proposal

- (a) Where Western Power considers that to process a *connection application*, or in connection with any request for information or other assistance made to it by an actual or prospective *applicant*, it must perform any system or other studies, prepare detailed cost estimates or do any other *works* or where an *applicant* requests a study under clause 20.3 then—
  - (i) Western Power must provide a proposal to the *applicant* outlining the scope, timing and a good faith estimate of the likely costs to be incurred for processing the *connection application* and/or otherwise undertaking the studies, cost estimates or other *works*; and
  - (ii) the *applicant* may request amendments to the scope of work in the proposal, in which case Western Power and the *applicant* must negotiate in good faith regarding the proposal. In the case of a *connection application* which has been lodged, if Western Power and the *applicant* have not agreed within 60 business days on the scope of the work in the proposal, then the *connection application* and any associated *electricity transfer application* will be deemed to have been withdrawn; and

{Note: This might occur, for example, where the *applicant* is able to perform some of the *works* itself.}

- (iii) the *applicant* may reject the proposal, and in such a case, where a *connection application* has been lodged, then the *connection application* and any associated *electricity transfer application* are deemed to have been withdrawn; and
  - (iv) (if applicable) the *applicant* may at any time request Western Power to cease processing the *connection application*, in which case the *connection application* and any associated *electricity transfer application* are deemed to have been withdrawn and Western Power must cease all work on the *application*.
- (b) Where Western Power spends the costs paid to it by an *applicant* under clause 20.1(a) in processing the *connection application* or otherwise undertaking the requested cost estimates, studies or other work and requires further payment to cover its actual costs in completing the proposal, then it will notify the *applicant* of the reasons for these higher costs and will make a proposal for payment of such additional costs, and Western Power's proposal under this clause will be dealt with under clause 20.2(a) as though it was an original proposal.
  - (c) Where Western Power has *charged* an *applicant* costs under clause 20.1(a), then at the time of making an *access offer* to that *applicant* or at the time an *application* is withdrawn (whichever is earlier)—
    - (i) if Western Power's actual costs are less than the costs that it has *charged*, Western Power must refund the unexpended portion of those costs; or
    - (ii) if Western Power's actual costs are more than the costs that it has *charged*, Western Power may *charge* an additional fee to cover the reasonable costs in excess of the fee it *charged*, and the *applicant* must pay any such additional fee.
  - (d) To avoid doubt, in this clause 20.2 references to an *applicant* may extend to a prospective *applicant*.

### 20.3 Applicant-specific Solution Option

- (a) An *applicant* may request Western Power to perform a study of the nature and costs of an *applicant-specific solution* to satisfy the *connection application*. Subject to agreement being reached under clause 20.2(a) in respect of that study, the *applicant* must pay the costs of that study. Western Power will endeavour, subject to receiving any necessary cooperation from the *applicant*, to *complete* the study within 60 business days.
- (b) Once Western Power has *completed* the study, it must provide—
  - (i) existing *users* that Western Power considers may be impeded; and
  - (ii) any *competing applicant* with an earlier *priority date*, with the opportunity to object to providing the *applicant-specific solution* to the *applicant*.
- (c) An existing *user* and *competing applicant* with an earlier *priority date* may object to the *applicant-specific solution* within 30 business days on the grounds that the *applicant-specific solution* would impede Western Power's ability to provide *covered services* to that existing *user* or to provide the *covered services* that are sought in a *competing application* with an earlier *priority date* compared with what the position would be if the *applicant-specific solution* were not implemented. However an objection may not be made on the basis that the *applicant-specific solution* will increase *constraints*.
- (d) Western Power will evaluate the objection within 40 business days of it being lodged and if it agrees that the *applicant-specific solution* would impede Western Power's ability to provide *covered services* to an existing *user* or to provide the *covered services* that are sought in a *competing connection application* with an earlier *priority date*, then it must either decline to offer an *applicant-specific solution* to the *applicant* or modify the *applicant-specific solution* so that the *applicant-specific solution* would not impede Western Power's ability to provide *covered services* to an existing *user* or the *covered services* that are sought in that other *application* with an earlier *priority date*. If Western Power elects to modify the *applicant-specific solution* then it must provide a further opportunity to object under clause 20.3(c) to existing *users* and *competing applicants* with an earlier *priority date* that Western Power considers may be impeded by the *applicant-specific solution*.
- (e) If—
  - (i) no objections are made to an *applicant-specific solution*; or
  - (ii) Western Power evaluates under clause 20.3(d) that an *applicant-specific solution* (whether the original *applicant-specific solution* or a further *applicant-specific solution* developed following modification under clause 20.3(d)) would not impede Western Power's ability to provide *covered services* to an existing *user* or to provide the *covered services* that are sought in a *competing connection application* with an earlier *priority date*,

then Western Power within 30 business days must make an *access offer* to the *applicant* based on the *applicant-specific solution* identified in this clause 20.3(e).



### 20.3A Interaction Between *Applicant-Specific Solutions* and *Competing Applications Groups*

For the avoidance of doubt, an *applicant* may seek an *applicant-specific solution* at any time while its *application* is under consideration. Where an *applicant* seeks an *applicant-specific solution* under clause 20.3 above, its *application* will, subject to clauses 16.5 and 24.1(b2), continue to be considered as part of any relevant *competing applications group*.

### 20.4 Disputes May be Referred to Arbitrator

A dispute between an *applicant* and Western Power regarding a cost under clause 20 may be referred by either party to the *Arbitrator* under section 10.13 of the *Code* (expedited hearings) for determination, in which case the *Arbitrator* may either affirm the amount or reduce it. Nothing in this clause limits the matters that may be the subject of an *access dispute*.

### 20.5 Use of Engineering Firms to Provide Studies

- (a) An *applicant* may ask Western Power to permit an engineering firm to conduct a system or other study under this clause 20.
- (b) Western Power will not unreasonably disagree to a request from an *applicant* to use an engineering firm to conduct a system or other study, and where Western Power does disagree, Western Power will provide written reasons explaining why it has disagreed.
- (c) Where Western Power agrees under clause 20.5(a) to a request from an *applicant*, then where this applications and queuing policy refers to a study done or to be done by Western Power, the reference to Western Power will be taken as a reference to the engineering firm.
- (d) Prior to permitting the engineering firm to conduct a system or other study, Western Power may require the engineering firm to enter into a confidentiality agreement.
- (e) Where Western Power agrees under clause 20.5(a) to a request from an *applicant*, Western Power will provide the engineering firm with all reasonable information and cooperation to enable the engineering firm to conduct the system or other study.
- (f) Western Power reserves the right to require amendments to a system or other study completed by an engineering firm where the system or other study does not provide the information that Western Power considers that Western Power requires from the system or other study.
- (g) Nothing in this clause 20.5 removes Western Power's right to *charge applicants* under clause 20 for Western Power's costs of processing *applications*, including but not limited to Western Power's costs under clause 20.5(e) and clause 20.5(f).

### 20A. Unpaid Fees or Charges

Where any fees or *charges* under this applications and queuing policy remain unpaid by an *applicant* more than 60 business days after they are levied or *charged*, then Western Power will send a *final notice* to the *applicant* demanding payment of the fees or *charges* ("*final notice*"). Where the *applicant* has not paid the fees or *charges* within 7 business days of the date of Western Power's *final notice*, the *applicant's application* and any associated *electricity transfer application* are deemed to be withdrawn.

### 21. Contributions Policy Applies

If, during the processing of the *connection application*, Western Power determines that *works* are required to provide the *covered services* sought in the *connection application*, then the *contributions policy* applies to the *connection application*.

### 22. Dormant applications

- (a) Subject to clause 22(b), Western Power will give the *applicant* in respect of a *dormant application* a written notice requesting the *applicant* to show cause in writing why Western Power should continue to process the *dormant application*, and stating the work required to be *completed* to process the *dormant application*.
- (b) In exercising its rights under this clause 22, Western Power must act as a reasonable and prudent person.
- (c) If an *applicant* does not respond to Western Power in writing within 20 business days of receipt of a notice under clause 22(a), the *dormant application*, and any associated *electricity transfer application*, shall be deemed to have been withdrawn and Western Power shall notify the *applicant* in writing accordingly.
- (d) If an *applicant* responds to Western Power within 20 business days of receipt of a notice under clause 22(a) that it no longer wishes to progress the *dormant application* to an *access offer*, the *dormant application*, and any associated *electricity transfer application*, shall be deemed to have been withdrawn upon Western Power's receipt of that response.
- (e) If the *applicant* responds to Western Power within 20 business days of receipt of a notice under clause 22(a) contending that Western Power should continue to process the *dormant application*—
  - (i) Western Power must issue the *applicant* with a processing proposal under clauses 20.2, 20.3 or 24 as soon as practicable; and
  - (ii) if an *access contract* has not been entered into in respect of the *application* within 12 months of the date on which the notice under clause 22(a) was issued, Western Power may provide written notice to the *applicant* under this clause 22(e)(ii) of that fact upon which the *application*, and any associated *electricity transfer application*, shall be deemed to have been withdrawn under this applications and queuing policy.

- (f) In issuing a notice under clause 22(e)(ii), Western Power must have regard to the objectives of this applications and queuing policy, the likelihood of the *application* progressing to an *access offer* and the existence of any *competing applications*.

### 23. Release of Contracted Capacity

Without limiting the circumstances by which *spare capacity* becomes available on the *network*, when an existing *user* reduces *contracted capacity* at one *connection point* and that reduction increases *spare capacity*, then any *application* for that *spare capacity* must be processed by Western Power in accordance with clause 24 and clause 24A, regardless of whether the *user* makes a concurrent *connection application* at that or another *connection point*.

## 24. Where There Are Competing Applications

### 24.1 Formation of Competing Applications Groups

- (a) Where Western Power assesses that an *application* is *competing* with other *applications* then Western Power will, subject to clauses 16.5 and 24.8(b), manage *competing applications* by forming them into one or more *competing applications groups* and assessing a single set of *works* for *shared assets* required to meet some or all of the requirements of each *competing applications group*. To avoid doubt, where there are more than two *competing applications* Western Power may form all the *competing applications* into one *competing applications group* or it may form them into two or more *competing applications groups* as Western Power considers appropriate given the nature of the *applications*, including how the *competing applications* impede each other, the size of the *capacity* sought in each of the *competing applications*, and the current level of *spare capacity*.
- (b) An *application* may be sorted into more than one *competing applications group* where Western Power considers this appropriate given the nature of the *application* (for example where the *application* competes with certain other *applications* in respect of one *network constraint* and with certain other *applications* in respect of another *network constraint*).
- (b1) Western Power will notify an *applicant* within 30 business days of the *application* if it has sorted the *application* into one or more *competing applications groups*.
- (b2) Where Western Power notifies an *applicant* under clause 24.1(b1) that the *application* has been sorted into one or more *competing applications groups*, then the *applicant* may choose by notice to Western Power at any time that it does not wish to be considered in one or more of the *competing applications groups*. Western Power will accept the choice of the *applicant*.
- (c) To the extent necessary to allow—
- (i) a supplier of last resort (as defined in section 67 of the *Act*) to comply with its obligations under Part 5 of the *Act*; or
  - (ii) a default supplier (as defined in section 59 of the *Act*) to comply with its obligations under section 59 of the *Act*,
- an *applicant* may advise Western Power at any time that it does not wish to be considered to be included within a *competing applications group*, in which case it will be treated as having made an *application* for an *applicant-specific solution* and the *applicant's connection application* will be processed as an *applicant-specific solution* in accordance with clauses 19 and 20 (and the other relevant provisions) of this applications and queuing policy and the *applicant* will be deemed to have made a request for a study under clause 20.3(a).
- (d) To avoid doubt, where Western Power considers that to issue a notice of intention to prepare a *preliminary access offer* it must perform any system or other studies, Western Power may provide a processing proposal to the *applicants* within the *competing applications group* in accordance with clause 20.2.

### 24.2 Notice of Intention to Prepare a Preliminary Access Offer

Where Western Power considers that a single set of *works* for *shared assets* may meet some or all of the requirements of a *competing applications group*, it will issue a notice of intention to prepare a *preliminary access offer* to all *applicants* within that *competing applications group*, and charge a preliminary offer processing fee. To avoid doubt, the preliminary offer processing fee is not payable by an *applicant* who under clauses 24.3(b) or 24.3(c) elects to opt out of the *competing applications group* or who under clause 24.3(d) withdraws their *application*.

### 24.3 Response to Notice of Intention to Prepare a Preliminary Access Offer

*Applicants* must respond to the notice issued under clause 24.2 within 30 business days by—

- (a) agreeing to have their *application* considered within a *competing applications group* and paying the preliminary offer processing fee as specified in the *price list*. By paying the preliminary offer processing fee, *applicants* demonstrate the good faith of their intention to proceed to an *access contract*, and as such the preliminary offer processing fee is non-refundable. Where an *access contract* is subsequently entered into in respect of the *application*, the preliminary offer processing fee will be counted towards any *contribution* payable, where permissible under the *contributions policy*, and where it exceeds any *contribution* payable under the *contributions policy* and the reasonable costs of Western Power incurred in processing the *application* prior to and including Western Power making a *preliminary access offer* and processing responses to it, the excess will be offset against amounts payable under the *access contract* or refunded to the *applicant* where the *applicant* is not a party to that *access contract*; or
- (b) advising that they wish to opt out of the *competing applications group* and make an *application* for an *applicant-specific solution*, in which case the *applicant's connection application* will be

processed as an *applicant-specific solution* in accordance with clauses 19 and 20 (and the other relevant provisions) of this applications and queuing policy and the *applicant* will be deemed to have made a request for a study under clause 20.3(a); or

- (c) advising that they wish to opt out of the *competing applications group* but that they do not want to make an *application* for an *applicant-specific solution* and wish to retain their *priority date* and be considered for inclusion in another *competing applications group*, in which case the *application* shall retain its *priority date* and will be considered for inclusion in another *competing applications group* in accordance with clause 24.1(a); or
- (d) withdrawing their *application*.

Where *applicants* fail to respond to the notice issued under clause 24.2 within 30 business days, their *application* and any associated *electricity transfer application* will be deemed to have been withdrawn.

#### **24.4 Western Power's Actions Following Response to the Notice of Intention to Prepare a Preliminary Access Offer**

Following the response of *applicants* under clause 24.3 (if any), Western Power may, if it continues to consider that a single set of *works* for *shared assets* may meet some or all of the requirements of a *competing applications group*, make *preliminary access offers* to each *applicant* within the relevant *competing applications group* at the same time. Western Power will endeavour to make such *preliminary access offers* to each *applicant* within the relevant *competing applications group* within 60 business days after issuing the notice under clause 24.2.

#### **24.5 Response to Preliminary Access Offer**

- (a) *Applicants* must respond to the *preliminary access offers* within 30 business days after receipt of the *preliminary access offers*, by indicating in good faith in writing either—
  - (i) that it would accept such a *preliminary access offer* if it were an *access offer*; or
  - (ii) that it would reject such a *preliminary access offer* if it were an *access offer* and would request an amendment to the *preliminary access offer*. In this case Western Power and the *applicant* must negotiate in good faith regarding the form of the *preliminary access offer*, but if Western Power and the *applicant* have not agreed on the form of the *preliminary access offer* within 30 business days from the date on which the *applicant* received the *preliminary access offer*, then the *application* and any associated *electricity transfer application* will be deemed to have been withdrawn unless—
    - (A) the *applicant* has notified Western Power in writing that it wishes to be treated as having made an *application* for an *applicant-specific solution* and the *applicant's connection application* will be processed as an *applicant-specific solution* in accordance with clauses 19 and 20 (and the other relevant provisions) of this applications and queuing policy and the *applicant* will be deemed to have made a request for a study under clause 20.3(a); or
    - (B) the *applicant* has notified Western Power in writing that it wishes to opt out of the *competing applications group* but it does not want to make an *application* for an *applicant-specific solution* and wishes to retain its *priority date* and be considered for inclusion in another *competing applications group*, in which case the *application* shall retain its *priority date* and will be considered for inclusion in another *competing applications group* in accordance with clause 24.1(a); or
    - (C) the failure to agree on the form of the *preliminary access offer* within 30 business days is due to Western Power acting in bad faith, in which case Western Power and the *applicant* must negotiate in good faith for a further period of 30 business days regarding the form of the *preliminary access offer* and clauses 24.5(a)(ii)(A) and 24.5(a)(ii)(B) shall apply. If no agreement is reached between Western Power and the *applicant* during this further period, and the *applicant* has not notified Western Power in accordance with clauses 24.5(a)(ii)(A) and 24.5(a)(ii)(B), the *application* and any associated *electricity transfer application* will be deemed to have been withdrawn; or
  - (iii) that it would not accept such a *preliminary access offer* if it were an *access offer*, in which case the *connection application* and any associated *electricity transfer application* are deemed to have been withdrawn.
- (b) Where *applicants* respond under either clause 24.5(a)(i) or an agreement is reached regarding the form of the *preliminary access offer* under clause 24.5(a)(ii) ("*preliminary acceptance*"), the *applicants* must pay within 30 business days a *preliminary acceptance fee* as specified in the *price list* to Western Power to demonstrate the good faith of their intention to proceed to an *access contract*. The *preliminary acceptance fee* is non-refundable but, where an *access contract* is subsequently entered into in respect of the *application*, the *preliminary acceptance fee* will be counted towards any *contribution* payable, where permissible under the *contributions policy*, and where it exceeds any *contribution* payable under the *contributions policy* and the reasonable costs of Western Power incurred in processing the *application* until the execution of an *access contract*, the excess will be offset against amounts payable under the *access contract* or refunded to the *applicant* where the *applicant* is not a party to that *access contract*.
- (c) If an *applicant* does not respond to Western Power within 30 business days of receipt of the *preliminary access offer* by one of the methods in clause 24.5(a), the *application* and any associated *electricity transfer application* shall be deemed to have been withdrawn.
- (d) To avoid doubt, *preliminary acceptance* does not give rise to a *contract*.

### 24.6 Subsequent Access Offers

After reviewing the responses by *applicants* to *preliminary access offers* under clause 24.5, Western Power will endeavour within 30 business days from the last date on which responses are required to be provided to Western Power under clause 24.5, to complete the following—

- (a) if Western Power considers it can make *access offers* to *applicants* within the *competing applications group* collectively for the costs nominated in the *access offers*, it will make *access offers* to *applicants* within the *competing applications group* conditional on sufficient acceptance of the *access offers* by *applicants* to ensure that access can be provided to the *applicants* collectively for the costs nominated in the *access offers*; or
- (b) if Western Power does not consider it can make *access offers* to *applicants* within the *competing applications group* collectively for the costs nominated in the *access offers*, it will revise its *preliminary access offer* and submit those revised *preliminary access offers* to *applicants*; or
- (c) where the extent of the *preliminary acceptance* by *applicants* within a *competing applications group* exceeds the ability of Western Power to provide services under *access contracts* (if all such *preliminary acceptances* resulted in *access contracts*), Western Power may make *access offers* to *applicants* in the order of the *priority date* of *applications* until—
  - (i) to the extent *connection applications* relate to *exit services* or *exit service components*, there is no more *spare capacity*; and
  - (ii) to the extent *connection applications* relate to *entry services* or *entry service components* the circumstances which resulted in the *applications* being classified as *competing applications* would prevent Western Power being able to provide such *entry services* or *entry service components* if any further *access offers* were accepted.

If Western Power fails to make an *access offer* to an *applicant* within a *competing applications group*, then notwithstanding any other provision in this applications and queuing policy, the *application* will remain valid and retain its *priority date* and Western Power will refund any *preliminary access offer* processing fee or *preliminary acceptance* fee paid by the *applicant*.

{Note: An *access offer* might not be made to an *applicant* under 24.6(c) because there is no more *spare capacity* after making *access offers* to *applicants* with earlier *priority dates*.}

#### 24.6A Minimum and Maximum Levels of Acceptance

An *access offer* to *applicants* within a *competing applications group* will specify—

- (a) if applicable, the minimum number of *applicants* that must accept the *access offers* made to that *competing applications group* (whether expressed by reference to the number of accepting *applicants*, the amount of *capacity* they accept or both) for Western Power to proceed to undertake the *works* specified in the *access offers* at the cost and on the other terms set out in those *access offers*;
- (b) if applicable, the maximum number of *applicants* that may accept the *access offers* made to that *competing applications group* (whether expressed by reference to the number of accepting *applicants*, the amount of *capacity* they accept or both) for Western Power to proceed to undertake the *works* specified in the *access offers* at the cost and on the other terms set out in those *access offers*.

#### 24.6B Failure to Achieve Minimum Levels

Where the minimum levels of acceptance set out in clause 24.6A are not met then any acceptance of an *access offer* will be of no effect but Western Power will seek to revise the *access offers* so as to meet the requirements of those *applicants* who did accept *access offers* and issue new *access offers*, provided that there is no obligation on Western Power to revise *access offers* where no *applicants* accepted *access offers* (without prejudice to the entitlement of such *applicants* to opt for an *applicant-specific solution* or make new *applications*).

#### 24.6C Exceeding Maximum Levels

- (a) Where the maximum levels of acceptance set out in clause 24.6A are exceeded then priority will, subject to clause 24A.4, be given to *applicants* with an earlier *priority date* in determining which *access offers* will be of effect and which of no effect. Subject to paragraph (b) below, where an *applicant's* acceptance is not effective that *applicant* ("**reallocated applicant**") will be allocated to a new *competing applications group*.
- (b) In respect of the *reallocated applicant* with the highest queue priority of the *reallocated applicants*, Western Power will, where it is possible to meet the requirements of that *applicant* in part (for example supply part of the *capacity* requested by them), make a further *access offer* to them to supply those partial requirements which that *reallocated applicant* may accept or reject. Where the *reallocated applicant* rejects the *access offer* then they will be allocated to a new *competing applications group*. If the *reallocated applicant* rejects the *access offer* then Western Power will, if practicable to do so having regard to the timeframes for undertaking of *works* set out in those *access offers* which have been effectively accepted, make a further *access offer* to the next *reallocated applicant* with the highest queue priority and the process in this paragraph (b) will continue until Western Power determines it is not practicable to make any further *access offers*.

### 24.7 Changing Composition of Competing Applications Group

- (a) Western Power may change the composition of a *competing applications group*—
  - (i) to remove, at any time, *applicants* within the *competing applications group* whose *applications* have been withdrawn or been deemed to be withdrawn or *applicants* whose

*applications* are to be treated, under a clause of this applications and queuing policy, as having been made for an *applicant-specific solution* (for example under clause 24.3(b), 24.5(a)(ii)(A) or clause 24.1(c));

- (ii) to add additional *applications* to a *competing applications group*, but where Western Power has already issued a notice of intention to prepare a *preliminary access offer* under clause 24.2 to *applicants* within a *competing applications group*, then Western Power will only add additional *applications* to that *competing applications group* where the additional *applications* can be added without delaying preparation of the *preliminary access offer* to the existing *applicants*.
- (b) Despite clause 24.7(a) Western Power may change the composition of a *competing applications group* at any time following changes regarding the nature or location of those factors which resulted in *applications* being classified as *competing* following other *network* developments, changes in *generation* or changes in loads in which case Western Power may recommence the processes under this clause 24.

#### **24.7A Termination of a Competing Applications Group**

- (a) Western Power may terminate a *competing applications group* by written notice to the *applicants* within that *competing applications group* where—
  - (i) Western Power considers, in accordance with this applications and queuing policy, that it will not issue notices of intention to prepare *preliminary access offers* or *preliminary access offers* or *access offers*, as applicable, in respect of a single set of *works* for *shared assets* to any of the *applicants* within the *competing applications group*; or
  - (ii) Western Power considers that a single set of *works* for *shared assets* is no longer viable.
- (b) To avoid doubt, where Western Power terminates a *competing applications group* under clause 24.7A, the *applications* previously within that *competing applications group* and their *priority date* shall not be affected and may be considered for inclusion in other *competing applications groups*.

#### **24.8 Spare Capacity**

- (a) In determining whether there is *spare capacity* to provide *covered services* requested in a *connection application* or group of *applications*, Western Power must assume that any existing *access contract* will be renewed in accordance with the terms of that *access contract*.
- (b) If, at any time, *spare capacity* to provide *covered services* becomes available without the need for any *works* for *shared assets* and there are *applicants* who are *competing* for such *spare capacity*, Western Power may allocate that *spare capacity* to *applicants* on the basis of *priority date* until no *spare capacity* remains without forming a *competing applications group*. To avoid doubt, the *spare capacity* may be offered to an *applicant* who is part of a *competing applications group* and an *applicant* who is not part of a *competing applications group*.

#### **24.9 Types of Information**

Western Power must make known to any *applicant* that has lodged an *application* with Western Power, or to any existing *user* with an *access contract* with conditions precedent which have not yet been satisfied or waived—

- (a) whether there are *competing connection applications*; and
- (b) a description of the circumstances which caused the *connection applications* to be *competing connection applications* (including in the case of *connection applications* for *exit services* or *exit service components* information in reasonable detail regarding the aggregated *capacity* requirements of those *competing connection applications*); and
- (c) an estimate of the likely time until the making of an *access offer*; and
- (d) where the *application* is a *competing connection application*, in respect of each *connection application* which is *competing* with that *connection application*—
  - (i) in the case of *connection applications* for *exit services* or *exit service components*, the *capacity* requirements of the *competing connection application*;
  - (ii) the geographic location at which the *competing connection application* seeks the *capacity*;
  - (iii) reasonable details regarding any *augmentation* required by the *competing connection application*;
  - (iv) any zone substation relevant to providing the *covered service* sought in the *application*;
  - (v) where the *applicant* is a *generator*, the fuel type involved; and
  - (vi) the *priority date*,

in an anonymised format without details of the *applicant's* name or physical address of any *connection point* relevant to the *application*. Western Power must not provide *confidential information* in an anonymised format under this clause 24.9(d) if Western Power determines, acting as a reasonable and prudent person, that it is possible from the anonymised information to determine the identity of the associated *competing applicant*.

#### **24.10 When Western Power Must Update Information**

Western Power must provide the information in clause 24.9—

- (a) when issuing notices of intention to prepare *preliminary access offers* under clause 24.2, *preliminary access offers* under clause 24.4 and *access offers* under clause 24.6;

- (b) at any time after a reasonable request by the *applicant*, or by any existing *user* with an *access contract* with conditions precedent which have not yet been satisfied or waived, for updated information; and
- (c) as soon as practicable after a material change in the information previously notified under this clause 24.10, including when information of the kind referred to in clause 24.9(d) is no longer required to be provided in an anonymised format.

#### **24.11 Concurrent Consideration**

Nothing in clause 24 prevents Western Power from processing more than one *connection application* concurrently.

#### **24.12 When Clause 24 Does Not Apply**

The provisions in clause 24 do not apply to a *transition application*.

### **24A. Priority Dates of Applications in Particular Circumstances**

#### **24A.1 Withdrawn Connection Applications**

An *application* which is withdrawn, or deemed by this applications and queuing policy to have been withdrawn, loses its *priority date*, even if it is subsequently amended or resubmitted.

#### **24A.2 Amended Connection Applications**

- (a) Subject to clause 24A.2(b), an amended *connection application* has the same *priority date* as the original *connection application*.
- (b) Subject to clause 24A.2(c), if an amended *connection application* is materially different from the original *connection application*, and if the difference is such that an *applicant* whose *competing application* has a *priority date* subsequent to the original *connection application* is materially prejudiced in terms of the likelihood, timing, cost and terms of it obtaining access (compared with that later *applicant's* position with respect to the original *connection application*), then—
  - (i) if it is possible to construe the amended *connection application* as a combination of the original *connection application* and a notional supplementary *connection application* (whether for further *capacity* or otherwise), the original *connection application* retains its *priority date* and the notional supplementary *connection application* has a *priority date* according to the time of amendment and will be treated for the purposes of this applications and queuing policy as a separate *application* with that *priority date*; but
  - (ii) otherwise—the amended *connection application* has a *priority date* according to the time of amendment.
- (c) For the purposes of clause 24A.2(b), without limiting the ways in which an amended *connection application* may be materially different from the original *connection application*, an amended *connection application* is not materially different from the original *connection application* if the *capacity* sought in the amended *connection application* is less, or less than 5% more than, the *capacity* sought in the original *connection application*.
- (d) Where an *applicant* has provided a response under clause 24.3 agreeing to have its *application* considered within a *competing applications group* following receipt of a notice of intention to prepare a *preliminary access offer* under clause 24.2 and where that *applicant* subsequently amends its *connection application* then Western Power may if it considers it appropriate (having regard to all relevant factors including the impact of the amendment on other members of the *competing applications group* and on Western Power) make or amend a *preliminary access offer* based on the amended *application*.
- (e) Where Western Power does not agree to make or amend the *preliminary access offer* based on the amended *application* then in making *preliminary access offers* Western Power will treat the relevant *application* on the basis that it has not been amended.

#### **24A.3 Network Control Services**

Western Power may make an *access offer* as a result of a procurement process for *Network Control Services* without regard to whether there are any *competing connection applications*.

#### **24A.4 Supplier of Last Resort and Default Supplier Arrangements**

Notwithstanding anything in clause 24A or in this applications and queuing policy, priority must be given to *applications*—

- (a) to the extent necessary to allow a supplier of last resort (as defined in section 67 of the Act) to comply with its obligations under Part 5 of the Act; or
- (b) to the extent necessary to allow a default supplier (as defined in section 59 of the Act) to comply with its obligations under section 59 of the Act.

### **25. Additional Terms of the Preliminary Access Offer or Access Offer**

#### **25.1 Terms Under Contributions Policy**

Western Power must include as terms of the *preliminary access offer* or *access offer*—

- (a) the amount of any *contribution* and other payments, such as rebates, determined under the *contributions policy*; and
- (b) any terms related to the provision of the *contribution* that the *applicant* has selected under the *contributions policy*.

**25.2 Exemptions from *Technical Rules***

The terms related to any exemption to the *technical rules* determined under Chapter 1 of the *technical rules* must be included in the *preliminary access offer* or *access offer*.

**26. Making the *Access Offer***

- (a) Subject to clause 26(b) Western Power must, acting as a reasonable and prudent person, give an *access offer* to the *applicant* as soon as practicable after the *complete connection application* is lodged, having regard to the nature of the *connection application*, consideration of *competing applications* and the need (where applicable) for *works* involving *shared assets* in order for Western Power to be able to provide access in accordance with the *technical rules*.
- (b) In the case of a *connection application* which relates to a *transmission connected generating system* Western Power has no obligation to make an *access offer* until the *Registered Generator Performance Standards* for that *transmission connected generating system* have been determined in accordance with the *WEM Rules*.

**PART D—TRANSFER AND RELOCATION POLICY****27. Novation of entire contract**

- (a) Western Power will not unreasonably withhold or delay its consent to the counterparty to an *access contract* novating all of its rights and obligations under that *access contract* or give that consent on unreasonable conditions.
- (b) Without limiting the considerations Western Power may have regard to in determining whether to give consent such considerations include the financial and technical capacity of the person who is proposed to assume the obligations under the *access contract*.

**28. Novation of part of contract**

- (a) Subject to clause 28(c), Western Power will not unreasonably withhold or delay its consent to the counterparty to an *access contract* novating part of its rights and obligations under that *access contract* or give that consent on unreasonable conditions.
- (b) Without limiting the considerations Western Power may have regard to in determining whether to give consent such considerations include the financial and technical capacity of the person who is proposed to assume the obligations under the *access contract*.
- (c) Western Power is not required to consent to part of a novation of an *access contract* unless reasonably satisfied—
  - (i) the rights and obligations to be novated constitute a severable part of the *access contract*;
  - (ii) all obligations relevant to the rights to be novated are also being novated;
  - (iii) the ongoing operation of the remaining *access contract* and the ongoing operation of the novated provisions will not adversely affect the integrity of the *network*;
  - (iv) the remaining *access contract* is capable of operating in a meaningful and coherent manner;
  - (v) the novated provisions will operate in a meaningful and coherent manner;
  - (vi) Western Power will not suffer a reduction in revenue as a result of the novation.

**Schedule 1****FORM OF GUARANTEE**

DATE [    ]

**PARTIES**

1. [### ACN ### a company registered in ### of ###] (“**Guarantor**”); and
2. **Electricity Networks Corporation ABN 18 540 492 861**, a statutory body corporate established by paragraph 4(1)(b) of the *Electricity Corporations Act 2005 (WA)* of 363 Wellington Street, Perth Western Australia (“**Western Power**”).

**RECITALS**

- A. Western Power may in its discretion provide Services to [###] (“**the User**”) under an Access Contract at the request of each of the User and the Guarantor.
- B. The Guarantor wishes to execute this Guarantee to secure payment of all amounts payable under the Access Contract to Western Power.

**OPERATIVE PROVISIONS**

- (i) Guarantee

The Guarantor unconditionally and irrevocably Guarantees as a continuing security to Western Power payment by the User of all moneys and liabilities due and/or payable from or by the User to Western Power under or in connection with the contract dated [###] (“**Access Contract**”) created between the User and Western Power (“**Secured Moneys**”), including moneys and liabilities incurred or arising—

- (i) (**liability**): at any present or future time, whether actually or contingently;

- (ii) **(default)**: as a result of any breach of or default under the Access Contract; and/or
  - (iii) **(account)**: by way of principal, interest, cost, charge, expense, disbursement, fee, tax, stamp or other duty, indemnity, damages or monetary judicial order.
- (ii) Secured Moneys
- (i) Demand payment
 

The Guarantor must pay to Western Power, upon demand by Western Power at any present or future time, the amount of the Secured Moneys due from and payable by the User to Western Power at that time under, and in the manner and currency specified in, the Access Contract.
  - (ii) Costs
 

The Guarantor must at any present or future time indemnify Western Power upon demand for any cost, charge, expense, disbursement, fee, tax or stamp or other duty incurred by Western Power at any time in connection with the Access Contract, this Guarantee or the Secured Moneys relating to—

    - (A) **(security agreements)**: preparation, negotiation, execution or performance, or any termination, amendment, consent, claim, demand or waiver;
    - (B) **(security rights)**: any exercise or enforcement of any right or power conferred on Western Power;
    - (C) **(credit increases)**: any extension of further, additional or increased credit or financial accommodation by Western Power, or agreement by Western Power to increase the amount secured; and/or
    - (D) **(payments)**: the receipt or payment of any moneys, including moneys paid by Western Power by way of reimbursement to any third party.
  - (iii) Set-Off exclusion
 

The Guarantor must make any payment required under this Guarantee without set-off or other deduction, except for the deduction or withholding of any tax compelled by law.
  - (iii) Indemnity
 

The Guarantor must as a separate and additional liability of the Guarantor as a principal debtor, and not as a surety, indemnify Western Power against, and pay to Western Power upon demand by Western Power an amount equal to, all Secured Moneys that are or may become invalid, unenforceable, illegal or irrecoverable for any reason or under any circumstances as a liability to Western Power by the Guarantor as a surety, despite any other provision of this Guarantee.
  - (iv) Guarantee protection
 

This Guarantee, and the liability of the Guarantor under this Guarantee, is not affected at any time by—

    - (i) **(waiver)**: the granting to any person by Western Power of any waiver;
    - (ii) **(agreements)**: any agreement, deed or document created with, or action or omission performed, representation made or non-disclosure of any fact or information by, Western Power or any person;
    - (iii) **(Secured Moneys)**: any increase or variation in the amount of the Secured Moneys occurring for any reason;
    - (iv) **(document amendment)**: any amendment to or transfer, release or termination of any agreement, deed or document or any right, power or liability of any person under any agreement, whether for or without consideration;
    - (v) **(enforcement decisions)**: any exercise or enforcement, or any failure or invalidity in, the exercise or enforcement by Western Power of any right or power conferred on Western Power under any agreement, deed or document or by law;
    - (vi) **(invalidity)**: any actual or potential invalidity, unenforceability, illegality or irrecoverableness of any agreement, deed or document or consent or any payment made or due to Western Power under any agreement for any reason;
    - (vii) **(incapacity)**: any incapacity or absence of power or authorisation of, or other fact relating to, any person in connection with the execution of any agreement, deed or document or otherwise, including any change in the constitution or membership of any person; or
    - (viii) **(residual)**: any other breach, default, waiver or fact which, except for this provision, might legally operate—
      - (A) to release or discharge or have any prejudicial effect on; or
      - (B) in any manner to release or discharge the Guarantor from performance of, or limit or provide a defence to any legal action to enforce,
 this Guarantee, or any liability of the Guarantor under or in connection with this Guarantee.
  - (v) Termination
 

The Guarantor is not entitled to terminate or limit this Guarantee, or any liability of the Guarantor under this Guarantee, until the Secured Moneys have been paid in full.



(vi) Governing Law

This Guarantee is governed by and construed under the law of the State of Western Australia.

(vii) General

(i) Continuing Security

This Guarantee is a continuing security and is not wholly or partially discharged by the payment at any time of any Secured Moneys, settlement of account or other fact and applies to the balance of the Secured Moneys at any time until a final termination of this Guarantee by Western Power.

(ii) Further Assurance

The Guarantor must upon request by Western Power at any time execute any document and perform any action necessary to give full effect to this Guarantee, whether prior or subsequent to performance of this Guarantee.

(iii) Waivers

Any failure or delay by Western Power to exercise any right or power under this Guarantee does not operate as a waiver and the single or partial exercise of any right or power by Western Power does not preclude any other or further exercise of that or any other right or power by Western Power.

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*Annexure B***APPENDIX 3A—TRANSITIONAL WESTERN POWER NETWORK STANDARD  
ACCESS CONTRACT****ELECTRICITY TRANSFER ACCESS CONTRACT****Parties**

**Electricity Networks Corporation ABN 18 540 492 861**, a statutory body corporate established under section 4(1)(b) of the *Electricity Corporations Act 2005 (WA)*, of 363 Wellington Street, Perth, Western Australia (**Western Power**)

– and—

[ ] of [ ] (**User**)

– and—

[ ] of [ ] (**Indemnifier**)

**Introduction****Background**

- (a) The User has made an Application requesting Covered Services at one or more Connection Points.
- (b) Western Power has made an Access Offer in accordance with the Applications and Queuing Policy to provide the Covered Services to the User.
- (c) The User has signed the Access Offer, which has become this Access Contract.
- (d) The Indemnifier has agreed to indemnify Western Power in respect of the User's liabilities under this Access Contract.<sup>1</sup>

**Operative Provisions****1. Interpretation****1.1 Interpretation**

In this Contract—

- (a) a reference to—
  - (i) the singular includes the plural and the plural includes the singular; and
  - (ii) an officer or body of persons includes any other officer or body for the time being exercising the powers or performing the functions of that officer or body; and
  - (iii) this Contract or any other instrument includes any variation or replacement of it; and
  - (iv) “**under**” includes “**by**”, “**by virtue of**”, “**pursuant to**” and “**in accordance with**”; and
  - (v) “**day**” means a calendar day; and
  - (vi) “**person**” includes a public body, company, or association or body of persons, corporate or unincorporated; and
  - (vii) a person includes a reference to the person's personal representatives, executors, administrators, successors and permitted assigns; and
  - (viii) any monetary amount means that amount in Australian dollars,
 and
- (b) a word of any gender includes the corresponding words of each other gender; and
- (c) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day; and
- (d) “**copy**” includes a, photocopy or (subject to the Electronic Communications Protocol in Schedule 7) electronic copy; and
- (e) “**including**” and similar expressions are not words of limitation; and
- (f) where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning; and
- (g) where information is set out in braces (namely “{” and “}”), whether or not preceded by the expression “**Note**”, “**Outline**” or “**Example**”, the information—
  - (i) is provided for information only and does not form part of this Contract; and
  - (ii) is to be disregarded in interpreting this Contract; and
  - (iii) might not reflect amendments to this Contract or other documents or Laws,
 and

- (h) a reference to—
- (i) this Contract includes any Schedule to this Contract; and
  - (ii) a clause is a reference to a clause of this Contract; and
  - (iii) a series of consecutive clauses or Schedules is to be read as inclusive of the first and last in the series; and
  - (iv) “**other party**”, in relation to the Indemnifier, means Western Power.

### 1.2 Interpretation Act applies

Unless the contrary intention is apparent, the rules of interpretation in the *Interpretation Act 1984* (WA) apply to the interpretation of this Contract.

### 1.3 CPI adjustment

In this Contract, “**CPI-Adjusted**” in reference to an amount means that amount is adjusted under the following formula—

$$N = C \times \left(1 + \frac{CPI_n - CPI_c}{CPI_c}\right)$$

where—

- “**N**” is the new amount being calculated; and
- “**C**” is the current amount being adjusted; and
- “**CPI<sub>n</sub>**” is the CPI applicable at the end of the calendar quarter (quarter <sub>n</sub>) most recently ended prior to the current adjustment date; and
- “**CPI<sub>c</sub>**” is the value of CPI applicable for the calendar quarter occurring 12 months before the calendar quarter referred to in the definition of **CPI<sub>n</sub>**.

## 2. Duration

### 2.1 Commencement and Term

- (a) This Contract commences on the Commencement Date.
- (b) This Contract ends on the Termination Date (unless terminated earlier under this Contract).

### 2.2 Option to extend Term

- (a) Subject to clause 2.2(b), the User may, by notice to Western Power given no later than 6 months prior to the expiration of the Term as at the time the notice is given, elect to extend the Term by such period as is specified in Part 2 of Schedule 2 as the “**Extension Period**”, in which event the Termination Date shall be the last day of the Extension Period.
- (b) The Term shall not in any event be extended such that the Termination Date is later than the date specified in Part 2 of Schedule 2 as the “**Latest Termination Date**”, except by mutual agreement between the Parties.

### 2.3 Conditions Precedent

- (a) The formation of this Contract, other than this clause 2.3 and clauses 29.1 to 29.5 {disputes}, 31.1 to 31.2 {assignment}, 33.1 to 33.10 {confidentiality}, 35 {notices} and 37.14 {governing law} is subject to and conditional upon each of the Conditions Precedent being satisfied on or before the date specified in Part 3 of Schedule 2 or—
  - (i) where a Condition Precedent is not specified to be for the benefit of a particular Party, that Condition Precedent being waived by agreement between all Parties; and
  - (ii) where a Condition Precedent is specified to be for the benefit of a particular Party, that Condition Precedent being waived by that Party,
 on or before the respective date specified in Part 3 of Schedule 2.
- (b) Where a Condition Precedent is not specified to be for the benefit of a particular Party, each of the Parties must use all reasonable endeavours to obtain the fulfilment of the Condition Precedent.
- (c) Where a Condition Precedent is specified to be for the benefit of a particular Party, that Party must use all reasonable endeavours to obtain the fulfilment of the Condition Precedent and the other Party shall not, by wilful act or omission, prevent its fulfilment.
- (d) A Party must promptly notify the other Parties if it—
  - (i) discovers that any of the Conditions Precedent are not satisfied by the date specified in Part 3 of Schedule 2; or
  - (ii) discovers that any of the Conditions Precedent have become incapable of being satisfied by the date specified in Part 3 of Schedule 2; or
  - (iii) waives any right to continue to treat any of the Conditions Precedent as conditions precedent to the formation of this Contract.
- (e) If a Condition Precedent is not satisfied or waived by the date specified in Part 3 of Schedule 2 (or such longer period as the Parties may in writing agree) then, if the Party who seeks to terminate this Contract has complied with clause 2.3(b) or 2.3(c), as the case requires, that Party may, without prejudice to any other right or remedy it may have, terminate this Contract by giving written notice to the other Party.

## ELECTRICITY TRANSFER PROVISIONS

### 3. Services

#### 3.1 Provision and use of Services

- (a) For each Connection Point, on and from the Start Date and up to and including the End Date, subject to and under this Contract—
  - (i) Western Power must provide the Services (up to the Contracted Capacity); and
  - (ii) the User must pay the Charges for, and may use, the Services.
- (b) The User must not—
  - (i) transfer electricity out of the Network at a Connection Point unless it has an Exit Service or Bidirectional Service for that Connection Point; and
  - (ii) transfer electricity into the Network at a Connection Point unless it has an Entry Service or Bidirectional Service for that Connection Point.
- (c) For each Service at each Connection Point, the User must endeavour, as a Reasonable and Prudent Person, to ensure that the rate at which electricity is transferred into or out of the Network by or on behalf of the User does not exceed the Contracted Capacity for that Service. This clause 3.1(c) does not relieve the User of the User's obligation to comply with clause 16 or clause 25.
- (d) Western Power provides the Services under this Contract to the User and does not provide any such Services to the Indemnifier. Western Power's sole liability in connection with the provision of the Services (including any failure of, or defect in provision of the Services) is to the User and Western Power has no liability of any nature to the Indemnifier in connection with the provision of the Services.
- (e) The Contracted Capacity for an Entry Service or an Entry Service Component at a Connection Point represents the maximum Capacity of the Network to accept a transfer of electricity into the Network at that Connection Point in the absence of a Constraint.
- (f) The actual amount of electricity which may be transferred into the Network at any point in time is subject to the Constraints affecting the Network from time to time. Constraints may, without limitation, be caused by the technical limitations and configuration of the Network, the actions or omissions of Generators or Customers or by factors external to the Network and may increase over time as additional Generators or Customer are connected to the Network.
- (g) Without limiting Western Power's obligation to operate the Network in accordance with Good Electricity Industry Practice, Laws and the Technical Rules, Western Power has no obligation to the User to ensure Constraints do not occur or arise.
- (h) Despite any other provision of this Contract, the Capacity of the Network to accept the transfer of electricity at a Connection Point pursuant to an Entry Service or Entry Service Component is only available to be utilised by the User on a non-exclusive or non-firm basis and the User has no exclusive or firm right or entitlement to use all or any part of the available Capacity of the Network in priority to any other Generator or other person who transfers electricity into the Network.
  - (i) Nothing in this clause limits the operation of clause 25.

#### 3.2 User may select Services

- (a) The User may from time to time give notice to Western Power seeking to change the Service in respect of a Connection Point in accordance with the Applications and Queuing Policy.
- (b) If Western Power receives a notice from the User under clause 3.2(a), then Western Power must process that request in accordance with the Applications and Queuing Policy.

#### 3.3 Eligibility Criteria

- (a) Subject to clause 3.3(b), the User must in relation to each Reference Service Point, comply with the Eligibility Criteria applicable to the Reference Service provided, or to be provided, at the Reference Service Point.
- (b) The User is not in breach of clause 3.3(a) to the extent the User is unable to comply with its obligation under clause 3.3(a) as a result of a breach by Western Power of clause 3.2(b).

#### 3.4 Increase or decrease of Contracted Capacity

- (a) The User may not increase or decrease the Contracted Capacity at an existing Connection Point to this Contract unless the User makes an application to Western Power and Western Power approves that application under the Applications and Queuing Policy.
- (b) If the User makes an application to Western Power under clause 3.4, then Western Power must process the application under the Applications and Queuing Policy.

#### 3.5 Addition of a Connection Point

- (a) The User may not add an additional Connection Point to this Contract unless the User makes an application to Western Power, and Western Power approves that application, under—
  - (i) the Applications and Queuing Policy; or
  - (ii) the Customer Transfer Code,as applicable.

- (b) If the User makes an application to Western Power under clause 3.5, then Western Power must process the application under—
  - (i) the Applications and Queuing Policy; or
  - (ii) the Customer Transfer Code,as applicable.

### **3.6 Deletion of a Connection Point**

- (a) The User may give notice to Western Power seeking to delete a Connection Point from this Contract where—
  - (i) a transfer request has been made in relation to the Customer for that Connection Point under the Customer Transfer Code; or
  - (ii) the Connection Point will be added to another Access Contract by some other means to that stipulated in clause 3.6(a)(i); or
  - (iii) the Facilities and Equipment in respect of the Connection Point will be permanently Disconnected from the Connection Point.
- (b) If the User seeks to permanently Disconnect any Facilities and Equipment at a Connection Point, then the notice under clause 3.6(a) must be given to Western Power—
  - (i) for Generating Plant, excluding Generating Plant up to and including 30 kVA which is being used to offset load, at a Connection Point, at least 6 months before the planned Disconnection; and
  - (ii) for Consuming plant and Generating Plant up to and including 30 kVA which is being used to offset load, at a Connection Point, at least one month before the planned Disconnection.
- (c) Clause 3.6(b) does not limit, and applies in addition to, the requirement the User and Western Power comply with their obligations (including timeframe service standards) specified in the model service level agreement under the Metering Code (to the extent that model service level agreement applies to the User and Western Power) in respect of any supply abolishment service required to give effect to a permanent Disconnection of Facilities and Equipment.
- (d) Subject to clause 3.6(e), if Western Power receives a notice from the User under clause 3.6(a), then it must notify the User that it accepts the deletion, and the date that the deletion takes effect, if—
  - (i) Western Power has successfully processed a Customer transfer request in relation to the Connection Point under the Customer Transfer Code; or
  - (ii) the Connection Point has been added to another Access Contract by some other means; or
  - (iii) the Facilities and Equipment in respect of the Connection Point have been permanently Disconnected from the Connection Point,as soon as reasonably practicable, otherwise Western Power may notify the User as soon as reasonably practicable that it rejects the deletion.
- (e) Clause 3.6(d) does not limit the requirement the User and Western Power comply, in respect of any supply abolishment service required to give effect to a permanent Disconnection, with their obligations (including timeframe service standards) specified in the model service level agreement under the Metering Code (to the extent that model service level agreement applies to the User and Western Power).
- (f) Subject to the Customer Transfer Code, Western Power must not delete a Connection Point other than in accordance with a notice given by a User under clause 3.6.
- (g) If Western Power commits a breach of clause 3.6(f) in circumstances that constitute Wilful Default it is liable to the User for any damage caused by, consequent upon or arising out of the Wilful Default. In this case, the exclusion of Indirect Damage in clause 19.3 does not apply.

### **3.7 Amendment to Connection Point data**

- (a) Unless the Parties otherwise agree, Western Power must, as soon as reasonably practicable, record the information referred to in Part 1 of Schedule 3, with respect to each Connection Point, in the Connection Point Database.
- (b) Subject to clauses 3.7(g) and 3.7(h), Western Power must, as soon as reasonably practicable, update the information contained in a Connection Point Database following any variation made under this clause 3.
- (c) Upon request by the User for information referred to in the Connection Point Database, Western Power will, as soon as reasonably practicable, provide to the User the most up-to-date version of that information.
- (d) The Parties acknowledge that if the User is a Metering Code Participant, for each Connection Point Western Power must also record and update the relevant information required under Part 1 of Schedule 3 in the Metering Database in accordance with the provisions of the Metering Code and, to the extent that a timeframe is not specified in the Metering Code or a service level agreement in force between the User and Western Power, Western Power must do so as soon as is reasonably practicable.

- (e) Nothing in this Contract restricts or prohibits Western Power from maintaining and updating the Metering Database in accordance with the Metering Code.
- (f) Western Power will provide the User with access to the information in the Metering Database in accordance with the Build Pack.
- (g) Subject to clause 3.7(h), where Western Power causes a Permanent Reconfiguration of the Network which results in the information contained in the Contract Database having to be updated—
  - (i) Western Power is not required to update the information contained in the Connection Point Database before the next 1 July following the Permanent Reconfiguration of the Network; and
  - (ii) Western Power must update the information contained in the Connection Point Database before the next 21 July following the Permanent Reconfiguration of the Network.
- (h) Where a Permanent Reconfiguration of the Network occurs as a result of, or arising from, a notice or application by the User under clauses 3.4, 3.5 or 3.6 which results in the information contained in the Contract Database having to be updated—
  - (i) clause 3.7(g) does not apply;
  - (ii) Western Power must update the information contained in the Connection Point Database as soon as reasonably practicable after the Permanent Reconfiguration of the Network; and
  - (iii) where the information to be updated is contained in Part 1 of Schedule 3, then the information must be updated in accordance with clause 37.2.
- (i) The Parties must notify each other of any errors discovered in the Connection Point Database as soon as reasonably practicable after becoming aware of the error.
- (j) Western Power must amend any error in the Connection Point Database as soon as reasonably practicable after becoming aware of the error, provided that if Western Power becomes aware of an error otherwise than by notice from the User under clause 3.7(i), no amendment shall be made until Western Power has given notice to the User of the error.
- (k) Where under this Contract Western Power has recorded information in more than one of Part 1 of Schedule 3, the Metering Database and any other database maintained by Western Power for the purposes of this Contract and there is an inconsistency or conflict between the information in the databases in which the information is recorded, then the following order of precedence applies, from highest to lowest—
  - (i) where the circumstances in clauses 3.7(g) or 3.7(h) apply—
    - (A) Part 1 of Schedule 3;
    - (B) any other database;
    - (C) the Metering Database; and
  - (ii) in all other circumstances—
    - (A) the Metering Database;
    - (B) Part 1 of Schedule 3;
    - (C) any other database.
- (l) Western Power must notify the User as soon as reasonably practicable upon becoming aware that a Connection Point has reverted to the User as a default supplier retailer (being a retailer of the type contemplated in section 59 of the Act).

#### **4. The User must provide forecast information**

##### **4.1 Western Power may request information**

Western Power may as a Reasonable and Prudent Person, in respect of a Connection Point, request power and energy forecast information from the User.

##### **4.2 When Western Power may request information**

A request under clause 4.1 must not be made more than once in any 12 month period, except in an Emergency or where any forecasts provided by the User materially differ from the User's actual performance and, in the opinion of Western Power (as a Reasonable and Prudent Person), require revision in order to facilitate the operation of the Network in accordance with Good Electricity Industry Practice.

##### **4.3 User must comply with request**

The User must comply with Western Power's reasonable request under clause 4.1.

#### **5. Title to electricity**

##### **5.1 Transfer into the Network**

Title to electricity that is transferred into the Network at a Connection Point passes from the User to Western Power at the time it passes through the Connection Point.

##### **5.2 Transfer out of the Network**

Title to electricity that is transferred out of the Network at a Connection Point passes from Western Power to the User at the time it passes through the Connection Point.

## 6. Controllers

### 6.1 User must nominate Controller where Connection Point exceeds threshold

- (a) If the User is not the Controller of a Connection Point then the User must, by notice to Western Power before the Start Date of the relevant Services, or as soon as reasonably practicable thereafter (but in all cases no later than 30 Business Days after the Start Date of the relevant Services), nominate a person as the Controller for a Connection Point where—
  - (i) Generating Plant with installed capacity exceeding 30 kVA is connected at the Connection Point; or
  - (ii) the Connection Assets for the Connection Point are operated at 66 kV or greater; or
  - (iii) the rating of the largest motor connected at the Connection Point is greater than 0.4% of the three phase short circuit fault level at the Attachment Point.
- (b) The User may, from time to time, by notice to Western Power, change the person the User nominates as the Controller of a Connection Point.
- (c) The Parties must amend the Connection Point Database following any variation made under this clause 6.1.
- (d) Western Power, acting as a Reasonable and Prudent Person, may at any time on reasonable technical or commercial grounds object to a person nominated by the User as a Controller under clause 6.1, in which case the User must either—
  - (i) Dispute Western Power's objection; or
  - (ii) nominate a different person as a Controller.
- (e) If Western Power requires, the User must use reasonable endeavours to procure that the person nominated by the User as a Controller enters into a Connection Contract with Western Power in respect of the Connection Point.
- (f) If the User requests Western Power to do so, Western Power must use reasonable endeavours and act in good faith to enter into a Connection Contract with a Controller (validly nominated by the User under clause 6.1(a)) in respect of the Connection Point.

### 6.2 Where the User is not the Controller

- (a) Subject to clause 6.2(g), if the User is not the Controller of a Connection Point, and the Controller of that Connection Point has not entered into a Connection Contract with Western Power in respect of the Connection Point, then the User must ensure that the Controller of that Connection Point complies, and will continue to comply, with the obligations set out in this Contract, to the extent that such compliance is reasonably necessary for the Parties to satisfy their obligations under this Contract, including, but not limited to—
  - (i) clause 11 (Good Electricity Industry Practice); and
  - (ii) clause 12 (Technical Rules and Registered Generator Performance Standards); and
  - (iii) clause 13 (Technical characteristics of Facilities and Equipment); and
  - (iv) clause 14 (Cooperation); and
  - (v) clause 15 (Access to premises); and
  - (vi) clause 16 (Network Constraints); and
  - (vii) clause 17 (Removal of equipment); and
  - (viii) clause 25 (Curtailment); and
  - (ix) clause 35 (Notices).
- (b) If the User is not the Controller of a Connection Point, and the Controller of that Connection Point has not entered into a Connection Contract with Western Power in respect of the Connection Point, then the User must ensure that it enters into a contract with the Controller obliging the Controller to comply with the obligations set out in this Contract (to the extent set out in clause 6.2(a)) and that such contract entered into between the User and a Controller relating to Services under this Contract contains a provision—
  - (i) that neither the User nor Western Power is in any circumstances liable for Indirect Damage suffered by the Controller, however arising, excluding any damage caused by, consequent upon or arising out of fraud; and
  - (ii) under which the Controller covenants in favour of Western Power (which covenant is expressed to be enforceable by Western Power in accordance with section 11 of the *Property Law Act 1969 (WA)*) that it will not bring a claim against Western Power for such Indirect Damage and will not bring a claim which will result in Western Power's aggregate liability to the Controller and the User, under or in connection with this Contract or the Services provided under or in connection with this Contract, exceeding the monetary cap on Western Power's liability in clause 19.5(a).
- (c) The exclusion of Indirect Damage in clause 19.3 does not apply to a failure by the User to ensure that its contract with the Controller contains the covenant referred to in paragraph (ii) above.
- (d) On reasonable request from Western Power, the User must (unless the Controller has already entered into a Connection Contract with Western Power) provide evidence to Western Power's satisfaction as a Reasonable and Prudent Person that the User is complying, and will continue to comply, with clause 6.2(a).

- (e) If the User does not satisfy Western Power under clause 6.2(d), Western Power may refuse to commence the Services or may Curtail the provision of Services in respect of the relevant Connection Point unless and until—
  - (i) the Controller has entered into a Connection Contract with Western Power in respect of the Connection Point; or
  - (ii) the User satisfies Western Power under clause 6.2(d).
- (f) For the avoidance of doubt, if the User is in breach of clause 6.2(a), then the User is liable for, and must indemnify Western Power pursuant to clause 19.2 against any Direct Damage caused by, consequent upon or arising out of the acts and omissions, negligent or otherwise, of the Controller to the extent that the acts or omissions, negligent or otherwise, of the Controller are attributable to that breach, unless the Controller has entered into a Connection Contract with Western Power.
- (g) Subject to clause 6.2(h), the User is required to commence, maintain or continue legal proceedings to procure compliance of the Controller with the obligations set out in this Contract, to the extent that such compliance is reasonably necessary for the Parties to satisfy their obligations under this Contract.
- (h) For a Connection Point other than as referred to in clause 6.1, the User is not required to comply with clause 6.2(g) unless Western Power provides an indemnity to the User for all of the User's costs of and incidental to the proceedings.
- (i) Nothing in clause 6.2(g) or clause 6.2(h)—
  - (i) limits the User's obligations under the remainder of this clause 6.2; or
  - (ii) derogates from Western Power's other rights under this Contract including its rights under clause 6.2(e), or requires Western Power to pay any compensation to the User for exercising any of those rights.

### **6.3 Western Power may enter into Access Contracts**

Nothing in clause 6.2 is to be taken to prevent Western Power from entering into an Access Contract with any person, including a person who is a Controller.

### **6.4 Liability and Force Majeure not limited**

Nothing in clause 6.2 limits the operation of clauses 19.2 or 22.1 in respect of either the User or Western Power.

## **7. Tariff and Charges**

### **7.1 Tariff**

- (a) The tariff payable under this Contract for a Service is the tariff, or tariffs, as applicable, specified in the Approved Price List from time to time for the Service. For the avoidance of doubt, the tariffs specified in the Approved Price List apply to all consumption during the Pricing Year applicable to the Approved Price List. Where consumption is metered with an accumulation meter and the meter reading interval causes some of the metered consumption to lie within the Pricing Year applicable to the Approved Price List and the remainder within a Pricing Year applicable to another Approved Price List, the consumption covered by the Approved Price List will be determined by prorating the metered consumption uniformly on a daily basis.
- (b) If—
  - (i) no Approved Price List is published by the Authority on the date required under the Code; or
  - (ii) a purported Price List which does not comply with the Access Arrangement is published as an Approved Price List,then to the extent that the effect of a Price List (if it had been published on the date required under the Code and had been compliant with the Access Arrangement) would have been to reduce the Tariff payable by the User, then the User may recover the Tariff reduction as an overpayment under clause 8.6.
- (c) If applicable, the Tariff payable under clause 7.1(a) for a Service after the end of the current Access Arrangement period is to be determined as follows—
  - (i) if the new Access Arrangement contains a Reference Service ("**Equivalent Reference Service**") which is materially the same as the Service then the tariff for the Service is to be the tariff for the Equivalent Reference Service; and
  - (ii) if the new Access Arrangement does not contain an Equivalent Reference Service, or if for any reason there is no new Access Arrangement or new Approved Price List under the new Access Arrangement, then the tariff for each quarter will be the Tariff in the final Approved Price List under the previous Access Arrangement, CPI-Adjusted annually each 1 July (or if there was no Approved Price List under the previous Access Arrangement, the Tariff in the final Price List which Western Power was required to publish under the previous Access Arrangement, CPI-Adjusted annually each 1 July).
- (d) Clause 7.1(c) applies, with appropriate modifications, in respect of the end of each successive Access Arrangement period.
- (e) Western Power must notify the User of the Tariffs calculated from time to time under clause 7.1(c).



- (f) For the purposes of calculating Tariffs and Charges for a Service—
- (i) Western Power is entitled to rely on the information contained in the Contract Database (as updated from time to time in accordance with this Contract); and
  - (ii) where information contained in the Contract Database is updated, or to be updated, in accordance with this Contract, the updated information—
    - (A) will not apply to any period before; and
    - (B) must not be used to calculate a Tariff or Charge until, the date that the information is actually updated in accordance with this Contract.

## 7.2 Charges

The User must pay to Western Power—

- (a) the Charge for each Service calculated at the Tariff determined under clause 7.1.
- (b) Nothing in this clause 7.2 prevents Western Power from recovering any other monies otherwise payable by the User to Western Power under this Contract or at Law.

## 7.3 Charges during Western Power's Force Majeure Event

- (a) If a Service (“Affected Service”) is unavailable for any consecutive period of two days or longer (“Affected Service Period”) due to a Force Majeure Event where—
  - (i) Western Power is the Affected Person;
  - (ii) the User is unable to use the Affected Service because of the Force Majeure Event; and
  - (iii) Western Power's inability to provide the Affected Service has not been caused by the User's default or negligence,

then, for that part of the Affected Service Period in which the User's Facilities and Equipment in respect of the Affected Service were not or would not have been subject to a scheduled or unscheduled outage by which the User's Facilities and Equipment were De-energised, the User is relieved of its obligation under clause 7.2 and instead must pay 10% of the “Standing Charges” (as defined in clause 7.3(b)) for the Affected Service during that part of the Affected Service Period.

- (b) Under this clause 7.3, Standing Charges means—
  - (i) those Charges or components of a Charge which apply to a Service regardless of the actual Generation or Consumption by the User in respect of that Service, as recorded by the Metering Equipment; and
  - (ii) is not those components of a Charge which are determined by reference to the actual Generation or Consumption by the User in respect of that Service, as recorded by the Metering Equipment.

## 8. Invoicing and payment

### 8.1 Western Power invoices

- (a) Subject to clause 8.1(d), Western Power must, within 14 Business Days after the end of an Accounting Period, issue to the User a Tax Invoice for the Accounting Period showing—
  - (i) all amounts payable by the User to Western Power under this Contract for the Accounting Period; and
  - (ii) all outstanding amounts as at the end of the Accounting Period and interest payable on those amounts; and
  - (iii) GST payable on those amounts under clause 8.8.
- (b) A Tax Invoice issued by Western Power under clause 8.1(a) or 8.1(d) may include other amounts payable by the User to Western Power with regards to the Service under this Contract or at Law.
- (c) At the same time as issuing a Tax Invoice under this clause 8.1, Western Power must provide to the User, in electronic form, the metering information used to calculate the Charges shown on the Tax Invoice in sufficient detail to enable the User to understand how Western Power calculated the Charges.
- (d) Notwithstanding clause 8.1(a), the Parties may, by mutual agreement, implement a different system of invoicing to that stipulated in clause 8.1(a) including, for example, issuing two or more Tax Invoices per Accounting Period, and separate invoicing for different classes or groups of consumers, Connection Points or Services.

### 8.2 User invoices

- (a) At the same time as Western Power issues to the User a Tax Invoice for an Accounting Period under clause 8.1, Western Power must provide the User with all information necessary for the User to determine any amounts payable by Western Power to the User for the Accounting Period.
- (b) The User must, within five Business Days after receiving the information under clause 8.2(a), issue to Western Power a Tax Invoice for the Accounting Period showing—
  - (i) all amounts payable by Western Power to the User under this Contract, which amounts may be calculated using the information provided to the User by Western Power under clause 8.2(a); and

- (ii) all outstanding amounts as at the end of the Accounting Period and interest payable on those amounts; and
- (iii) GST payable on those amounts payable under clause 8.8.
- (c) If the User Disputes the information provided by Western Power under clause 8.2(a), then—
  - (i) the User may issue a Tax Invoice under clause 8.2(b) for an amount the User (acting as a Reasonable and Prudent Person) estimates to be the correct amount payable; and
  - (ii) the User must, before the Due Date of the Tax Invoice under clause 8.2(b), give notice to Western Power that it Disputes the information provided under clause 8.2(a) and provide in that notice full details of the Dispute, including the difference between the amount for which the Tax Invoice has been issued by the User and the amount for which that Tax Invoice would have been issued had the information provided by Western Power under clause 8.2(a) been accepted by the User as correct.
- (d) Clause 8.4 applies in respect of a Tax Invoice issued under clause 8.2(b), for the purposes of which the “**Undisputed Portion**” is taken to be an amount calculated in accordance with the information provided by Western Power under clause 8.2(a).

### 8.3 Payment of invoices

- (a) Each Party which receives a Tax Invoice under clause 8.1 or 8.2, must on or before the Due Date of the Tax Invoice pay to the Party issuing the Tax Invoice all amounts shown on the Tax Invoice which are payable under this Contract.
- (b) If a Party fails to comply with clause 8.3(a) then, without prejudice to the other Party’s other rights, the Party must pay interest on any unpaid amount, calculated daily at the Prescribed Rate from the Due Date of the Tax Invoice until payment.

### 8.4 Disputed invoices

- (a) If a Party Disputes any amount set out in a Tax Invoice issued under clause 8.1 or 8.2 then that Party must pay the Undisputed Portion (if any) and must, prior to the Due Date of the Tax Invoice, give notice to the other Party that it Disputes the amount and provide in that notice full details of the Dispute.
- (b) Without prejudice to the other Party’s other rights, any amount withheld by a Party under clause 8.4(a) but subsequently found to have been payable attracts interest calculated daily at the Prescribed Rate from the Due Date of the Tax Invoice until payment.
- (c) Without prejudice to the other Party’s other rights, any amount paid by a Party under clause 8.4(a) but subsequently found not to have been payable attracts interest calculated daily at the Prescribed Rate from the date the Party paid the amount to the date the other Party repays the amount.

### 8.5 Charge errors

- (a) Nothing in this clause or elsewhere in this Contract affects or limits the operation of sections 65 and 66 of the *Energy Operators (Powers) Act 1979 (WA)* in relation to Charges paid or payable by the User under this Contract.

### 8.6 Under and over payments

- (a) Subject to clause 8.6(e), if a Party detects a Payment Error by a Party of any amount within 18 calendar months after the Payment Error—
  - (i) the Party must as soon as reasonably practicable give notice to the other Parties of the Payment Error; and
  - (ii) an adjusting payment must be made by the appropriate Party within 10 Business Days of the notice.
- (b) Except where clause 8.6(c) applies, the adjusting payment must, without prejudice to the Party’s other rights, include interest calculated daily at the Prescribed Rate from the date of the Payment Error until the date of the adjusting payment.
- (c) An adjusting payment by a Party will not attract interest under clause 8.6(b) if it is made in relation to an underpayment and the underpayment was the result of an error by the other Party.
- (d) Subject to clause 8.6(e), a Party is not entitled to an adjusting payment for a Payment Error notified to the other Parties after the expiry of 18 calendar months after the Payment Error.
- (e) Notwithstanding clauses 8.6(a) and 8.6(d), where—
  - (i) Payment Errors have occurred as a result of an error in the data used to calculate the Charges; and
  - (ii) the Payment Errors occurred in one or more Accounting Periods,the Party who was underpaid or who made an overpayment (as applicable) is entitled to an adjusting payment only for the Payment Errors that occurred in the Accounting Periods that were within the 12 month period preceding the date that the Payment Errors were notified by one Party to the other.
- (f) Where a Payment Error is an error as a result of which the amount set out in a Tax Invoice is less than what it would have been had the error not been made, the Payment Error will be taken to have occurred on the Due Date of the Tax Invoice.

- (g) Where a Payment Error is an error as a result of which the amount set out in a Tax Invoice is more than what it would have been had the error not been made, the Payment Error will be taken to have occurred on the date the User has paid the total amount of the Tax Invoice in full.

### 8.7 Interest on overdue payment

If a Party Defaults in due and punctual payment of a Tax Invoice—

- (a) clauses 27.1 to 28.1(d)(i) apply; and  
 (b) the overdue payments attract interest payable at the Prescribed Rate from the Due Date of the Tax Invoice until the Default is remedied.

### 8.8 GST

- (a) Unless expressly included, the consideration for any supply under or in connection with this Contract (including any Charge or Tariff derived from an Approved Price List and any Contribution) is GST exclusive.  
 (b) To the extent that any supply made under or in connection with this Contract is a taxable supply and the price for it (including any Charge or Tariff derived from a Approved Price List and any Contribution) is stated to be GST exclusive, the consideration for that supply is increased by an amount determined by the supplier, not exceeding the amount of the consideration (or its market value) multiplied by the rate at which GST is imposed in respect of the supply.  
 (c) Without limiting the obligation to provide a Tax Invoice under clauses 8.1 and 8.2, the supplier must issue a Tax Invoice to the recipient of a supply to which clause 8.8(b) applies before the payment of the GST inclusive consideration determined under that clause.  
 (d) If a Party is entitled under this Contract to be reimbursed or indemnified by another Party for a cost or expense incurred in connection with this Contract, the reimbursement or indemnity payment must not include any GST component of the cost or expense for which an input tax credit may be claimed by the Party entitled to be reimbursed or indemnified, or by its representative member.  
 (e) If a Party becomes aware of an adjustment event, that Party agrees to notify the other Party as soon as practicable after becoming so aware, and the Parties agree to take whatever steps are necessary, including the issue of an adjustment note, and to make whatever adjustments are required, to ensure that any GST or additional GST on that supply or any refund of any GST (or part of GST) is paid as soon as is practicable but no later than 10 Business Days after the Party has satisfied itself that the adjustment event has occurred.  
 (f) Definitions in the GST Act apply also in this clause 8.8 unless the context indicates otherwise.

### 9. Security for Charges

- (a) Subject to clause 9(b), if Western Power determines at any time during the Term that either or both of the User's or the Indemnifier's technical or financial resources are such that a Reasonable and Prudent Person would consider there to be a material risk that the User will be unable to meet its obligations under this Contract, then—
- (i) Western Power may require the User to within 15 Business Days nominate which of the User or the Indemnifier ("**Nominated Person**") is to provide security; and
  - (ii) within 15 Business Days of the User's nomination under clause 9(a)(i), the Nominated Person, at the User's election, must either—
    - (A) pay to Western Power a cash deposit equal to the Charges for two months' Services; or
    - (B) provide an irrevocable and unconditional bank guarantee or equivalent financial instrument in terms acceptable to Western Power (acting as a Reasonable and Prudent Person), guaranteeing or otherwise securing the Charges for two months' Services; or
    - (C) if Western Power is satisfied, as a Reasonable and Prudent Person, that the User's parent company's financial and technical resources are such that the User's parent company would be able to meet the User's obligations under this Contract (including because the User's parent company meets at least one of the credit ratings given in clauses 9(b)(i) and 9(b)(ii)), procure from the User's parent company a guarantee substantially in the form set out in Schedule 8.
- (b) If the User or the Indemnifier has an unqualified credit rating of at least—
- (i) BBB from Standard and Poor's Australia Pty Ltd; or
  - (ii) Baa from Moody's Investor Service Pty Ltd,
- and provides evidence to this effect to Western Power, then Western Power is not entitled to determine under clause 9(a) that the User's financial resources are such that there would be a material risk that the User will be unable to meet its obligations under this Contract.
- (c) If any security held by Western Power under clause 9(a)(ii)(A) or 9(a)(ii)(B) at any time is not equal to the Charges for two months' Services, then the Nominated Person must, within 15 Business Days of a written request by Western Power to the User—
- (i) if the security is a cash deposit under clause 9(a)(ii)(A), provide Western Power with an additional cash payment to increase the security so that it is equal to the Charges for two months' Services; or

- (ii) if the security is a guarantee under clause 9(a)(ii)(B), replace the guarantee with another guarantee (that is in accordance with clause 9(a)(ii)(B)) in an amount that is equal to the Charges for two months' Services.
- (d) If any security held by Western Power under clause 9(a)(ii)(A) or 9(a)(ii)(B) is called upon by Western Power or if that security ceases to be enforceable for any reason (including due to expiry of the security) then within 15 Business Days the Nominated Person must provide replacement security to Western Power complying with the requirements of clause 9(a)(ii).
- (e) Where a guarantee has been provided to Western Power by the User's parent company but Western Power ceases to be satisfied, as a Reasonable and Prudent Person, that the criteria in clause 9(a)(ii)(C) are met then by notice to the User Western Power may require the provision of a new form of security complying with the requirements of clause 9(a)(ii)(A) or 9(a)(ii)(B) which security must be provided within 15 Business Days of service of Western Power's notice.
- (f) Upon the termination of this Contract and receipt by Western Power of all amounts due by the User to it under this Contract Western Power will return to the User any security provided under this clause 9 which is still held by Western Power. Where the security provided to Western Power was a cash deposit, then Western Power will return to the User the unutilised balance of the cash deposit and interest accrued on the deposit less any charges (including fees and charges associated with maintaining the interest bearing account) and taxes attributable to the maintenance of the interest bearing account in which the cash deposit was kept.
- (g) Western Power may call upon a cash deposit or bank guarantee (or equivalent financial instrument) provided to it under this clause 9 if an amount due by the User to Western Power under this Contract is not paid by the due date for payment of that amount or, where this Contract does not specify a due date for payment, is not paid within 10 Business Days of Western Power issuing a notice to the User requiring payment of the amount.
- (h) In this clause 9, a reference to the Charges for two months Services means Western Power's reasonable estimate of the Charges which will be incurred by the User for the Services provided under this Contract in the next two calendar month period from the end of the next Accounting Period (that is, from the end of the Accounting Period which expires after the Accounting Period in which the User is notified of the current level of security it is required to provide).
- (i) Where security is provided to Western Power in the form of a cash deposit, then Western Power shall deposit the amount in an interest bearing account maintained with a financial institution, selected consistently with Western Power's policies, or with the Western Australian Treasury Corporation or other government body. Any interest which accrues on the cash deposit shall form part of the security however where, as at the end of a month, the aggregate amount of cash deposit held by Western Power (including interest and after deducting any fees, charges and taxes associated with maintaining the interest bearing account) exceeds the Charges for two months' Services Western Power will, within a reasonable time, pay the excess amount held (above the Charges for two months' Services) to the Customer's nominated bank account.
- (j) Where Western Power is required, under this Contract, to return the whole of a security held as a cash deposit then it will, within a reasonable time, return to the User the unutilised balance of the cash deposit and interest accrued less any charges (including fees and charges associated with maintaining the interest bearing account) and taxes attributable to the maintenance of the interest bearing account.
- (k) Nothing in this Contract is to be taken as imposing any obligation on Western Power to maximise or obtain any return on cash deposit amounts held by Western Power as security.

## **10. Security for Contribution**

Without limiting the User's security obligations related to clause 26, where Western Power has determined in accordance with the Contributions Policy that the User is required to provide an irrevocable and unconditional bank guarantee (or equivalent financial instrument) in terms acceptable to Western Power (acting as a Reasonable and Prudent Person), guaranteeing the present value of any amount of any Contribution to be made by the User that remains unpaid or unprovided as calculated by Western Power under the Contributions Policy, the Nominated Person must provide to Western Power the requested bank guarantee (or equivalent financial instrument).

Technical Compliance Provisions

## **11. Good Electricity Industry Practice**

### **11.1 Western Power must comply with Good Electricity Industry Practice**

Western Power must comply with Good Electricity Industry Practice when providing Services and performing its obligations under this Contract.

### **11.2 User must comply with Good Electricity Industry Practice**

The User must comply with Good Electricity Industry Practice in using the Services and performing its obligations under this Contract.

## **12. Technical Rules and Registered Generator Performance Standards**

### **12.1 Western Power and the User must comply**

- (a) Western Power and the User must each comply with the Technical Rules.
- (b) The User must ensure each Generating Plant of the User complies with the Registered Generator Performance Standards for that Generating Plant.
- (c) The User must comply with the Generator Monitoring Plan for each Generating Plant of the User.

**12.2 User to bear costs**

- (a) The User must bear its own costs in relation to compliance with the Technical Rules, the Registered Generator Performance Standards for the User's Generating Plant and each Generator Monitoring Plan for the User's Generating Plant.
- (b) Western Power must bear its own costs in relation to compliance with the Technical Rules.
- (c) Notwithstanding clause 12.2(b), where an act or omission of the User in breach of this Contract causes Western Power to incur extra costs in order to ensure Western Power complies with the Technical Rules, the User shall bear Western Power's reasonable extra costs so incurred to the extent that such costs are not already recovered from the User or any other person under any other arrangement, including the Contributions Policy.
- (d) Without limiting clause 12.2(c), where a User's equipment increases the fault levels in the Network, the User must bear Western Power's reasonable costs of any upgrades to the Network required under the Technical Rules to the extent that such costs are not already payable by the User under the Contributions Policy.
- (e) For the avoidance of doubt, the User is not liable for any costs incurred by another user of the Network arising from compliance by the other user with the Technical Rules.
- (f) If Western Power recovers costs referred to in clause 12.2(c) from another party in circumstances where the User has already paid them to Western Power, Western Power must refund those costs without interest to the User.

**12.3 Actions of third parties**

Subject to clause 6.2(f), if the actions of a third party cause a Party to breach the Technical Rules, then the Party is not in breach of the obligation in clause 12.1 to comply with the Technical Rules unless the Party has—

- (a) been negligent; or
- (b) has not acted as a Reasonable and Prudent Person.
- (c) Nothing in this clause 12.3 limits the operation of clauses 19.2 or 22 in respect of either Party.

**13. Technical characteristics of Facilities and Equipment**

- (a) The Parties must record—
  - (i) in Part 2 of Schedule 3 any technical information that the User was required to provide to Western Power under the Applications and Queuing Policy;
  - (ii) in Part 3 of Schedule 3 any exemptions to the Technical Rules given to the User under Chapter 1 of the Technical Rules; and
  - (iii) in Schedule 9—any Registered Generator Performance Standards for the User's Generating Plant that are Negotiated Performance Standards.
- (b) Each Party must record any other information required to be recorded in this Contract by the Technical Rules in Part 4 of Schedule 3—, or otherwise within a database maintained by that Party, and provide the other Parties with reasonable access to the information upon request by that Party.
- (c) The User must not materially modify any Generating Plant connected at a Connection Point unless—
  - (i) where such modification requires an Application under the Applications and Queuing Policy—
    - (A) the User makes such an Application; and
    - (B) the Application is processed by Western Power under the Applications and Queuing Policy, resulting in an Access Offer for the change, which the User accepted;
  - (ii) where such modification does not require an Application under the Applications and Queuing Policy and relates to a Generating Plant owned by a person other than a Small Customer—
    - (A) the User notifies Western Power of the modifications to the Generating Plant in writing at least 45 days prior to the modifications being made; and
    - (B) the modified Generating Plant does not adversely impact the safety or security of the Network.
- (d) For the purposes of clause 13(c)(ii) a modification is material only if—
  - (i) it involves expenditure of more than \$100,000; or
  - (ii) the modification is one which, consistently with Good Electricity Industry Practice, requires review by a duly qualified engineer before being made.
- (e) Notwithstanding clause 13(d), the replacement of like for like parts within a Generating Plant or the replacement of parts in the ordinary course of maintenance and repair is not a material modification for the purposes of clause 13(c)(ii).
- (f) If Western Power does not notify the User within 45 days of receipt of notice under clause 13(c)(ii) that the modification may adversely impact the safety or security of the Network the User may proceed to make the modification. However nothing in this clause derogates from the User's responsibility to ensure the Generating Plant complies with the requirements of this Contract including the obligations to comply with the Technical Rules.

## **14. Cooperation**

### **14.1 General Obligation to Co-operate**

The User and Western Power (each acting as a Reasonable and Prudent Person) must cooperate and coordinate with each other where reasonably necessary in relation to—

- (a) the planning, development, inspection, testing and commissioning of Facilities and Equipment for a Connection Point and Network Assets for the Network; and
- (b) the development and implementation of Maintenance schedules for Facilities and Equipment for a Connection Point and Network Assets for the Network.

### **14.2 System Operator Directions**

Without limiting the generality of clause 14.1, Western Power and the User must each comply with any directions given by the System Operator.

## **15. Access to premises**

### **15.1 Parties must allow reasonable rights of entry**

Each Party (“**Host Party**”) must allow, or use its reasonable endeavours to procure for, the other Party (“**Guest Party**”) all reasonable rights of entry to the Host Party’s premises—

- (a) for the purposes of constructing, installing, operating, maintaining and verifying the accuracy of any Metering Equipment or other equipment or thing; and
- (b) to inspect for safety or other reasons the construction, installation, operation, maintenance and repair of any Metering Equipment or other equipment or thing; and
- (c) for any other reasonable purpose connected with or arising out of this Contract.

### **15.2 Entry made at risk of Guest Party**

Any entry under clause 15.1 is made in all respects at the expense and risk of the Guest Party, who must, subject to clauses 19.3 and 19.5, make good any damage occasioned by or resulting from the entry, other than to the extent the damage is caused by—

- (a) fair wear and tear; or
- (b) the negligence or Default of the Host Party or any of its Workers or Visitors; or
- (c) a Force Majeure Event.

### **15.3 Guest Party obligations**

A Guest Party must—

- (a) before exercising a right of entry under clause 15.1, give reasonable notice to the Host Party specifying the purpose, proposed time and estimated duration of entry, except where it is not practicable to do so due to any Emergency; and
- (b) while exercising a right of entry under clause 15.1—
  - (i) act as a Reasonable and Prudent Person; and
  - (ii) without limiting clause 15.3(b)(i), take steps that are reasonable in the circumstances to ensure that during the entry its Workers and Visitors cause as little inconvenience to the Host Party as possible, except to the extent that it is not practicable to do so due to any Emergency, and at all times comply with—
    - (A) all reasonable health and safety standards, induction and supervision requirements and other requirements of the Host Party; and
    - (B) all reasonable and lawful directions by or on behalf of the Host Party.

### **15.4 Third person’s premises**

To the extent that any equipment or thing relevant to the obligations or rights of a Party under this Contract is located on the premises of a third person, the Parties must use their reasonable endeavours to secure for either or both of the Parties a reasonable right of entry to the third person’s premises.

## **16. Network Constraints**

### **16.1 Determining Impact of Constraints**

- (a) Western Power may, from time to time, give such advice and information to AEMO as Western Power considers, acting in good faith, is required to assist AEMO act and give directions to preserve Power System Reliability and address Constraints.
- (b) Western Power will, to the extent provided for in the WEM Rules and having regard to AEMO’s responsibilities under the WEM Rules, determine or assist AEMO to determine from time to time which Generators (and other operators of Facilities and Equipment which can transfer electricity into the Network) will have their ability to transfer electricity into the Network curtailed or interrupted from time to time given the nature of the Constraints affecting the Network and the actions required to preserve Power System Reliability in accordance with the WEM Rules.

### **16.2 AEMO Directions**

- (a) The User must reduce or cease its transfer of electricity into the Network at a Connection Point in accordance with any direction issued to the User by AEMO from time to time.
- (b) Without limiting clause 25 Western Power may, in accordance with Good Electricity Industry Practice, take such action as it considers is required to give effect to any direction issued by

AEMO relating to a reduction or cessation in the transfer of electricity into the Network at a Connection Point (whether that direction is given by AEMO to the User or to Western Power).

### **16.3 Western Power Directions**

Irrespective of whether AEMO has issued a direction referred to in clause 16.2 Western Power may Curtail the provision of Services to the User at one or more Connection Points where Western Power, in accordance with Good Electricity Industry Practice, considers that because of Constraints such Curtailment is necessary to preserve Power System Reliability and the supply of electricity to Customers.

### **16.4 Liability**

- (a) Except to the extent it has not acted in good faith, Western Power has no liability (whether in contract, tort (including negligence), for breach of statutory duty or on any other basis whatsoever) to the User for any Curtailment by Western Power under clause 16.3 or for any directions issued by AEMO (as contemplated by clause 16.2) which are made on the advice of, or using information provided by, Western Power.
- (b) Except to the extent it has engaged in a Wilful Default, Western Power has no liability to the User for any determinations, assessments, analysis or other work of any nature which Western Power undertakes in connection with determining the Capacity Credits or other entitlements under the WEM Rules to be allocated to the User (including without limitation for the impact any such acts or omissions of Western Power have on the User's entitlement to the provision of Services or entitlement to revenue from the Western Australian electricity market or otherwise) and the User agrees that Western Power has no duty of care to the User in contract or tort in respect of any action taken by Western Power in connection with the determination of Capacity Credits and other entitlements under the WEM Rules.
- (c) If a failure by the User to comply with this clause 16 causes Western Power to incur any liability to a third party then the User is liable to Western Power for and must indemnify Western Power against any liability Western Power incurs to that third party and any costs Western Power incurs in defending any Claim by such third party. The exclusion of Indirect Damage in clause 19.3 does not apply to the indemnity in this clause 16.4(c).

### **16.5 Intermediary**

If a person is registered under the WEM Rules as the User's Intermediary in respect of a Connection Point then the User is responsible for ensuring that person complies with all obligations in the WEM Rules compliance with which is required to ensure the User complies with this clause 16 and is liable to Western Power for all acts or omissions of such person relating to any directions given by AEMO or Western Power as contemplated by this clause 16.

### **17. Removal of equipment**

On the permanent Disconnection of Facilities and Equipment at any Connection Point—

- (a) Western Power may dismantle, decommission and remove Western Power's Works and any Metering Equipment installed on the User's Premises; and
- (b) under Western Power's reasonable instructions, the User must dismantle and decommission or remove any of the User's Works at or connected to the Connection Point.

## **COMMON PROVISIONS**

### **18. Representations and warranties**

#### **18.1 The User's representations and warranties**

- (a) The User represents and warrants to Western Power that—
  - (i) the User has complied with the Applications and Queuing Policy in the Access Arrangement and the requirements in the Code in respect of its Application under the Access Arrangement provided that the User will not be taken to be in breach of this warranty because of a failure by the User to comply with the Applications and Queuing Policy or the Code which is the direct result of a breach by Western Power of the Applications and Queuing Policy or the Code; and
  - (ii) the User's obligations under this Contract are valid and binding and are enforceable against the User under their terms; and
  - (iii) this Contract and any other transaction under it does not contravene the User's constituent documents or any Law or any of the User's obligations or undertakings by which the User or any of the User's assets are bound or cause to be exceeded any limitation on the User's or the User's directors' powers; and
  - (iv) 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).
- (b) The representations and warranties in clause 18.1(a) are to be taken to be made on each day on which—
  - (i) this Contract is in effect; or
  - (ii) any amount payable by the User to Western Power under this Contract is or may be outstanding.

- (c) To the maximum extent permitted by Law, the only warranties given by and terms which apply to the User under this Contract are those expressly contained in this Contract, and all warranties and terms implied by Law, including those on the part of the User implied by the *Competition and Consumer Act 2010* of the Commonwealth or the *Fair Trading Act 2010 (WA)* or any other Law to similar effect do not apply to this Contract.
- (d) If at Law the exclusion of any warranty or term is prohibited, then the User'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 the User 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 User's liability will be so limited.

### **18.2 Western Power's representations and warranties**

- (a) Western Power represents and warrants to the User that—
  - (i) Western Power has complied with the Applications and Queuing Policy in the Access Arrangement and the requirements in the Code in respect of the User's Application under the Access Arrangement provided that Western Power will not be taken to be in breach of this warranty because of a failure by Western Power to comply with the Applications and Queuing Policy or the Code which is the direct result of a breach by the User of the Applications and Queuing Policy or the Code; and
  - (ii) Western Power's obligations under this Contract are valid and binding and are enforceable against Western Power under their terms; and
  - (iii) this Contract and any other transaction under it does not contravene Western Power's constituent documents or any Law or any of Western Power's obligations or undertakings by which Western Power or any of Western Power's assets are bound or cause to be exceeded any limitation on Western Power's or Western Power's directors' powers; and
  - (iv) neither Western Power 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).
- (b) The representations and warranties in clause 18.2(a) are to be taken to be made on each day on which—
  - (i) this Contract is in effect; or
  - (ii) any amount payable by Western Power to the User under this Contract is or may be outstanding.
- (c) To the maximum extent permitted by Law, the only warranties given by and terms which apply to Western Power under this Contract are those expressly contained in this Contract, and all warranties and terms implied by Law, including those on the part of Western Power implied by the *Competition and Consumer Act 2010 (Cth)* of the Commonwealth or the *Fair Trading Act 2010 (WA)* or any other Law to similar effect do not apply to this Contract.
- (d) If at Law the exclusion of any warranty or term is prohibited, then Western Power'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 Western Power 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 Western Power's liability will be so limited.

### **18.3 Indemnifier's representations and warranties**

The Indemnifier represents and warrants to Western Power that, as at the Commencement Date, there has been no material change in the Indemnifier's financial position since the date Western Power received information from the Indemnifier stating that position.

## **19. Liability and indemnity**

### **19.1 No several liability**

All parties constituting the User shall be liable under this Contract jointly, or jointly and severally, but not severally.

### **19.2 Liability for Direct Damage**

Subject to the terms of this Contract—

- (a) a Party who—
  - (i) is negligent; or
  - (ii) commits a Default under this Contract,
 is liable to the other Party for, and must indemnify the other Party against, any Direct Damage caused by, consequent upon or arising out of the negligence or Default; and
- (b) the Indemnifier must indemnify Western Power in respect of the liabilities of the User under this Contract.

### **19.3 Exclusion of Indirect Damage**

- (a) Subject to clause 19.3(b)—
  - (i) either or both of the User or the Indemnifier is not in any circumstances liable to Western Power for any Indirect Damage suffered by Western Power, however arising; and
  - (ii) Western Power is not in any circumstances liable to either or both of the User or the Indemnifier for any Indirect Damage suffered by the User, however arising.



- (b) Where this Contract states that “the exclusion of Indirect Damage in clause 19.3 does not apply”, or words to a similar effect, in relation to a matter, then—
- (i) the exclusion of Indirect Damage in clause 19.3 does not apply in relation to that matter; and
  - (ii) the Parties’ liability in relation to the matter is to be determined by Law, and to avoid doubt the definition of Indirect Damage in this Contract is to be disregarded for the purposes of that determination.

#### 19.4 Fraud

- (a) If Western Power is fraudulent in respect of its obligations to the User under this Contract, then Western Power is liable to either the User or the Indemnifier for, and is to indemnify both the User and the Indemnifier against, any damage caused by, consequent upon or arising out of the fraud. In this case, the exclusion of Indirect Damage in clause 19.3 does not apply.
- (b) If the User or the Indemnifier is fraudulent in respect of its obligations to Western Power under this Contract, then the User or the Indemnifier is liable to Western Power for, and is to indemnify Western Power against, any damage caused by, consequent upon or arising out of the fraud. In this case, the exclusion of Indirect Damage in clause 19.3 does not apply.

#### 19.5 Limitation of liability

- (a) Subject to clause 19.5(c), the maximum liability of Western Power to the User and the Indemnifier collectively under and in connection with this Contract is limited to an amount of \$5 million in the aggregate and refreshed annually each 1 July, except that the liability described in clauses 7, 8 and 20 are not counted for the purposes of Western Power’s maximum liability under this Contract.
- (b) Subject to clause 19.5(c), the maximum liability of both the User and the Indemnifier collectively to Western Power under and in connection with this Contract is limited to the lesser of—
  - (i) an amount of \$80 million in the aggregate, refreshed annually each 1 July; and
  - (ii) the sum of—
    - (A) for each Connection Point at which Generation Plant (other than wind or solar powered generation) is connected at a voltage of 66 kV and above—\$22 million in the aggregate, refreshed annually each 1 July; and
    - (B) for each Connection Point at which wind or solar powered Generation Plant is connected at a voltage of 66 kV or above—\$11 million in the aggregate, refreshed annually each 1 July; and
    - (C) for each Connection Point at which Generation Plant is connected at a voltage below 66 kV—\$1.2 million in the aggregate, refreshed annually each 1 July; and
    - (D) for each Connection Point at which Consuming plant is connected at a voltage of 66 kV and above—\$6 million in the aggregate, refreshed annually each 1 July; and
    - (E) for every 100 Connection Points at which Consuming plant is connected at a voltage below 66 kV—\$1.2 million in the aggregate, refreshed annually each 1 July,
 except that the liabilities described in clauses 7, 8 and 20 are not counted for the purposes of both the User’s and the Indemnifier’s collective maximum liability under this Contract.
- (c) The monetary caps on liability in this clause 19.5 will be CPI-Adjusted every three years from the Commencement Date, provided that for the purposes of such CPI adjustment the following formula will be used—

$$N = C \times \left(1 + \frac{CPI_n - CPI_c}{CPI_c}\right)$$

where—

- “N” is the new liability cap amount being calculated; and
  - “C” is the current liability cap amount being adjusted; and
  - “CPI<sub>n</sub>” is the CPI applicable at the end of the calendar quarter (quarter <sub>n</sub>) most recently ended prior to the adjustment date; and
  - “CPI<sub>c</sub>” is the value of CPI applicable for the calendar quarter occurring 36 months before the calendar quarter referred to in the definition of CPI<sub>n</sub>.
- (d) At the end of each three-year period from the Commencement Date, if there has been a Material Change affecting the liability of a Party under this Contract, then the Parties must negotiate in good faith to reset the monetary caps on liability in this clause. If the Parties are unable to agree on re-setting the monetary caps on liability, the matter shall be determined by an expert nominated by the Parties or, failing agreement, an expert nominated by the Resolution Institute and the determination of the expert shall be final and binding upon the Parties.

**19.6 Procedure for party seeking to rely on indemnity**

If any Claim is made or instituted against—

- (a) either or both of the User or the Indemnifier in respect of which either or both of the User or the Indemnifier (“**Indemnified Party**”) may seek to claim indemnity under this Contract against Western Power (“**Indemnifying Party**”); or
- (b) Western Power in respect of which Western Power (“**Indemnified Party**”) may seek to claim indemnity under this Contract against either or both of the User or the Indemnifier (“**Indemnifying Party**”),

the following procedure applies—

- (i) the Indemnified Party must give notice of the Claim to the Indemnifying Party as soon as reasonably practicable; and
- (ii) the Indemnified Party must not admit, compromise, settle or pay any Claim or take any other steps which may in any way prejudice the defence or challenge of the Claim without the prior written consent of the Indemnifying Party (which must not be unreasonably withheld) except as may be reasonably required in order to defend any judgment against the Indemnified Party (to avoid doubt, Part 1E of the *Civil Liability Act 2002 (WA)* applies in respect of any ‘apology’ (as defined in Section 5AF of that Act) given by the Indemnified Party); and
- (iii) the Indemnified Party must permit the Indemnifying Party to take, at the Indemnifying Party’s expense, any reasonable action in the name of the Indemnified Party to defend or otherwise settle the claim as the Indemnifying Party may reasonably require; and
- (iv) the Indemnified Party must ensure that the Indemnifying Party and its representatives are given reasonable access to any of the documents, records, staff, premises and advisers of the Indemnified Party as may be reasonably required by the Indemnifying Party in relation to any action taken or proposed to be taken by the Indemnifying Party under clause 19.6(b)(iii).

**19.7 Obligation to pay and right to indemnities survives termination**

- (a) A Party’s and the Indemnifier’s obligation to pay an amount to another Party under this Contract is a continuing obligation, separate and independent from the other obligations of either or both of the Party and the Indemnifier and survives termination (for any reason) of this Contract.
- (b) Each indemnity in this Contract is a continuing obligation, separate and independent from the other obligations of both the Parties and the Indemnifier and survives termination (for any reason) of this Contract. It is not necessary for either or both of a Party or an Indemnifier to incur expense or make payment before enforcing a right of indemnity conferred by this Contract.

**19.8 Apportionment of liability**

- (a) For the avoidance of doubt, where either or both of the User or the Indemnifier is liable to, or is to indemnify, the other Party under this Contract, the liability or indemnity owed by either or both of the User or the Indemnifier is limited to the proportion of the damage suffered by Western Power as a consequence of the Default, negligence or fraud of either or both of the User or the Indemnifier giving rise to the liability or indemnity.
- (b) For the avoidance of doubt, where Western Power is liable to, or is to indemnify, either or both of the User or the Indemnifier under this Contract, the liability or indemnity owed by Western Power is limited to the proportion of the damage suffered by either or both of the User or the Indemnifier as a consequence of the Default, negligence or fraud of Western Power giving rise to the liability or indemnity.
- (c) For the purposes of the application of the indemnity given by the Indemnifier under clause 19.2(b)—
  - (i) clause 19.8(a) may apply to reduce the User’s liability to Western Power and, consequently, the amount of liability for which the Indemnifier must indemnify Western Power;
  - (ii) except as provided in clause 19.8(c)(i), clause 19.8(a) does not apply to reduce the Indemnifier’s indemnification obligation.

**19.9 Mitigation of losses**

A Party and the Indemnifier must take such action as is reasonably required to mitigate any loss or damage to it for which indemnity may be claimed under this Contract or otherwise.

**19.10 Recoveries under insurance**

- (a) To the extent that Western Power recovers against any insurer under an insurance policy effected by either Party or the Indemnifier for a Claim in connection with this Contract in respect of which either or both of the User or the Indemnifier is liable, for any reason (including negligence), the amount as recovered shall, for the purposes of clause 19.5, be deemed to have been paid.
- (b) To the extent that the User recovers against any insurer under an insurance policy effected by either Party or the Indemnifier for a Claim in connection with this Contract in respect of which Western Power is liable, for any reason (including negligence), the amount as recovered shall, for the purposes of clause 19.5, be deemed to have been paid.

**19.11 Intermediary Indemnity [Note: Optional Clause]**

Where—

- (a) the User is the Intermediary (as defined in the WEM Rules) of a person and in so far as they are registered as a Rule Participant (as defined in the WEM Rules) and to the extent they perform the functions of an Intermediary; and
- (b) that person is not party to this Contract,  
then the User must indemnify and keep indemnified Western Power against any costs, expenses, losses or damages suffered or incurred by Western Power due to Claims made by that person against Western Power—
  - (i) which Claims are in connection with the provision of the Services (including any failure of, or defect in provision of, the Services); or
  - (ii) which Claims relate to a matter for which Western Power's liability to that person would have been limited or excluded had that person been party to this Contract (jointly with the User).

**20. Personal injury**

The liability for any personal injury Claim will be determined under Law.

**21. Insurances****21.1 The User's insurances**

- (a) Subject to clause 21.1(b), the User must obtain and maintain insurance, commencing from the Commencement Date, covering those matters, on the terms and basis, and for the amounts, referred to in Part 1 of Schedule 5.
- (b) To the extent that Western Power consents (such consent not to be unreasonably withheld), the User may self-insure for some or all of the matters and amounts referred to in Schedule 5.
- (c) For each Connection Point, prior to the Start Date of a Service at the Connection Point, and at such other times as Western Power shall reasonably request in writing (such request not to be made more than once in respect of a 12 month period unless extraordinary circumstances apply), the User must provide Western Power with certificates of currency for the insurances required under clause 21.1(a).

**21.2 Western Power's insurances**

- (a) Subject to clause 21.2(b), Western Power must obtain and maintain insurance, commencing from the Commencement Date, covering those matters, on the terms and basis, and for the amounts referred to in Part 2 of Schedule 5.
- (b) To the extent that the User consents (such consent not to be unreasonably withheld), Western Power may self-insure for some or all of the matters and amounts referred to in Part 2 of Schedule 5.
- (c) Western Power must, before the Commencement Date and at such other times as the User reasonably requests in writing (such request not to be made more than once in respect of a 12 month period unless extraordinary circumstances apply), provide the User with certificates of currency for the insurances required under clause 21.2(a).

**21.3 Names of insured**

In respect of the insurances referred to in Schedule 5 Part 1 (a)(i) (public and products liability insurance) and Schedule 5 Part 1 (a)(iv) (contractors' plant and equipment insurance) the insurance must list Western Power as an additional insured.

**21.4 Cross liability**

Every policy of public and products liability insurance must include a cross liability clause in which the insurer expressly accepts that the term insured applies to every person who is named in the policy as if there was a separate policy of insurance for each of them but not so as to increase the limit of liability.

**21.5 Notice of cancellation**

A Party must notify the other Party immediately on being advised by its insurer of cancellation or non-renewal of any of the insurance policies in Schedule 5, and immediately use all reasonable endeavours to reobtain the insurance policies in Schedule 5.

**21.6 Further obligation**

Both Parties and the Indemnifier must not do any act or make any omission that would be grounds for an insurer to refuse to pay a claim under any of the policies of insurance.

**22. Force Majeure****22.1 Affected Person's obligations are suspended**

If a Party ("Affected Person") is unable wholly or in part to perform any obligation ("Affected Obligation") under this Contract (other than an obligation to pay money) because of the occurrence of a Force Majeure Event, then, subject to this clause 22, the Affected Person's obligation to perform 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 the Force Majeure Event (such period being the "FM Period").

**22.2 When Services are Curtailed**

Without limiting clause 22.1, Western Power's obligation in respect of a Connection Point to provide the Services is suspended during any period that the provision of the Services in respect of that Connection Point is Curtailed under clause 25.1, to the extent of the Curtailment.

**22.3 Affected Person's obligations**

Subject to clauses 22.4 and 22.6, if a Force Majeure Event occurs and the Affected Person is unable wholly or in part to perform any obligation under this Contract, then the Affected Person must—

- (a) notify the other Party if the FM Period continues for a period of two days or longer; and
- (b) use reasonable endeavours (including incurring any reasonable expenditure of funds and rescheduling personnel and resources) to—
  - (i) mitigate the consequences of the Force Majeure Event; and
  - (ii) minimise any resulting delay in the performance of the Affected Obligation.

A notice under clause 22.3(a) must be given as soon as reasonably practicable and in any event within 5 Business Days of a Party becoming aware an event is or is likely to be a Force Majeure Event.

**22.4 In case of breach**

An Affected Person is not obliged to incur any expenditure in complying with clause 22.3(b) if the Force Majeure Event is constituted by a breach of, or failure to comply with, this Contract by the other Party.

**22.5 Failure to minimise delays**

If an Affected Person fails to comply with clause 22.3(b)(ii), then the only consequence of that failure is that the FM Period is reduced by the period of any delay in the performance of the Affected Obligation attributable to that failure.

**22.6 Settlement of a labour dispute**

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.

**23. Provisions of Access Arrangement on Supplementary Matters apply**

The provisions of the Access Arrangement in respect of Supplementary Matters apply also as terms of this Contract, to the extent they are relevant.

**24. User does not acquire interest in Network**

To avoid doubt, nothing in, and nothing done under or in connection with, this Contract causes the User to acquire any right, title or interest in or to the Network or any part of it.

**25. Curtailment****25.1 Western Power may Curtail Services**

Western Power may, in accordance with Good Electricity Industry Practice, Curtail the provision of Services in respect of a Connection Point—

- (a) to carry out planned Augmentation or Maintenance to the Network; or
- (b) to carry out unplanned Maintenance to the Network where Western Power considers it necessary to do so to avoid injury to any person or material damage to any property or the environment; or
- (c) if there is any breakdown of or damage to the Network that affects Western Power's ability to provide Services at that Connection Point; or
- (d) if a Force Majeure Event occurs affecting Western Power's ability to provide Services at the Connection Point, for so long as Western Power's ability to provide Services is affected by the Force Majeure Event; or
- (e) if Western Power considers it necessary to do so to preserve Power System Reliability; or
- (f) to the extent necessary for Western Power to comply with a Law.

**25.2 Extent of Curtailment**

Western Power must keep the extent and duration of any Curtailment under clause 25.1 or clause 16.3 to the minimum reasonably required in accordance with Good Electricity Industry Practice.

**25.3 Notification of Curtailment**

Western Power must use reasonable endeavours to notify the User of any Curtailment under clause 25.1 or clause 16.3 as soon as practicable.

**25.4 User must comply with Curtailment**

If Western Power notifies the User of a Curtailment of Services under clause 25.3 or clause 16.3 in respect of a Connection Point, the User (acting as a Reasonable and Prudent Person) must comply, or procure compliance, with any reasonable requirements set out in the notice concerning the Curtailment.

**25.5 Contract does not limit other powers and rights**

This Contract does not limit any power or right conferred on Western Power by any other agreement between the Parties or any Law, including Section 57 of the *Energy Operators (Powers) Act 1979 (WA)*.

**26. Payments and recoveries under the Contributions Policy**

The Parties must comply with the provisions set out in Schedule 4 regarding any Contributions.

**27. Default****27.1 Default**

A Party is in “Default” if—

- (a) that Party defaults in the due and punctual payment, at the time and in the manner required for payment by this Contract, of any amount payable under this Contract; or
- (b) that Party defaults in the due and punctual performance or observance of any of its obligations contained or implied by operation of Law in this Contract; or
- (c) an Insolvency Event occurs in respect of that Party; or
- (d) that Party materially breaches any representation or warranty given to the other Party under this Contract.

**27.2 Default by the User**

In the event of the User’s Default, then Western Power may—

- (a) notify the User of the User’s Default and require the User to remedy the User’s Default; or
- (b) if the User’s Default is a Default in the payment of any amount and has not been remedied by the end of the third Business Day after the notice was given, De-energise, or Curtail the provision of Services in respect of, all or any of the User’s Connection Points from the Network whilst the User’s Default is continuing; or
- (c) if the User’s Default is any other type of Default and at the end of the fifth Business Day after the notice was given—
  - (i) the User’s Default has not been remedied; or
  - (ii) the User has not to the reasonable satisfaction of Western Power begun remedying the User’s Default or has begun remedying but is not, in the reasonable opinion of Western Power, diligently proceeding to remedy the User’s Default,De-energise, or Curtail the provision of Services in respect of, all or any of the User’s Connection Points from the Network whilst the User’s Default is continuing; and
- (d) if the User’s Default has not been remedied at the end of the 20th Business Day after the notice was given, terminate this Contract.

**27.3 Immediate Suspension**

- (a) If the User breaches a Registered Generator Performance Standard for a Generating Plant of the User, or otherwise commits a breach of this Contract, which breach threatens Power System Reliability, Western Power’s ability to deliver electricity to Customers or Western Power’s ability to discharge its contractual obligations to other persons relating to the Network then Western Power may suspend the provision of Services to the User for the period Western Power considers, in good faith, is required to ensure there is no adverse impact upon Power System Reliability, Customers or Western Power’s remaining contractual counterparties.
- (b) If Western Power, in good faith, considers it can allow the User an opportunity to cure a breach referred to in clause 27.3(a) without adversely affecting Power System Reliability, Customers or Western Power’s remaining contractual counterparties it will do so (and will allow such period for remedy of the breach as Western Power in good faith considers it can so allow). However Western Power may implement an immediate suspension (and without prior notice) if it considers this necessary to ensure there is no adverse impact upon Power System Reliability, Customers or Western Power’s remaining contractual counterparties.
- (c) Western Power will lift a suspension under this clause 27.3 if satisfied, acting in good faith, that the User is able to, and will, comply with this Contract or if Western Power, in good faith, considers the suspension is no longer required to ensure there is no adverse impact upon Power System Reliability, Customers or Western Power’s remaining contractual counterparties.
- (d) Western Power’s rights under this clause 27.3 are in addition to its right under clause 27.2.

**27.4 Western Power’s rights not affected**

The User’s Default under clause 27.2 does not prejudice the rights or remedies accrued to Western Power at the date of the User’s Default.

**27.5 Default by Western Power**

If Western Power is in Default, the User may—

- (a) notify Western Power of Western Power’s Default and require Western Power to remedy the Default; and
- (b) if Western Power’s Default has not been remedied at the end of the 20th Business Day after the notice was given—
  - (i) terminate this Contract; or
  - (ii) withhold payment of any charges payable by the User from the date of Default under this Contract for so long as the Default continues unremedied (and no interest is payable by the User on any amounts so withheld provided they are paid within 10 Business Days after the Default is remedied).

**27.6 User's rights not affected**

Western Power's Default under clause 27.5 does not prejudice the rights or remedies accrued to the User at the date of Western Power's Default.

**28. Termination****28.1 Termination**

- (a) Subject to clause 28.1(b), this Contract terminates on the Termination Date.
- (b) This Contract may be terminated before the Termination Date by—
  - (i) written agreement between Western Power and the User; or
  - (ii) notice by either Party at any time at which this Contract does not include at least one Connection Point; or
  - (iii) notice by either Party where there is a Default by the other Party under this Contract, subject to clauses 27.2 or 27.5, as the case may be; or
  - (iv) notice by either Party to an Affected Person if a Force Majeure Event occurs and then—
    - (A) the Affected Person is unable wholly or in part to perform any obligation under this Contract; and
    - (B) the FM Period continues for a period of greater than 180 days in aggregate in any 12-month period.
- (c) On termination of this Contract Western Power may Disconnect any one or more of the User's Connection Points, permanently (under clause 17) or otherwise.
- (d) On termination of this Contract, unless otherwise agreed by the Parties—
  - (i) the User must pay any unpaid amount owed to Western Power pursuant to this Contract; and
  - (ii) Western Power must pay any unpaid amount owed to the User pursuant to this Contract.

**28.2 Rights of Parties not affected**

Termination of this Contract under clause 28.1(b) does not prejudice the rights or remedies accrued to either Party at the date of termination.

**29. Disputes****29.1 Party may give notice of Dispute and require Representatives' Meeting**

If a Dispute arises between the Parties, either Party may give to the other Party written notice setting out the material particulars of the Dispute and requiring duly authorised representatives of each Party to meet at a place, agreed between the Parties, within 10 Business Days of the date of receipt of such notice by the relevant Party ("**Receipt Date**"), to attempt in good faith by way of discussions and using their best endeavours to resolve the Dispute ("**Representatives' Meeting**") and the Parties must do so.

**29.2 Party may require CEO Meeting**

If the Dispute is not resolved (as evidenced by the terms of a written settlement signed by each Party's duly authorised representative) within 20 Business Days after the Receipt Date then either Party may, by written notice, require that the senior executive officer of each Party meet at a place agreed between the Parties within 30 Business Days after the Receipt Date and must attempt in good faith by way of discussions and using their best endeavours to resolve the Dispute within 35 Business Days after the Receipt Date ("**CEO Meeting**").

**29.3 Method of Meetings**

- (a) A Representatives' Meeting or CEO Meeting may be conducted in person, by telephone, video conference or similar method of real time communication.
- (b) If the Parties are unable to agree on a meeting place under clause 29.1 or 29.2 in the allocated time frame, the meeting will take place at a place determined by Western Power (acting as a Reasonable and Prudent Person).

**29.4 Party may commence court proceedings**

If, after complying with the process set out in clauses 29.1 and 29.2 a Dispute is not resolved, then either Party may commence an action to resolve the Dispute through litigation and other court processes.

**29.5 Obligations must be performed**

A Party must continue to perform its obligations under this Contract despite the existence of a Dispute, unless otherwise agreed.

**30. Set off****30.1 Party may set off payment**

A Party ("**First Party**") may set off any amount due for payment by it to the other Party under this Contract against any amount which is due for payment by the other Party to the First Party under this Contract.

**30.2 No other set off permitted**

Except as permitted in clause 30.1, no set off is permitted by either Party in connection with this Contract, whether under this Contract or otherwise.

**31. Assignment****31.1 Transfer of rights and obligations**

- (a) The User may, in accordance with the Transfer and Relocation Policy, request Western Power's consent to the User transferring or Assigning its rights or obligations under this Contract.
- (b) Without limiting clause 32, Western Power may transfer or Assign its rights or obligations under this Contract only if it has the consent of the User, which consent is not to be unreasonably delayed or withheld.
- (c) Without limiting the considerations the User may have regard to in determining whether to give consent such considerations include the financial and technical capacity of any person who is proposed to assume Western Power's obligations under this Contract.

**31.2 Costs**

A Party seeking consent under clause 31.1 must pay—

- (a) the other Party's costs of determining whether to give such consent and of drafting and negotiating any documentation required to effect the transfer or Assignment; and
- (b) any taxes and imposts levied on any such transfer or Assignment or documentation.

**32. Corporate restructuring of Western Power****32.1 If Western Power is restructured**

If Western Power is restructured under government policy—

- (a) by Law; or
- (b) through other means, including the—
  - (i) use of subsidiary or associated companies; or
  - (ii) transfer of assets, rights and liabilities,

then the rights and obligations of Western Power under this Contract are assigned to and assumed by the appropriate legal entity pursuant to the restructure.

**32.2 User's consent not required**

A restructure, transfer or Assignment under clause 32.1 does not require the User's approval or consent.

**33. Confidentiality****33.1 Confidential information**

This Contract and information exchanged between the Parties under this Contract or during the negotiations preceding this Contract is confidential to them if—

- (a) the information disclosed contains a notification by the disclosing Party that the information is confidential; or
- (b) the circumstances in which the information was disclosed or the nature of the information disclosed may reasonably be considered as being confidential; or
- (c) the information constitutes trade secrets; or
- (d) the information has a commercial value to a Party which would be destroyed or diminished by the publication of the information; or
- (e) the information relates to the business, professional, commercial or financial affairs of a Party and the value to the Party would be destroyed or diminished by the publication of the information; or
- (f) the information is about or relating to a Controller or a person who is proposed to be a Controller.

**33.2 When information is not confidential**

Clause 33.1 does not apply to information which, without breach of this Contract or other breach of confidence—

- (a) is or becomes generally and publicly available; or
- (b) is lawfully obtained by a Party from a person other than a Party or a Related Body Corporate of a Party where such person is entitled to disclose the Confidential Information; or
- (c) is, at the date of this Contract, lawfully in the Possession of the recipient of the Confidential Information through sources other than the Party which supplied the information.

**33.3 Prohibited disclosure**

Subject to clause 33.4, an Information Recipient must not disclose or allow to be disclosed any Confidential Information to a Third Party Recipient.

**33.4 Permitted disclosure**

- (a) An Information Recipient may disclose or allow to be disclosed any Confidential Information to a Third Party Recipient in the following circumstances—
  - (i) with written consent of the Information Provider; or
  - (ii) to employees, a Related Body Corporate or legal advisers, auditors or other consultants of the Party requiring information for the purposes of this Contract or for the purposes of providing professional advice in relation to this Contract; or

- (iii) to a bona fide proposed assignee of a Party to this Contract or registered shareholder of 20 percent or more of the voting shares in a Party; or
  - (iv) if required by Law or by an authority (including AEMO) which has jurisdiction over a Party or any of its Related Bodies Corporate or by the rules of a stock exchange which has jurisdiction over a Party or any of its Related Bodies Corporate; or
  - (v) if required for the purposes of prosecuting or defending a Dispute or if otherwise required in connection with legal proceedings related to this Contract; or
  - (vi) [to any person nominated as an Intermediary in respect of the User's Facilities and Equipment. As at the date of this Contract, the User's proposed nominated Intermediary is [insert]] [NOTE: Optional clause].
- (b) The User may disclose or allow to be disclosed a copy of this Contract to a Controller with whom the User will enter, or has entered into, a contract as required by clause 6.
- (c) Nothing in clause 33.4 limits Western Power's obligations to comply with Chapter 13 of the Code.

### **33.5 Third party disclosure**

An Information Recipient disclosing information under clause 33.4 must—

- (a) use all reasonable endeavours to ensure that a Third Party Recipient does not disclose the Confidential Information except in the circumstances permitted by clause 33.4; and
- (b) notify the Third Party Recipient that it has a duty of confidence to the Information Provider in respect of the Confidential Information; and
- (c) except to the extent that the Third Party Recipient is under an existing enforceable legal obligation to maintain the confidence of the Confidential Information as contemplated in clause 33.5(b), procure a written confidentiality undertaking from the Third Party Recipient consistent with clauses 33.1 to 33.10.

### **33.6 No unauthorised copying**

Subject to any obligation under any Law to do so, a Party must not copy any document containing the other Party's Confidential Information except as necessary to perform this Contract.

### **33.7 Secure storage**

A Party must ensure that proper and secure storage is provided for the Confidential Information while in its Possession, provided that if a Party is a corporation it may retain any such documents or parts of documents that form part of board papers (or other formal approval processes) of such corporation and which are required to be retained by that corporation under usual corporate governance requirements.

### **33.8 Return of materials**

Subject to any obligation under any Law relating to records retention and subject to prudent recording—keeping procedures (including, in contemplation of potential legal action), a Party must return all documents containing the other Party's Confidential Information, including all copies, to the other Party on termination of this Contract, or, upon request by the other Party, destroy all such documents.

### **33.9 Remedies**

Each Party acknowledges and agrees that any breach or threatened breach of clauses 33.1 to 33.10 may cause a Party immediate and irreparable harm for which damages alone may not be an adequate remedy. Consequently, each Party has the right, in addition to any other remedies available at Law, to seek injunctive relief or compel specific performances of these clauses 33.1 to 33.10 in respect of any such breach or threatened breach.

### **33.10 Survival of obligations**

- (a) Clauses 33.1 to 33.10 survive the termination of this Contract and remain enforceable for a period of 7 years from the date of such termination.
- (b) Any person who ceases to be a Party to this Contract continues to be bound by these clauses 33.1 to 33.10.

## **34. Ring Fencing**

If Western Power is an Integrated Provider, then a court or tribunal, in considering whether—

- (a) representations made by Workers of the Other Business can or ought be attributed to the Network Business, or vice versa; or
- (b) a notice or other information given to a Worker of the Other Business has been communicated, or should be deemed to have been communicated, to the Network Business, or vice versa; or
- (c) a Contract entered into by the Other Business does or ought express or imply an intention to vary this Contract, or vice versa,

must have fair and reasonable regard to—

- (d) the fact that Western Power comprises a Network Business and an Other Business and the distribution of personnel and responsibilities between those businesses; and
- (e) the intent and purpose of Western Power's obligations under Chapter 13 of the Code and anything done or not done by Western Power in connection with those obligations.



**35. Notices****35.1 Requirements for Communications**

Except as provided in clause 35.2, or where given under the electronic communications protocol in Schedule 7, a Communication must be—

- (a) in writing (which includes any Electronic form capable of being reduced to paper writing by being printed); and
- (b) delivered or sent to the address of the addressee as specified in Schedule 6 by one or more of the following means—
  - (i) by hand delivery; or
  - (ii) by priority post (airmail if posted to or from a place outside Australia); or
  - (iii) by way of a courier service for hand delivery; or
  - (iv) Electronically to the email address of the addressee.

**35.2 Operational and urgent Communication**

Where this Contract expressly provides—

- (a) and where the Parties agree in writing, Communications of a day to day operational nature; or
- (b) Communications given in an operational Emergency,

may be given orally and confirmed in writing, under the electronic communications protocol in Schedule 7, within five Business Days.

**35.3 Communication takes effect**

Subject to clause 35.4, a Communication takes effect from the later of—

- (a) the time it is received; and
- (b) any later time specified in the Communication.

**35.4 Deemed receipt**

For the purposes of this Contract—

- (a) a Communication delivered by hand to the address of a Party (including where a reputable courier service is used for that purpose) is deemed to be received if it is handed (with or without acknowledgment of delivery) to any person at the address who, in the reasonable judgment of the person making the delivery (upon making appropriate enquiries)—
  - (i) appears to be; and
  - (ii) represents himself or herself as,  
a representative of the Party to whom the Communication is addressed;
- (b) a Communication which is posted is deemed to be received by the Party to whom the Communication is addressed—
  - (i) where the Communication is sent from outside the country of the address to which it is sent—10 Business Days after the day of posting; and
  - (ii) otherwise—three Business Days after the day of posting;
- (c) a Communication sent Electronically, other than under the electronic communications protocol in Schedule 7, is deemed to have been received by the Party under the Metering Code; and
- (d) a Communication sent under the electronic communications protocol in Schedule 7 is deemed to be received by the party as specified in the electronic communications protocol in Schedule 7.

**36. Change of address**

A Party may at any time, by notice given to the other Party to this Contract, designate a different email or postal address for the purpose of these clauses 35.1 to 35.4.

**37. Miscellaneous****37.1 Compliance**

Each Party to this Contract must comply with all applicable Laws.

**37.2 Variation**

- (a) Subject to clause 37.2(b), a purported agreement between Western Power and the User to revoke, substitute or amend any provision of this Contract has no effect unless it is in writing.
- (b) Clause 37.2 does not prevent the User and Western Power from agreeing by non-written means under clause 35.2 to revoke, substitute or amend any provision of this Contract in an Emergency provided that the non-written revocation, substitution or amendment applies only while the effects of the Emergency subsist.

**37.3 No third party benefit**

This Contract does not confer any right or benefit on a person other than the User and Western Power, despite the person being named or identified, or belonging to a class of persons named or identified, in this Contract.

**37.4 Duty**

The User is liable for and must pay any duty that is assessed on this Contract under the *Duties Act 2008 (WA)*. If it is dutiable, the User must produce this Contract to the Office of State Revenue for assessment.

**37.5 Costs**

Each Party must pay its own costs, charges, expenses, disbursements or fees in relation to—

- (a) the negotiation, preparation, execution, performance, amendment or registration of, or any notice given or made; and
- (b) the performance of any action by that Party in compliance with any liability arising,

under this Contract, or any agreement or document executed or effected under this Contract, unless this Contract provides otherwise.

**37.6 Waiver**

A provision of this Contract may only be waived by a Party giving written notice signed by a duly authorised representative to the other Party.

**37.7 Entire agreement**

This Contract constitutes the entire agreement between the Parties as to its subject matter and, to the extent permitted by Law, supersedes all previous agreements, arrangements, representations or understandings.

**37.8 Severance**

If the whole or any part of this Contract is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction. The remainder of this Contract has full force and effect and the validity or enforceability of the provision in any other jurisdiction is not affected. This clause 37.8 has no effect if the severance alters the basic nature of this Contract or is contrary to public policy.

**37.9 Counterpart execution**

- (a) This Contract may be signed in any number of counterparts and all such signed counterparts, taken together, shall be deemed to constitute one and the same instrument even though all Parties may not have signed each separate counterpart.
- (b) Where it has been signed in counterparts, the date of this Contract shall be taken to be the day on which the last of the Parties to give such notice gives notice in writing or by fax or electronic mail to the other Parties that it has signed a counterpart, such notice being accompanied by a copy, or a printable Electronic image, of the whole of that counterpart.

**37.10 Further assurance**

Each Party agrees, at its own expense, on the request of another Party, to do everything reasonably necessary to give effect to this Contract and the transactions contemplated by it, including, but not limited to, the execution of documents.

**37.11 Authorised officers**

- (a) Notice, approval, consent or other Communication given under this Contract may be given by an Authorised Officer of a Party specified in Schedule 6 to an Authorised Officer of another Party specified in Schedule 6.
- (b) A Party may at any time, by notice given to the other Party, add or replace an Authorised Officer for the purposes of clause 37.11.

**37.12 Merger**

The warranties, undertakings and indemnities in this Contract do not merge on termination of this Contract.

**37.13 Remedies**

- (a) Subject to clause 37.13(b), the rights, powers and remedies provided in this Contract are cumulative with and not exclusive of the rights, powers or remedies provided by Law independently of this Contract.
- (b) A Party may only terminate this Contract in circumstances permitted by express provisions of this Contract. Any rights to terminate this Contract at common law are excluded.

**37.14 Governing Law**

- (a) This Contract and the transactions contemplated by this Contract are governed by the Law in force in Western Australia.
  - (b) Without limiting clause 37.14, each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Western Australia and the Courts of appeal from them for the purpose of determining any Dispute concerning this Contract or the transactions contemplated by this Contract.
-

**Execution Clause—**

Executed as an agreement on the \_\_\_\_\_ day of \_\_\_\_\_ 20 by—

**EXECUTED** for and on behalf of **electricity networks corporation ABN 18 540 492 861** in accordance with paragraph 135(4) of the *Electricity Corporations Act 2005 (WA)*—

\_\_\_\_\_  
Signature of Authorised Officer

\_\_\_\_\_  
Signature of Authorised Officer

\_\_\_\_\_  
Full name

\_\_\_\_\_  
Full name

\_\_\_\_\_  
Position title

\_\_\_\_\_  
Position title

**EXECUTED** by **[NAME OF PARTY & ABN/ACN/ARBN]** in accordance with section 127(1) of the *Corporations Act 2001 (C<sup>th</sup>)*:

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Director/Company Secretary

\_\_\_\_\_  
Full name

\_\_\_\_\_  
Full name

**EXECUTED** by **[NAME OF PARTY & ABN/ACN/ARBN]** in accordance with section 127(1) of the *Corporations Act 2001 (C<sup>th</sup>)*:

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Director/Company Secretary

\_\_\_\_\_  
Full name

\_\_\_\_\_  
Full name

\_\_\_\_\_

**Schedule 1**  
**DICTIONARY**

Unless the context otherwise requires, the defined terms in column 1 below have the respective meanings in column 2—

<b>Column 1</b>	<b>Column 2</b>
Access Arrangement	means the current ‘access arrangement’ (as defined in the Code) approved in respect of the Network under the Code.
Access Contract	has the meaning given to ‘access contract’ in the Code.
Access Offer	has the meaning given to ‘access offer’ in the Applications and Queuing Policy.
Access Rights	means all or part of the User’s rights under this Contract to obtain a Covered Service.
Accounting Period	means one calendar month.
Act	means the <i>Electricity Industry Act 2004 (WA)</i> .
AEMO	has the meaning given to that term in the WEM Rules.
Affected Obligation	has the meaning given to it in clause 22.1.
Affected Person	has the meaning given to it in clause 22.1.
Affected Service	has the meaning given to it in clause 7.3(a).
Affected Service Period	has the meaning given to it in clause 7.3(a).
Application	means an application made under the Applications and Queuing Policy.
Applications and Queuing Policy	means the ‘applications and queuing policy’ (as defined in the Code) in the Access Arrangement.
Approved Price List	means the current approved price list (as that term is defined in the Code) applying under the Access Arrangement.
Assign	includes assign or Novate.
Assignment	includes an assignment or Novation.
Attachment Point	has the meaning given to ‘attachment point’ in the Applications and Queuing Policy.
Augmentation	in relation to the Network, means an increase in the capability of the Network to provide Covered Services, including by the development, construction, acquisition or commissioning of new Network Assets.
Authorised Officer	means the authorised officer of a party as specified in Schedule 6 to whom any Communication may be given.
Authority	means the Economic Regulation Authority established by the <i>Economic Regulation Authority Act 2003(WA)</i> .
Bidirectional Point	has the meaning given to ‘bidirectional point’ in the Applications and Queuing Policy.
Bidirectional Service	means a Covered Service provided by Western Power at a Connection Point under which the User may transfer electricity into and out of the Network at the Connection Point.
Build Pack	means the ‘Build Pack’ developed under the <i>Customer Transfer Code Communication Rules</i> (made under Part 5 of the Customer Transfer Code) and/or the <i>Metering Code Communication Rules</i> (made under Part 6 of the Metering Code), as applicable in the circumstances.
Business Day	means a day that is not a Saturday, Sunday or public holiday throughout Western Australia.
Capacity	with regards to a Connection Point, means the maximum rate at which the Network can transfer electricity at the Connection Point in accordance with Good Electricity Industry Practice in the absence of Constraints.
Capacity Credits	has the meaning given to that term in the WEM Rules.
CEO Meeting	has the meaning given to it in clause 29.2.
Charge	for a Service for an Accounting Period, means the amount that is payable by the User to Western Power for the Service, calculated by applying the Tariff for the Service, during the Accounting Period.
Claim	means any claim, demand, action or proceeding made or instituted against a Party.
CMD	means Contract Maximum Demand.
Code	means the <i>Electricity Networks Access Code 2004</i> .
Code Objective	has the meaning given to ‘Code objective’ in section 2.1 of the Code.
Commencement Date	means the date of execution of this Contract by the last signing Party, or the first date on which all of the Conditions Precedent are satisfied or waived, whichever is later.

Column 1	Column 2
Communication	means a notice, approval, consent or other communication given or made under this Contract.
Conditions Precedent	means the conditions precedent specified in Schedule 2.
Confidential Information	means information which is confidential under clause 33.1.
Connect	has the meaning given to 'connect' in the Code.
Connection Assets	has the meaning given to 'connection assets' in the Code.
Connection Contract	means, at the option of Western Power— <ul style="list-style-type: none"> <li>(a) a contract containing provisions materially equivalent to those in this Contract; or</li> <li>(b) some other agreement in writing to be bound by provisions materially equivalent to such terms and conditions of this Contract satisfactory to Western Power,</li> </ul> but omitting clauses 3 to 9 of this Contract.
Connection Point	means a point on the Network identified, or to be identified, as an Exit Point or Entry Point or Bidirectional Point in the Contract Database.
Connection Point Database	means— <ul style="list-style-type: none"> <li>(a) Part 1 of Schedule 3; or</li> <li>(b) another database or databases containing information relating to this Contract and maintained by Western Power as agreed between the Parties, which for the avoidance of doubt can include the Metering Database if the User is not a Metering Code Participant and this is agreed by the User and Western Power,</li> </ul> as applicable.
Constraint	means a limitation on the capability of the Network (including arising by reference to the technical limitations and configuration of the Network) such that it is unsafe, inconsistent with the maintenance of the reliability and security of the Network or otherwise unacceptable to transfer (including accept the transfer of electricity into or out of the Network at a Connection Point) the level of electricity that would occur if the limitation was removed. Constraints affecting the Network may increase over time due to changes in load or generation connected to the Network.
Consume	has the meaning given to 'consume' in the Code.
Consumer	has the meaning given to 'consumer' in the Code.
Consumption	for a Connection Point, means the amount of electricity Consumed at the Connection Point, and is measured in Watt-hours.
Contract	means this agreement between Western Power and the User.
Contract Database	means the Connection Point Database or, if the Metering Database is not included within the Connection Point Database and clause 3.7(k)(ii) applies, then it means the Metering Database.
Contracted Capacity	for a Connection Point, means the maximum rate at which the User is permitted to transfer electricity to or from the Network at the Connection Point, being either— <ul style="list-style-type: none"> <li>(a) the rate specified in the Connection Point Database from time to time; or</li> <li>(b) if no rate is specified in the Connection Point Database, the maximum rate of electricity permitted to be transferred under the Eligibility Criteria for the Reference Service for that Connection Point; or</li> <li>(c) if no rate is specified in the Connection Point Database or in the Eligibility Criteria for the Reference Service for that Connection Point, the maximum rate of electricity permitted to be transferred through the Connection Assets under the Technical Rules,</li> </ul> and is measured in Watts or Volt-Amps.
Contribution	means any contribution made under the Contributions Policy.
Contributions Policy	means the contributions policy' (as defined in the Code) contained in the Access Arrangement.
Controller	means, in respect of a Connection Point, a person, including a Customer, who owns, operates, controls or otherwise is responsible for the operation of the Facilities and Equipment at the Connection Point, and includes the Controller's Workers and Visitors.
Corporations Act	means the <i>Corporations Act 2001</i> of the Commonwealth.
Covered Service	has the meaning given to 'covered service' in the Code.

Column 1	Column 2
CPI, or Consumer Price Index,	means the Consumer Price Index (all groups) for the Weighted Average of Eight Capital Cities published by the Australian Bureau of Statistics from time to time or, if the Consumer Price Index (all groups) for the Weighted Average of Eight Capital Cities ceases to be published, such alternative index as Western Power acting reasonably and in good faith may determine, and in all cases the CPI figure is to be adjusted to correct for any effects of a change in the rate of GST.
CPI-Adjusted	has the meaning given to it in clause 1.3.
Curtail	means curtailing or interrupting the whole or part of a Service.
Curtailment	includes a whole or partial curtailment or whole or partial interruption of a Service.
Customer	has the meaning given to 'customer' in the Act.
Customer Transfer Code	means the <i>Electricity Industry Customer Transfer Code 2016</i> , made under section 39(2a) of the Act in respect of the matter referred to in section 39(2)(b) of the Act, and includes all rules, policies or other subordinate documents developed under the Customer Transfer Code.
De-energise	in respect of a Connection Point, means to operate, modify or remove switching or other equipment to prevent the transfer of electricity through the Connection Point.
Default	in relation to a Party, has the meaning given to it in clause 27.1.
Direct Damage	suffered by a person means loss or damage suffered by the person which is not Indirect Damage.
Disconnect	in respect of a Connection Point, means physically detach Network Assets from assets owned by another person at the Connection Point.
Dispute	means any dispute or difference concerning— <ul style="list-style-type: none"> <li>(a) construction of; or</li> <li>(b) anything contained in or arising out of; or</li> <li>(c) rights, obligations, duties or liabilities of a Party under, this Contract.</li> </ul>
DSOC	means Declared Send Out Capacity.
Due Date	means, for a Tax Invoice issued under clause 8.1 or 8.2, the date 10 Business Days after the Party to whom it is addressed receives the Tax Invoice.
Electronically	in relation to a Communication, means a communication of information by means of guided or unguided electromagnetic energy, or both, by way of packet transfer between and within computer networks using the TCP/IP or other widely accepted protocol for packet transfer.
Eligibility Criteria	means, for a Reference Service, the 'Eligibility Criteria' stipulated in the Access Arrangement for that Reference Service.
Emergency	means any accident, emergency, potential danger or other unavoidable cause or extraordinary circumstance.
End Date	for a Connection Point, means the date specified as such in the Connection Point Database for the Connection Point.
Entry Point	has the meaning given to 'entry point' in the Applications and Queuing Policy.
Entry Service	means a Covered Service provided by Western Power at a Connection Point under which the User may transfer electricity into the Network at the Connection Point.
Entry Service Component	means, in respect of a Bidirectional Service and a Connection Point, the component of that Bidirectional Service relating to the transfer of electricity by the User into the Network at that Connection Point.
Equivalent Reference Service	has the meaning given to it in clause 7.1(c)(i).
Exit Point	has the meaning given to 'exit point' in the Applications and Queuing Policy.
Exit Service	means a Covered Service provided by Western Power at a Connection Point under which the User may transfer electricity out of the Network at the Connection Point.
Exit Service Component	means, in respect of a Bidirectional Service and a Connection Point, the component of that Bidirectional Service relating to the transfer of electricity by the User out of the Network at that Connection Point.
Extension Period	has the meaning given to it in clause 2.22.2(a).
Facilities and Equipment	has the meaning given to 'facilities and equipment' in the Code.
First Party	has the meaning given to it in clause 30.1.

Column 1	Column 2
Force Majeure	<p>in respect of a Party, means an event or circumstance beyond the Party's control, and which the Party, acting as a Reasonable and Prudent Person, is not able to prevent or overcome, including (where the foregoing conditions are satisfied)—</p> <ul style="list-style-type: none"> <li>(a) any act of God, lightning, earthquake, storm, fire, flood, subsidence, land slide, mud slide, wash-out, explosion or natural disaster; or</li> <li>(b) any insurrection, revolution or civil disorder, terrorism, act of public enemies, malicious damage, sabotage, vandalism, war (whether declared or undeclared) or a military operation, blockade or riot; or</li> <li>(c) any determination, award or order of any court or tribunal, or any regulatory authority or the award of any arbitrator arising after the Commencement Date; or</li> <li>(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 a Party (including restraint, expropriation, prohibition, intervention, direction or embargo); or</li> <li>(e) any inability or delay in obtaining any governmental, quasi-governmental or regulatory approval, consent, permit, licence or any other authority; or</li> <li>(f) any industrial disputes of any kind, strike, lock-out, ban, limitation or other industrial disturbances; or</li> <li>(g) any significant plant or equipment failure which could not have been avoided by the exercise of Good Electricity Industry Practice; or</li> <li>(h) any act or omission of any person (other than a Party) with Facilities and Equipment connected to the Network which prevents the Party's ability to perform its obligations under this Contract; or</li> <li>(i) any application of any law of the Commonwealth, any Commonwealth authority, the State, any State authority or any local government; or</li> <li>(j) accidents, weather and acts of third parties (such as Generators or Consumers) that affect the quality, frequency and continuity of the supply of electricity.</li> </ul>
Force Majeure Event	means an event of Force Majeure.
FM Period	means the period of suspension of the Affected Obligation pursuant to clause 22.1.
Generate	has the meaning given to 'generate' in the Code.
Generating Plant	has the meaning given to 'generating plant' in the Code.
Generation	for a Connection Point, means the amount of electricity Generated at the Connection Point, and is measured in Watt-hours.
Generator	has the meaning given to 'generator' in the Code.
Good Electricity Industry Practice	has the meaning given to 'good electricity industry practice' in the Code.
Generator Monitoring Plan	means, for a Generating Plant at a Connection Point, the Generator Monitoring Plan (as that term is defined in the WEM Rules) approved for that Generating Plant by AEMO in accordance with the WEM Rules.
GST	means goods and services tax or similar value added tax levied or imposed in Australia on a taxable supply under the GST Act or otherwise.
GST Act	means the <i>A New Tax System (Goods and Services Tax) Act 1999</i> of the Commonwealth.
Guest Party	has the meaning given to it in clause 15.1.
Host Party	has the meaning given to it in clause 15.1.
Ideal Generator Performance Standard	has the meaning given to that term in the WEM Rules.
Indemnifier	means the Indemnifier specified in the Parties section of this Contract (if any).
Indemnified Party	has the meaning given to it in clause 19.6.
Indemnifying Party	has the meaning given to it in clause 19.6.

Column 1	Column 2
Indirect Damage	<p>suffered by a person means any one or more of—</p> <ul style="list-style-type: none"> <li>(a) any consequential loss, consequential damage or special damages however caused or suffered by the person, including any— <ul style="list-style-type: none"> <li>(i) loss of (or loss of anticipated) opportunity, use, production, revenue, income, profits, business and savings; or</li> <li>(ii) loss due to business interruption; or</li> <li>(iii) increased costs; or</li> <li>(iv) punitive or exemplary damages, whether or not the consequential loss or damage or special damage was foreseeable; or</li> </ul> </li> <li>(b) in respect of contractual damages, damages which would fall within the second limb of the rule in <i>Hadley v Baxendale</i> [1854] 9 Exch. 341; or</li> <li>(c) any liability of the person to any other person, or any Claim brought against the person by any other person, and the costs and expenses connected with the Claim.</li> </ul>
Information Provider	in relation to Confidential Information, means the party providing the information.
Information Recipient	in relation to Confidential Information, means the recipient of the information.
Insolvency Event	<p>in respect of a Party, means any one or more of—</p> <ul style="list-style-type: none"> <li>(a) the Party is insolvent within the meaning of section 95A of the Corporations Act; or</li> <li>(b) any execution or other process of any court or authority being issued against or levied upon any material part of that Party's property or assets; or</li> <li>(c) a petition or application being presented (and not being withdrawn within 10 Business Days) or an order being made or a resolution being passed for the winding up or dissolution without winding up of that Party otherwise than for the purpose of reconstruction or amalgamation under a solvent scheme; or</li> <li>(d) a receiver or a receiver and manager of the undertaking or any material part thereof of that Party being appointed; or</li> <li>(e) that Party proposing to enter into or enters into any arrangement, reconstruction or composition with or for the benefit of its creditors; or</li> <li>(f) an administrator of that Party being appointed or the board of directors of that Party passing a resolution to the effect that is specified in section 436A(1) of the Corporations Act; or</li> <li>(g) that Party failing (as defined by section 459F of the Corporations Act) to comply with a statutory demand; or</li> <li>(h) a controller (as defined in the Corporations Act) being appointed in respect of that Party or the whole or a material part of that Party's undertaking, property or assets; or</li> <li>(i) an application being made to a court for an order in respect of that Party under part 2F.1 of the Corporations Act; or</li> <li>(j) an event referred to in section 459C(2) of the Corporations Act occurring in respect of that Party; or</li> <li>(k) anything analogous or having a substantially similar effect to any of the events specified above occurring under the Law of any applicable jurisdiction.</li> </ul>
Insured Year	means the period between and including 1 July in a Year and 30 June in the following Year.
Integrated Provider	has the meaning given to 'integrated provider' in the Code.
Intermediary	has the meaning given to that term in the WEM Rules.
Latest Termination Date	has the meaning given to it in clause 2.2(b).
Law	means "written laws" and "statutory instruments" as defined in the Code, orders given or made under a written law or statutory instrument as so defined or by a government agency or authority, Codes of Practice and Australian Standards deemed applicable under a written law and rules of the general law including the common law and equity.
Maintain, and Maintenance	includes (as necessary and as applicable) calibrate, test, verify, renew, replace, repair and update.



Column 1	Column 2
Material Change	any change external to a Party, including any change to the regulatory environment or market structure of the Western Australian electricity market, which materially alters or could reasonably be expected to materially alter the risk of a Party under this Contract, the nature of any Claim that can be made under this Contract or both.
Meter	has the meaning given to ‘meter’ in the Metering Code.
Metering Code	means the code made under Section 39(1) of the Act in respect of a matter referred to in Section 39(2)(a) of the Act, and includes any service level agreement, metering data agency agreement, communications rules, metrology procedure, mandatory link criteria and registration process developed under that code.
Metering Code Participant	has the meaning given to ‘Code Participant’ in the Metering Code.
Metering Database	means the metering database operated by Western Power under the Metering Code.
Metering Equipment	means a Meter or Meters and associated equipment complying with the Metering Code used to measure and record electricity as transferred to or from the Network at a Connection Point, which may include the measurement of the rate of transfer and the quantity and quality of the transferred electricity.
Negotiated Generator Performance Standard	has the meaning given to that term in the WEM Rules.
Network	has the same meaning given to ‘Western Power Network’ in the Code.
Network Assets	in relation to the Network, means the apparatus, equipment, plant and buildings used to provide or in connection with providing Covered Services on the Network, which assets are either Connection Assets or Shared Assets.
Network Business	has the same meaning given to ‘network business’ in the Code.
NMI, or National Market Identifier	means the unique identifier assigned to the Connection Point.
Nominated Person	has the meaning given to it in clause 9(a)(i).
Novate and Novation	<p>mean to substitute, with the consent of all Parties to this Contract and with effect on and from a date nominated as the effective date of the novation, an assignee for the User as a party to this Contract, with the result that—</p> <ul style="list-style-type: none"> <li>(a) all rights and obligations of the User under this Contract become rights and obligations of the assignee as if the assignee had been named in the Contract in place of the User; and</li> <li>(b) the User is released from any obligations under this Contract arising on or after the effective date of the novation, but remains liable for any default by it in the performance of those obligations prior to the effective date of the novation.</li> </ul>
Other Business Party	<p>has the meaning given to ‘other business’ in the Code.</p> <p>means Western Power or the User .</p> <p>{Note: If there is an Indemnifier, refer to clause 1.1(h)(iv)}</p>
Parties	<p>means Western Power and the User.</p> <p>{Note: If there is an Indemnifier, refer to clause 1.1(h)(iv)}</p>
Payment Error	<p>means—</p> <ul style="list-style-type: none"> <li>(a) any underpayment or overpayment by a Party of any amount in respect of a Tax Invoice; or</li> <li>(b) any error in a Tax Invoice (including the omission of amounts from that Tax Invoice, the inclusion of incorrect amounts in that Tax Invoice, calculation errors in the preparation of a Tax invoice or a Tax Invoice being prepared on the basis of data which is later established to have been inaccurate).</li> </ul>
Permanent Reconfiguration	<p>means—</p> <ul style="list-style-type: none"> <li>(a) a permanent physical change (including a change to the zone substation applicable to a Connection Point and a change to the distance from the applicable zone substation to a Connection Point); or</li> <li>(b) a change to the pricing zone applicable to a Connection Point.</li> </ul>
Possession	includes custody, control, and an immediate right to possession, custody, or control.
Power System Reliability	has the meaning given to that term in the WEM Rules.

Column 1	Column 2
Prescribed Rate	means, at any point in time, the interest rate (expressed as a rate per cent per annum) equal to the aggregate of 3 annual percentage points and the interest rate (expressed as a rate per cent per annum) then published by the Reserve Bank of Australia as the large business variable indicator lending rate.
Price List	means the 'price list' (as defined in the Code) specified in the Access Arrangement.
Pricing Year	has the meaning given to 'pricing year' in the Code.
Reasonable and Prudent Person	means a person acting in good faith and, where applicable, in accordance with Good Electricity Industry Practice.
Receipt Date	has the meaning given to it in clause 29.1.
Reference Service	means a 'reference service' (as defined in the Code) specified in the Access Arrangement.
Reference Service Point	means a Connection Point for which under this Contract Western Power provides, or is to provide, a Reference Service.
Registered Generator Performance Standard	has the meaning given to that term in the WEM Rules.
Related Body Corporate	has the meaning given to 'Related Body Corporate' in section 50 of the Corporations Act.
Representatives' Meeting	has the meaning given to it in clause 29.1.
Service	means a service to be provided under this Contract in respect of a Connection Point as specified in the Contract Database.
Shared Assets	has the meaning given to 'shared assets' in the Code.
Small Customer	means a customer (as defined in the <i>Electricity Industry Act 2004 (WA)</i> ) consuming not more than 160 MWh of electricity per annum.
Standing Charges	has the meaning given to it in clause 7.3.
Start Date	for a Connection Point, means the date specified as such in the Connection Point Database for the Connection Point.
Supplementary Matters	means the provisions incorporated in the Access Arrangement under sections 5.27 and 5.28 of the Code.
System Operator	for the Network means, unless the Technical Rules provide otherwise, the person or persons who— <ul style="list-style-type: none"> <li>(a) operate and control the system operation control centre; or</li> <li>(b) where there is no system operation control centre—is responsible for the control of the Network through monitoring, switching and dispatch; or</li> <li>(c) where the system operation control centre and another party are both responsible for the control of the Network through monitoring, switching and dispatch—perform the tasks described in either or both of paragraphs (a) and (b).</li> </ul>
Tariff	for a Service, means the tariff specified in clause 7.1 for that Service.
Tax Invoice	has the meaning given to 'Tax Invoice' in the GST Act.
Technical Rules	means the technical rules applying from time to time to the Network under Chapter 12 of the Code, as modified in accordance with the Code, including any derogations agreed to by Western Power in writing and specified in Part 3 of Schedule 3.
Term	means, from time to time, the term of this Contract which commences on the Commencement Date and ends on the date which is then the Termination Date.
Termination Date	means, subject to clause 2.2, the date specified in Part 1 of Schedule 2.
Third Party Recipient	means any person to whom the Information Recipient discloses Confidential Information, or allows Confidential Information to be disclosed.
Transfer and Relocation Policy	means the transfer and relocation policy (as defined in the Code) contained in the Applications and Queuing Policy.
Undisputed Portion	for the purposes of a Tax Invoice issued under 8.2(b) has the meaning given to it in clause 8.2(d) and, in all other cases, means the portion of the amount set out in a Tax Invoice that is not in Dispute.
User	has the meaning given to it in the Code, and for the purposes of this Contract is the User stipulated in the 'Parties section' of this Contract.
User's Default	means an event of Default by the User.
User's Premises	means the land on which the User's Facilities and Equipment are located.

<b>Column 1</b>	<b>Column 2</b>
Visitors	means the customers, invitees, licensees and visitors of a Party or a Controller, as the case requires.
WEM Rules	means the 'market rules' referred to in section 123(1) of the Act, and includes all rules, policies or other subordinate documents developed under the WEM Rules.
Western Power	means the Electricity Networks Corporation established under section 4(1)(b) of the <i>Electricity Corporations Act 2005 (WA)</i> .
Western Power's Default	means an event of Default by Western Power.
Wilful Default	means a deliberate and purposeful act or omission carried out with— (a) a calculated regard for the consequences of the act or omission; or (b) a reckless or wilful disregard for the consequences of the act or omission, but does not include any error of judgment, mistake, act or omission, whether negligent or not, which is made in good faith.
Workers	means the directors, officers, servants, employees, agents and contractors of a Party or a Controller, as the case requires.
Works	has the meaning given to it in the Contributions Policy.
Year	means calendar year.

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**Schedule 2**  
ACCESS CONTRACT INFORMATION

**Part 1—Term**

Termination Date:	
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**Part 2—Extension of Term**

{Note: Referred to in clause 2.2.}

Extension Period:	
Latest Termination Date:	

**Part 3—Conditions Precedent**

{Note: Referred to in clause 2.3.}

For the benefit of the User	1	[Description]
		[Date to be satisfied by]
For the benefit of Western Power	1	[Description]
		[Date to be satisfied by]

**Schedule 3**  
DETAILS OF CONNECTION POINTS

**Part 1—Commercial Details**

{Note—

- (a) If in accordance with clause 3.7 the Parties agree to not have these details stored in this Part then state in each row in the right hand column below where the respective details are to be stored; and
- (b) Western Power will store these details in the Metering Database where the User is a Metering Code Participant.}

1	Connection Point 1 Title	
	Address of Premises	
	Name and contact details of Controller	
	NMI	
	Service	
	Start Date	
	End Date	
	CMD (kW/ kVA) (if applicable)	
	DSOC (kW/ kVA) (if applicable)	
	Size of Generator (if applicable)	
	Make and model of Generator (if applicable)	
	Substation (if applicable)	
	Substation distance (if applicable)	

**Part 2—Technical Details**

{Note: referred to in clause 13(a)}

#	Connection Point	Description of Facilities and Equipment
1		

{Note: attach plans, drawings and other documentation as necessary to fulfil the requirements of clause 13(a).}

**Part 3—Agreed exemptions from Technical Rules**

{Note: referred to in clause 13(a)(ii) }

#	Connection Point	Technical Rules Reference	Description of Technical Rules requirement	Description of Derogation
1				

**Part 4—Technical Characteristics**


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***Schedule 4*****WORKS AND CONTRIBUTIONS**

{Note: Referred to in clause 26.}

1	[Connection Point Title / NMI]	
	[Contribution provisions]	
2	[Connection Point Title / NMI]	
	[Contribution provisions]	

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**Schedule 5**  
**INSURANCES**

{Note: Referred to in clause 21.}

**Part 1—User insurances**

- (a) The User must effect and maintain, commencing from the Commencement Date the following policies of insurance—
- (i) public and products liability of—
    - (A) public liability insurance for a limit of not less than \$50 million or the maximum liability of the User under clause 19.5 (whichever is greater) in the aggregate of all claims made in an Insured Year; and
    - (B) products liability insurance for a limit of not less than the maximum liability of the User under clause 19.5 per claim and in the aggregate, refreshed annually;
  - (ii) covering the User's liability to Western Power or any third party for death, bodily injury and loss or damage to property caused by any act, omission or negligence in relation to this Contract;
  - (iii) when reasonably requested by Western Power, workers' compensation insurance for all persons employed by the User including employer's liability at common law, with a limit of cover in respect of any one occurrence at least equal to \$50 million;
  - (iv) when reasonably requested by Western Power, motor vehicle third party property insurance for all loss or damage to property caused by or attributable to the use of a motor vehicle in the performance of the Services or any Works under the Contract, for a limit of \$10 million per claim and unlimited in the aggregate of all claims made; and
  - (v) contractors' plant and equipment insurance covering all loss or damage to the User's plant or equipment used in connection with this Contract for its replacement value.
- (b) The policies of insurance under Schedule 5 Part 1(a) must be with an insurer authorised under the *Insurance Act 1973 (Cth)* or the equivalent in the United States of America or the United Kingdom.

**Part 2—Western Power insurances**

- (a) Western Power must effect and maintain, commencing from the Commencement Date, the following policies of insurance—
- (i) public and products liability of—
    - (A) public liability insurance for a limit of not less than the maximum liability of Western Power under clause 19.5 per claim and unlimited in the aggregate of all claims made; and
    - (B) products liability insurance for a limit of not less than the maximum liability of Western Power under clause 19.5 per claim and in the aggregate, refreshed annually;covering Western Power's liability to the User or any third party for death, bodily injury and loss or damage to property caused by any act, omission or negligence in relation to this Contract;
  - (ii) workers' compensation insurance for all persons employed by Western Power including employer's liability at common law, with a limit of cover in respect of any one occurrence at least equal to \$50 million;
  - (iii) motor vehicle third party property insurance for all loss or damage to property caused by or attributable to the use of a motor vehicle in the performance of the services or any work under the Contract, for a limit of \$10 million per claim and unlimited in the aggregate of all claims made; and
  - (iv) contractors' plant and equipment insurance covering all loss or damage to Western Power's plant or equipment used in connection with this Contract for its replacement value.
- (b) The policies of insurance under Schedule 5 Part 2(a) must be with an insurer authorised under the *Insurance Act 1973 (Cth)* or the equivalent in the United States of America or the United Kingdom.

**Schedule 6**  
NOTICES

{Note: Referred to in clause 35.}

**Part 1—User**

Subject	Information
Address for service of notices/ place of business:	
Authorised Officers:	
Email address:	

**Part 2—Western Power**

Subject	Information
Address for service of notices/ place of business:	
Authorised Officers:	
Email address:	

\_\_\_\_\_



**Schedule 7****ELECTRONIC COMMUNICATIONS PROTOCOL**

{Note: Referred to in clause 35.}

In this Schedule, unless the context otherwise requires, the defined terms in column 1 below have the respective meanings in column 2—

<b>Column 1</b>	<b>Column 2</b>
Addressee	means the person to whose Email Address an email is sent.
Automated Response Message	means an email (“ <b>Reply Email</b> ”) sent automatically upon receipt of an email (“ <b>Original Email</b> ”), where the Reply Email is sent from an Addressee’s Information System to the Originator of the Original Email, acknowledging that the Original Email has been received by the Addressee’s Information System and containing— <ul style="list-style-type: none"> <li>(i) the name of the Originator of the Original Email; and</li> <li>(ii) at least the time, date and subject title of the Original Email; and</li> <li>(iii) the name of the Addressee of the Original Email; and</li> <li>(iv) the date and time the Original Email was received by the Addressee’s Information System (which in the absence of evidence to the contrary is taken to be the creation date of the Reply Email).</li> </ul>
Data	includes the whole or part of a computer program within the meaning of the <i>Copyright Act 1968</i> of the Commonwealth.
Email	means a communication of Information by means of guided or unguided electromagnetic energy, or both, by way of packet transfer between and within computer networks using the TCP/IP protocol.
Email Address	means the address nominated in Schedule 6, being an address which is a combination of a personal identifier and a machine/network identifier, which are together capable of being resolved by computer networks transmitting email using the TCP/IP protocol, so that email is transmitted to the person providing that email address.
Information	means information in the form of Data, text, images or sound.
Information System	means a system for generating, sending, receiving, storing or otherwise processing emails.
Originator	means the person who sends an email to an Addressee.
Place of Business	means a place of business nominated under Schedule 6 and in relation to a government, a government authority or a non-profit body, includes a place where any operations or activities are carried out by that government, authority or body.
Purported Originator	means the person on the face of the email who appears to be, or purports to be the Originator, including by purported compliance with clause 4 of this Schedule.

**1. Application to invoicing**

Where the Parties have agreed under clause 8.1(d), the procedure set out in this Schedule does not apply to invoicing under this Contract, and the alternative agreed procedure will apply in its place.

**2. Parties to establish email Addresses**

Western Power and the User must—

- (i) from time to time, nominate a Place of Business and establish an Email Address to be used for the Communications under this Contract; and
- (ii) use reasonable endeavours to ensure that the Information System, on which emails addressed to the Email Address are received, is operational—
  - (A) a 24 hours-a-day; and
  - (B) 7 days-a-week,
to receive emails and send Automated Response Messages as required by this Contract; and
- (iii) as soon as practicable notify the other Party of its Place of Business and Email Address and of any change in each of them; and
- (iv) establish a mechanism to generate an Automated Response Message for each email (other than an Automated Response Message) received at the Email Address.

**3. Requirement for Automated Response Message**

- (a) An email is neither given nor received under this Contract until the Originator receives the Addressee’s Automated Response Message for the email.

- (b) It is the Originator's responsibility for each attempted email to verify that it receives an Automated Response Message, and if it does not receive an Automated Response Message arrange either for—
  - (i) retransmission of the email; or
  - (ii) communication of the Information by an alternative medium (but this clause 3(b) does not limit the Addressee's responsibilities under clause 4 of this Schedule).
- (c) If the Originator receives an Automated Response Message for an email, then (unless the Addressee proves otherwise) for the purposes of this Contract the—
  - (i) Originator has sent; and
  - (ii) Addressee has received,the email at the date and time shown in the Automated Response Message.
- (d) It is the Addressee's responsibility for each email for which the Addressee's Information System generates an Automated Response Message to—
  - (i) read the email and the Information it contains, and if applicable communicate it to the appropriate Worker within the Addressee's organisation; and
  - (ii) if necessary, notify the Originator of any difficulty in opening, reading, de-compressing or otherwise accessing (in a form reasonably readable) any Information contained in the email; and
  - (iii) if it appears to the Addressee that the Addressee was not the intended or correct recipient of the Information in the email, communicate this fact to the Originator.

#### **4. Location**

Unless otherwise agreed between the Originator and the Addressee of an email, the email and the Information it contains is deemed to have been sent from the Originator's Place of Business and received at the Addressee's Place of Business.

#### **5. Attribution of emails and reliance**

Except to the extent that—

- (a) the Purported Originator of an email and the Addressee of the email agree otherwise; or
- (b) the Purported Originator of an email proves otherwise,

the Addressee of an email in respect of which an Automated Response Message has been given may assume for all purposes under this Contract that the—

- (c) Purported Originator of the email is the Originator of the email; and
- (d) email was sent by, or with the knowledge and express authority of, the Purported Originator.

#### **6. Signatures**

For the purposes of this Contract, an email must identify the Originator.

#### **7. Information format**

An Originator must use reasonable endeavours, in selecting the data format for Information contained in an email, to adopt a consistent format over time to facilitate any automated processing of the Information by the Addressee.

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**Schedule 8**  
**FORM OF GUARANTEE**

**Date** [###]

**Parties**

1. [### ACN ### a company registered in ### of ###] (“**Guarantor**”); and
2. **Electricity Networks Corporation ABN 18 540 492 861**, a statutory body corporate established by paragraph 4(1)(b) of the *Electricity Corporations Act 2005 (WA)* of 363 Wellington Street, Perth, Western Australia (“**Western Power**”).

**Recitals**

A. Western Power may in its discretion provide Services to [###] (“**User**”) under an Access Contract at the request of each of the User and the Guarantor.

B. The Guarantor wishes to execute this Guarantee to secure payment of all amounts payable under the Access Contract to Western Power.

**Operative Provisions**

**1. Guarantee**

The Guarantor unconditionally and irrevocably Guarantees as a continuing security to Western Power payment by the User of all moneys and liabilities due and/or payable from or by the User to Western Power under or in connection with the contract dated [###] (“**Access Contract**”) created between the User and Western Power (“**Secured Moneys**”), including moneys and liabilities incurred or arising—

- (a) (**liability**): at any present or future time, whether actually or contingently;
- (b) (**default**): as a result of any breach of or default under the Access Contract; and/or
- (c) (**account**): by way of principal, interest, cost, charge, expense, disbursement, fee, tax, stamp or other duty, indemnity, damages or monetary judicial order.

**2. Secured Moneys**

**2.1 Demand payment**

The Guarantor must pay to Western Power, upon demand by Western Power at any present or future time, the amount of the Secured Moneys due from and payable by the User to Western Power at that time under, and in the manner and currency specified in, the Access Contract.

**2.2 Costs**

The Guarantor must at any present or future time indemnify Western Power upon demand for any cost, charge, expense, disbursement, fee, tax or stamp or other duty incurred by Western Power at any time in connection with the Access Contract, this Guarantee or the Secured Moneys relating to—

- (a) (**security agreements**): preparation, negotiation, execution or performance, or any termination, amendment, consent, claim, demand or waiver;
- (b) (**security rights**): any exercise or enforcement of any right or power conferred on Western Power;
- (c) (**credit increases**): any extension of further, additional or increased credit or financial accommodation by Western Power, or agreement by Western Power to increase the amount secured; and/or
- (d) (**payments**): the receipt or payment of any moneys, including moneys paid by Western Power by way of reimbursement to any third party.

**2.3 Set-Off exclusion**

The Guarantor must make any payment required under this Guarantee without set-off or other deduction, except for the deduction or withholding of any tax compelled by law.

**3. Indemnity**

The Guarantor must as a separate and additional liability of the Guarantor as a principal debtor, and not as a surety, indemnify Western Power against, and pay to Western Power upon demand by Western Power an amount equal to, all Secured Moneys that are or may become invalid, unenforceable, illegal or irrecoverable for any reason or under any circumstances as a liability to Western Power by the Guarantor as a surety, despite any other provision of this Guarantee.

**4. Guarantee protection**

This Guarantee, and the liability of the Guarantor under this Guarantee, is not affected at any time by—

- (a) (**waiver**): the granting to any person by Western Power of any waiver;
- (b) (**agreements**): any agreement, deed or document created with, or action or omission performed, representation made or non-disclosure of any fact or information by, Western Power or any person;
- (c) (**Secured Moneys**): any increase or variation in the amount of the Secured Moneys occurring for any reason;
- (d) (**document amendment**): any amendment to or transfer, release or termination of any agreement, deed or document or any right, power or liability of any person under any agreement, whether for or without consideration;

- (e) **(enforcement decisions)**: any exercise or enforcement, or any failure or invalidity in, the exercise or enforcement by Western Power of any right or power conferred on Western Power under any agreement, deed or document or by law;
- (f) **(invalidity)**: any actual or potential invalidity, unenforceability, illegality or irrecoverability of any agreement, deed or document or consent or any payment made or due to Western Power under any agreement for any reason;
- (g) **(incapacity)**: any incapacity or absence of power or authorisation of, or other fact relating to, any person in connection with the execution of any agreement, deed or document or otherwise, including any change in the constitution or membership of any person; or
- (h) **(residual)**: any other breach, default, waiver or fact which, except for this provision, might legally operate—
  - (i) to release or discharge or have any prejudicial effect on; or
  - (ii) in any manner to release or discharge the Guarantor from performance of, or limit or provide a defence to any legal action to enforce,

this Guarantee, or any liability of the Guarantor under or in connection with this Guarantee.

#### **4.2 Termination**

The Guarantor is not entitled to terminate or limit this Guarantee, or any liability of the Guarantor under this Guarantee, until the Secured Moneys have been paid in full.

#### **5. Governing Law**

This Guarantee is governed by and construed under the law of the State of Western Australia.

#### **6. General**

##### **6.1 Continuing Security**

This Guarantee is a continuing security and is not wholly or partially discharged by the payment at any time of any Secured Moneys, settlement of account or other fact and applies to the balance of the Secured Moneys at any time until a final termination of this Guarantee by Western Power.

##### **6.2 Further Assurance**

The Guarantor must upon request by Western Power at any time execute any document and perform any action necessary to give full effect to this Guarantee, whether prior or subsequent to performance of this Guarantee.

##### **6.3 Waivers**

Any failure or delay by Western Power to exercise any right or power under this Guarantee does not operate as a waiver and the single or partial exercise of any right or power by Western Power does not preclude any other or further exercise of that or any other right or power by Western Power.

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***Schedule 9***

NEGOTIATED GENERATOR PERFORMANCE STANDARDS

(NOTE: The Ideal Generator Performance Standards as at the date of this Schedule 9 are those set out in Appendix 12 of the WEM Rules Version \_\_\_\_\_ dated \_\_\_\_\_.)

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Endnotes:

<sup>1</sup> Delete this paragraph if there is no Indemnifier.

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*Annexure C*

**APPENDIX 4A—TRANSITIONAL WESTERN POWER NETWORK  
CONTRIBUTIONS POLICY**

CONTRIBUTIONS POLICY

**Defined Terms and Interpretation**

**1.1 Defined Terms**

In this *contributions policy*, unless the contrary intention is apparent—

“**access arrangement**” means the current *access arrangement* approved in respect of the *network* under the *Code*.

“**access contract**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “access contract” has the same meaning as “access agreement” does in Part 8 of the Act, and under section 13.4(d) includes a *deemed access contract*. The definition of “**access agreement**” under the *Act* is “an agreement under the *Code* between a network service provider and another person (a “network user”) for that person to have access to services”.

“**Act**” means the *Electricity Industry Act 2004*.

“**additional revenue**” has the same meaning as given to it in the *Code*.

{Note: Under the *Code* “additional revenue” has the meaning given to it in section 6.42 of the *Code* when used in section 6.41 of the *Code*.)

“**alternative options**” means alternatives to part or all of a *network* enhancement, including demand-side management and *generation* solutions (such as distributed *generation*) either instead of or in combination with a *network* enhancement.

“**alternative option contribution**” means a *contribution* made, or to be made, by an *applicant* in respect of an *alternative option*.

“**alternative option test**”, in respect of the *network*, means the test set out in section 6.41 of the *Code*.

“**anticipated incremental revenue**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “anticipated incremental revenue” for a new facility means “the present value (calculated at the *rate of return* over a reasonable period) of the increased income from *charges* (excluding any *contributions*) reasonably anticipated to arise from the increased sale of *covered services* on the *network* to one or more *users* (where “increased sale of *covered services*” means sale of *covered services* which would not have occurred had the *new facility* not been commissioned),

minus

the present value (calculated at the *rate of return* over the same period) of the best reasonable forecast of the increase in *non-capital costs* directly attributable to the increased sale of the *covered services* (being the *covered services* referred to in the expression “increased sale of *covered services*” in paragraph (a) of this definition).}

“**Appendix 8 work**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “Appendix 8 work” means “*work* in connection with the *Western Power Network* of a type specified in clause A8.2 of Appendix 8”.

“**applicant**” means a person (who may be a *user*, a *customer* or a *developer*) who has lodged, or intends to lodge, a *connection application*, and includes a person who does so on behalf of another person.

“**applications and queuing policy**” means the *applications and queuing policy* (as defined in the *Code*) in the *access arrangement*.

“**augmentation**” has the same meaning as given to it in the *Code*.

{Note: Under the *Code* “augmentation” in relation to a *covered network*, means “an increase in the capability of the *covered network* to provide *covered services*”.

“**Authority**” has the same meaning as given to it in the *Code*.

{Note: Under the *Code* “*Authority*” means “the Economic Regulation Authority established by the *Economic Regulation Authority Act 2003*”.

“**bidirectional point**” has the same meaning given to it in the *applications and queuing policy*.

{Note: Under the *applications and queuing policy* “bidirectional point” means “a single, indivisible (except as allowed under this *applications and queuing policy*) point, that for purposes under the *access arrangement* involving the transfer of electricity, is deemed to consist of a single *attachment point*, connected or to be connected to a *user’s connection point*, with a single *meter* (regardless of the actual configuration of *network assets* making up the *bidirectional point*), at which electricity is to be transferred into and out of the *network*”.

“**bidirectional service**” means a *covered service* provided by Western Power at a *connection point* under which the *user* may transfer electricity into and out of the *network* at the *connection point*.

“**capital contribution**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “capital contribution” means “a payment or provision in kind made, or to be made, by a *user* in respect of any *new facilities investment in required work*”.

“**Code**” means the *Electricity Networks Access Code 2004* (as amended).

“**connect**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “connect” means “to form a physical link to or through a *network*”.

“**connection application**” means an application lodged with Western Power under the *applications and queuing policy* that has the potential to require a modification to the *network*, including an application to—

- (a) connect facilities and equipment at a new connection point; or
- (b) increase consumption or generation at an existing connection point; or
- (c) materially modify facilities and equipment connected at an existing connection point; or
- (d) augment the network for any other reason,

{Note: this might be, for example, to service a subdivision.}

and includes any additional information provided by the *applicant* in regard to the application.

“**connection assets**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “connection assets” for a *connection point*, means “all of the *network assets* that are used only in order to provide *covered services* at the *connection point*”.

“**connection point**” means an *exit point* or an *entry point* or a *bidirectional point* identified or to be identified as such in an *access contract*.

“**consume**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “consume” means “to *consume* electricity”.

“**consumption**”, for a *connection point*, means the amount of electricity *consumed* at the *connection point*, and is measured in Watt-hours.

“**contracted capacity**” means the maximum rate at which a *user* is permitted to transfer electricity at a *connection point* under the *user’s access contract*.

“**contribution**” has the same meaning given to it in the *Code*, but also includes an *alternative option contribution*.

{Note: Under the *Code* “contribution” means “a capital contribution, a non-capital contribution or a headworks charge”.

“**contributions policy**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “contributions policy” means “a policy in an *access arrangement* under section 5.1(h) dealing with *contributions* by *users*”.

“**contributions rate of return**” means the rate of return most recently approved by the *Authority* for use in *price control* for the *network*.

“**covered service**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “covered service” means “a service provided by means of a *covered network*, including—

- (a) a connection service; or
- (b) an entry service, exit service or bidirectional service; or
- (c) a network use of system service; or
- (d) a common service; or
- (e) a service ancillary to a service listed in paragraph (a) to (d) above,

but does not include an *excluded service*”.

“**cpi**” means the “all capitals consumer price index” as defined by the Australian Bureau of Statistics.

“**customer**” has the meaning given to it in the *Act*.

“**distribution low voltage connection headworks scheme**” means the scheme described in clause 6 of this *contributions policy*.

“**distribution low voltage connection headworks scheme application**” means a *connection application* where the proposed or existing *connection point* for a new or upgraded *connection* is to the *distribution system low voltage network* and is within 25 kms of the *relevant zone substation*.

“**distribution low voltage connection headworks scheme base charge**” means the value determined in accordance with section 6.3 of this *contributions policy*.

“**distribution low voltage connection headworks scheme contribution**” means a *contribution* in respect of the *distribution low voltage connection headworks scheme*.

“**distribution low voltage connection headworks scheme works**” with respect to a *distribution low voltage connection headworks scheme application*, means *works* on the *distribution system* reasonably adjacent to the *connection point* (to which the *distribution low*

*voltage connection headworks scheme application* relates) that directly provides for delivery of electricity capacity to that *connection point* and that may include switchgear, *HV* cable, transformers, *low voltage* cable and ancillary equipment.

“**distribution system**” has the same meaning given to it in the *Code*, but excludes equipment within zone substations used for the transportation of electricity at nominal voltage of less than 66 kV.

{Note: Under the *Code* “distribution system” means “any apparatus, equipment, plant or buildings used, or to be used, for, or in connection with, the transportation of electricity at nominal voltages of less than 66 kV”.}

“**entry point**” has the same meaning given to it in the *applications and queuing policy*.

{Note: Under the *applications and queuing policy* “entry point” means “a single, indivisible (except as allowed under this applications and queuing policy) point, that for purposes under the *access arrangement* involving the transfer of electricity, is deemed to consist of a single *attachment point*, *connected* or to be *connected* to a *user’s connection point*, with a single *meter* (regardless of the actual configuration of *network assets* making up the *entry point*), at which electricity is more likely to be transferred into the *network* than out of the *network*”.

“**entry service**” has the same meaning given to it in the *applications and queuing policy*.

{Note: Under the *applications and queuing policy* “entry service” means “a *covered service* provided by Western Power at a *connection point* under which the *user* may transfer electricity into the *network* at the *connection point*”.

“**exit point**” has the same meaning given to it in the *applications and queuing policy*.

{Note: Under the *applications and queuing policy* “exit point” means “a single, indivisible (except as allowed under this applications and queuing policy) point, that for purposes under the *access arrangement* involving the transfer of electricity, is deemed to consist of a single *attachment point*, *connected* or to be *connected* to a *user’s connection point*, with a single *meter* (regardless of the actual configuration of *network assets* making up the *exit point*), at which electricity is more likely to be transferred out of the *network* than into the *network*”.

“**exit service**” has the same meaning given to it in the *applications and queuing policy*.

{Note: Under the *applications and queuing policy* “exit service” means “a *covered service* provided by Western Power at a *connection point* under which the *user* may transfer electricity out of the *network* at the *connection point*”.

“**facilities and equipment**” has the same meaning given to it in the *Code*.

{Note: Under the *Code*, “facilities and equipment” in relation to a *connection point*, means “the apparatus, equipment, plant and buildings used for or in connection with *generating*, *consuming* and *transporting* electricity at the *connection point*”.

“**forecast costs**” means any or all of the *forecast new facilities investment* or the *forecast alternative option costs*, as applicable, to be incurred by Western Power with regards to *works*.

“**forecast new facilities investment**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “forecast new facilities investment” for a *covered network* means “the capital costs forecast to be incurred in developing, constructing and acquiring new *network assets* for the *covered network*”.

“**generation**”, for a *connection point*, means the amount of electricity *generated* at the *connection point*, and is measured in kilowatts.

“**good electricity industry practice**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “good electricity industry practice” means “the exercise of that degree of skill, diligence, prudence and foresight that a skilled and experienced person would reasonably and ordinarily exercise under comparable conditions and circumstances consistent with applicable *written laws* and *statutory instruments* and applicable recognised codes, standards and guidelines”.

“**GST**” means Goods and Services Tax.

“**HV**” means the high voltage level of the distribution *network* where the voltage is greater than 6 kV and less than 66 kV.

“**low voltage**” means the low voltage level of the *distribution system network* where the voltage is less than 1 kV.

“**minimum practical works**” with regard to *covered services* sought by an *applicant*, means the minimum *works* Western Power must undertake, acting efficiently in accordance with *good electricity industry practice*, to provide only those *covered services* required by that *applicant*.

“**network**” has the meaning given to “Western Power Network” in the *Code*.

{Note: Under the *Code* “Western Power Network” means “the *covered network* that is *covered* under section 3.1”. The “Western Power Network” is the portion of the SWIN that is owned by the Electricity Networks Corporation.

“**network assets**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “network assets”, in relation to a *network* means “the apparatus, equipment, plant and buildings used to provide or in connection with providing *covered services* on the *network*, which assets are either *connection assets* or *shared assets*”.



“**new facilities investment**” has the same meaning as given to it in the *Code*.

{Note: Under the *Code* “new facilities investment” means, for a new facility, “the capital costs incurred in developing, constructing and acquiring the new facility”.}

“**new facilities investment test**” has the same meaning as given to it in the *Code*.

{Note: Under the *Code* “new facilities investment test” means, in respect of a covered *network*, “the test set out in section 6.52”.}

“**new revenue**” means the *anticipated incremental revenue* or *additional revenue* or both, as applicable, with respect to *works*.

“**non-capital contribution**” means a payment or provision in kind made, or to be made, by a *user* in respect of any *non-capital costs* (or forecast *non-capital costs*) of *required work*.

“**non-capital costs**” means the *non-capital costs* (as defined in the *Code*), but excluding *alternative option costs*, to be incurred by Western Power with regards to *works*.

“**price control**” has the same meaning as given to it in the *Code*.

{Note: Under the *Code* “price control” means “the provisions in an *access arrangement* under section 5.1(d) and Chapter 6 of the *Code* which determine *target revenue*”.

“**reasonable and prudent person**” means a person acting in good faith and in accordance with *good electricity industry practice*.

“**reasonable time**” means the time determined in accordance with clause 5.3.

“**relevant distribution transformer**” with respect to the *distribution low voltage connection headworks scheme* and a *connection application* means the transformer from which the new or upgraded *connection* (to which that *connection application* relates) will be supplied under normal system operating conditions.

“**relevant zone substation**” means the zone substation to which the new or upgraded *connection* will be connected under normal system operating conditions.

“**required work**” means *work* which is necessary in order to provide a *covered service* sought in a *connection application*.

“**retailer**” has the meaning given to it in the *Act*.

“**scheme**” has the same meaning as given to it in Appendix 8 of the *Code*.

“**service provider**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “service provider” in relation to a *network* means “a person who owns or operates the *network*”.

“**shared assets**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “shared assets” means “those *network assets* which are not *connection assets*”.

“**SWIS**” is the South West Interconnected System and it has the meaning given to it in the *Code*.

{Note: Under the *Code* “SWIS” has the meaning as given to it in the *Act*, being “the interconnected transmission and distribution systems, generating *works* and associated *works*—

- (a) located in the South West of the State and extending generally between Kalbarri, Albany and Kalgoorlie; and
- (b) into which electricity is supplied by—
  - (i) one or more of the electricity *generation* plants at Kwinana, Muja, Collie and Pinjar; or
  - (ii) any prescribed electricity *generation* plant”.

“**technical rules**” means the *technical rules* (as defined in the *Code*) applying from time to time to the *network* under Chapter 12 of the *Code*, as modified in accordance with the *Code*.

“**transmission system**” has the same meaning given to it in the *Code*, but also includes equipment within zone substations used for the transportation of electricity at nominal voltage of less than 66 kV.

“**user**” has the same meaning given to it in the *Code*.

{Note: Under the *Code* “user” means “a person, including a *generator* or a *consumer*, who is a party to a contract for services with a *service provider*, and under section 13.4(e) includes an *other business* as a party to a *deemed access contract*”.

“**WEM rules**” means the ‘market rules’ referred to in section 123(1) of the *Act*, and includes all rules, policies or other subordinate documents developed under the WEM Rules.

“**works**” includes *distribution low voltage connection headworks scheme works* and all *works* required to be undertaken to provide an *applicant* with the *covered services* sought by the *applicant* in a *connection application*, including *works* associated with—

- (a) augmentation of connection assets;
- (b) augmentation of shared assets;
- (c) alternative options; and
- (d) other non-capital works.

## 1.2 Interpretation

- (a) Unless the contrary intention is apparent—
  - (i) a rule of interpretation in the *Code*; and
  - (ii) the Interpretation Act 1984
 apply to the interpretation of this *contributions policy*.
- (b) Unless—
  - (i) the *contrary* intention is apparent; or
  - (ii) the term has been redefined in clause 1.1,
 a term with a defined meaning in the *Code* has the same meaning in this *contributions policy*.

## 2. Applications of this *Contributions Policy*

- (a) Subject to (b), and (c) below, this *contributions policy* applies if it is necessary for Western Power to perform *works* to provide *covered services*.
- (b) If the *works* required for Western Power to provide the *covered services* sought by an *applicant* are *Appendix 8 works*, then the *contribution* for those *works* is the amount determined under and in accordance with Appendix 8 of the *Code*. For the avoidance of doubt, any such *contribution* is to be paid in addition to any *contribution* payable under this *contributions policy*.
- (c) An *applicant* is required to pay a *contribution* for *works* in any (including any combination of) the following circumstances—
  - (i) in the case of *new facilities investment*, where the capital costs incurred in relation to the relevant *works* do not satisfy the *new facilities investment test*;
  - (ii) in the case of *works* related to *alternative options*, where the *non-capital costs* associated with such *works* do not satisfy the requirements of clause 6.41(b) of the *Code*;
  - (iii) in the case of non-capital *works* including *alternative options*, where the costs of the *works* were not included, and could not reasonably have been included, in forecasts of *non-capital costs* taken into account in setting the *price control*; or
  - (iv) where the *works* meet the requirements of clause 6 of this *contributions policy* (*distribution low voltage connection headworks scheme*).

## 3. Lowest Sustainable Cost

A *contribution* with respect to *covered services* sought by an *applicant* must not exceed the amount that would be required by a prudent *service provider* acting efficiently, in accordance with *good electricity industry practice* seeking to achieve the lowest sustainable cost of providing the *covered services*.

## 4. Applicant Must Make Contribution

### 4.1 Applicant Must Make Contribution

- (a) Subject to paragraph (b) of this clause 4.1, if the application of this *contributions policy* in relation to the *works* produces a *contribution* amount that is greater than zero, Western Power is not required to undertake the *works* in respect of a *connection application* for a *covered service* until the *applicant* enters into a contract with Western Power under which the *applicant* agrees to provide the *contribution*, including any *GST* liability, to Western Power in accordance with this *contributions policy*.
- (b) If the *work* falls within the class of *distribution low voltage connection headworks scheme works*, Western Power must undertake and fund the *work* whether or not the *work* is a *required work*. This does not excuse the *applicant* from any obligations to make a *contribution* under this *contributions policy*.

### 4.2 Payment of *GST*

The payment of a *contribution* may be subject to *GST* and, if so, Western Power will request an *applicant* to pay an additional amount equal to Western Power's *GST* liability. Western Power may request payment of this additional amount at the time Western Power's *GST* liability arises.

### 4.3 Applicant Must Provide Security for *New revenue*

- (a) Western Power may require an *applicant* to provide security under this clause if Western Power determines there to be a risk of not receiving the *estimated new revenue*.
- (b) Western Power may require the *applicant* to provide security in the form of an unconditional, irrevocable bank guarantee, or equivalent financial instrument in terms acceptable to Western Power guaranteeing *new revenue* in the amount of—
  - (i) the *estimated new revenue* (where the *estimated new revenue* is less than the *allocated forecast costs*); or
  - (ii) the *allocated forecast costs* (where the *estimated new revenue* is more than the *allocated forecast costs*).
- (c) Where Western Power requires security under clause 4.3(b), the *applicant* must provide it before the commencement of the *works* the subject of the *connection application*.
- (d) Where an *applicant* has provided security under clause 4.3(c), then 24 months after the commencement of the associated *exit service*, *entry service*, or *bidirectional service* Western

Power will reconsider the risk of not receiving the *estimated new revenue* (based on the then expected use of those *services*) and if that risk—

- (i) no longer remains, Western Power will return the security;
  - (ii) remains, but has abated, Western Power may reduce the amount of the security by requiring a new security for the reduced amount; or
  - (iii) has crystallised (such that some or all of the *estimated new revenue* will not be recovered by Western Power), Western Power will re-determine the *contribution* under this *contributions policy* and recover from the *applicant* any difference from the amount of any original *contribution* and, after that recovery, return the security.
- (e) In applying this clause Western Power will act as a *reasonable and prudent person*.
- (f) For the purposes of this clause 4.3—

“**estimated new revenue**” means the amount calculated under clause 5.2(d).

“**allocated forecast costs**” means the amount of the *forecast costs* allocated to the *applicant* under clause 5.4.

#### 4.4 Payment of Tax

The receipt by Western Power of a *contribution* may result in Western Power incurring a tax liability (whether under Commonwealth or State income tax and other legislation or under a tax equivalent regime applicable to Western Power as a government owned enterprise) and Western Power may recover from the *applicant*, as part of the *contribution* payable by the *applicant*, Western Power’s forecast of the net tax liability it will incur as a result of the receipt of such *contribution*. For the avoidance of doubt, this clause 4.4 and clause 5.5 do not deal with liability for *GST*, which is dealt with in clause 4.2.

### 5. Amount of Contribution

#### 5.1 Interpretation

- (a) For the avoidance of doubt, this clause 5 is to be read subject to the provisions of clauses 2 and 6 of this *contributions policy*.
- (b) For the purposes of this clause 5—
  - (i) the definition of ‘*new facilities investment test*’ is that set out in section 6.52 of the *Code*, but without having regard to subsection 6.52(b)(i) thereof; and
  - (ii) the definition of ‘*alternative option test*’ is that set out in section 6.41 of the *Code*, but without having regard to subsection 6.41(b)(i) thereof.

#### 5.2 Calculation of Contribution

The *contribution* payable in respect of any *works* to which this *policy* applies is calculated by—

- (a) determining the appropriate portion of any of the *forecast costs* of the *works* (excluding *distribution low voltage connection headworks scheme works*, but including any *works* relating to a *distribution low voltage connection headworks scheme application* excluded from clause 6 by clause 6.5), which do not meet the *new facilities investment test* or the *alternative option test* (as applicable) to allocate to the *applicant* under clause 5.4; and
- (b) adding any applicable amount calculated under clause 6.3 (*distribution low voltage connection headworks scheme base charge*); and
- (c) adding any applicable amount calculated under clause 7.4; and
- (d) deducting the amount likely to be recovered in the form of *new revenue* gained from providing *covered services* to the *applicant*, or, if the *applicant* is a *customer* (including residential *customers*), to the *customer’s retailer*, as calculated over the *reasonable time*, at the *contributions rate of return*; and
- (e) adding any applicable amount calculated under clauses 7.1, 7.3 and 7.5; and
- (f) adding any tax liability (of the nature referred to in clause 4.4) which Western Power forecasts it will incur due to the receipt of the amount payable under paragraphs (a) to (e) of this clause 5.2, as calculated in accordance with clause 5.5; and
- (g) adding any applicable amount calculated under clause 7.2.

#### 5.3 Reasonable Time

For the purposes of this *contributions policy*, the *reasonable time* is to be determined by Western Power, as a *reasonable and prudent person*, having regard to—

- (a) the anticipated commercial life of the *works*, up to a maximum of 15 years; and
- (b) the purpose for which the *applicant* requires the *covered services*.

{Note: For example, if the *applicant* is proposing to build a plant with an expected 5 year operating life, then the *reasonable time* might be 5 years or less.}

#### 5.4 Amount of Forecast Costs

- (a) Western Power may, acting as a *reasonable and prudent person*, determine that the amount of the *forecast costs* to be allocated to the *applicant* for the purposes of clause 5.2(a) is—
  - (i) the full amount of the *forecast costs*; or
  - (ii) an amount determined under clauses 5.4(b) to 5.4(e).

- (b) If Western Power chooses to undertake *works* in excess of the *minimum practical works* to provide *covered services* sought by an *applicant*, then Western Power will determine that the amount of costs allocated to the *applicant* are the *forecast costs* of the *minimum practical works*.
- (c) If—
- (i) Western Power reasonably expects to receive *tariff* income from future *applicants*, because of *works* to provide *covered services* sought by an *applicant*, within a period of 10 years, (or such longer period as reasonably determined by Western Power acting as a *reasonable and prudent person*), of the original *applicant's connection application*; or
  - (ii) an *applicant* seeks a *covered service* that will make use of *works* undertaken to provide *covered services* to a previous *applicant*, within a period of 10 years, (or such longer period as reasonably determined by Western Power acting as a *reasonable and prudent person*), of the original *applicant's connection application*, and for which the original *applicant* paid a *contribution* calculated under clause 5.2;
- then Western Power will apportion the costs based on the relative use of the *works* by the *applicant* compared to the relative use of the *works* expected to be sought by those future *applicants*, or the relative use of the *works* sought by previous *applicants*, or both, as applicable.
- (d) If Western Power has received more than one *connection application* requiring the same *works*, then Western Power may negotiate with the *applicants* under the *applications and queuing policy* to apportion the *forecast costs* of the *works* between the *applicants*, based on the relative use of the *works* sought by each *applicant*.
- (e) If *works* to provide *covered services* to an *applicant* provide specific savings to Western Power in performing its legal obligations, then Western Power will determine that the costs to be allocated to the *applicant* are the *forecast costs* less the amount saved.

### 5.5 Forecasting Tax Liability

For the purposes of determining the costs representing Western Power's tax liability arising due to receipt of an amount calculated under paragraphs (a) to (e) of clause 5.2, Western Power must estimate the net tax liability, with respect to the *contribution*, it will incur over the life of the assets to which the *contribution* relates. The calculation of the grossed up tax expense takes into account the circularity arising from the payment of tax costs by the *customer*, the dividend imputation franking credit passed through to Western Power's shareholder and the statutory tax depreciation benefit which offsets the tax costs incurred by Western Power.

## 6. Distribution Low Voltage Connection Headworks Scheme

### 6.1 Application

Subject to clause 6.5 this *distribution low voltage connection headworks scheme* applies to an *applicant* that falls within the class of *applicant* that may make a *distribution low voltage connection headworks scheme application* and where the *works* required to meet the requirements of the *connection application* of that *applicant* are *distribution low voltage connection headworks scheme works*.

### 6.2 Distribution Low Voltage Connection Headworks Scheme Contribution

- (a) If, in accordance with *good electricity industry practice*, Western Power reasonably considers that the *forecast costs* of *distribution low voltage connection headworks scheme works* (required to meet the requirements of the *connection application* of an *applicant*) over a 15 year period exceed the amount of *new revenue* likely to be gained from providing *covered services* using those *distribution low voltage connection headworks scheme works* to *distribution low voltage connection headworks scheme applicants* over that period, then, upon receiving the *distribution low voltage connection headworks scheme application* of that *applicant*, Western Power will, in accordance with this clause 6, require a *distribution low voltage connection headworks scheme contribution* from the *applicant*.
- (b) Where a *distribution low voltage connection headworks scheme contribution* is made by an *applicant* no further *contribution* shall be required from the *applicant* for the *distribution low voltage connection headworks scheme works* for which that *distribution low voltage connection headworks scheme contribution* was made.
- (c) For the purpose of this *contributions policy* a *distribution low voltage connection headworks scheme contribution* is a *capital contribution*.

### 6.3 Determination of the Distribution Low Voltage Connection Headworks Scheme Base Charge

The *distribution low voltage connection headworks scheme base charge* is determined by—

- (a) identifying the *applicant's* incremental electrical capacity requirement—
  - (i) by deducting from the *applicant's* required electrical capacity, the original design capacity for a greenfield development on an existing serviced lot as determined by Western Power's policies and procedures from time to time; or
  - (ii) as the *applicant's* required electrical capacity sought in the *distribution low voltage connection headworks scheme application* for an un-serviced lot.
- (b) determining whether the location of the *connection point* (to which the *connection application* relates) is on a land lot separate from the *relevant distribution transformer*; and
- (c) applying the parameters determined under 6.3(a) and 6.3(b) to the prices determined in clause 6.4.

#### **6.4 Distribution Low Voltage Connection Headworks Scheme Prices**

The methodology used to develop the *distribution low voltage connection headworks scheme* prices is described in Appendix C (*Distribution low voltage connection headworks scheme Methodology*) of this *Access Arrangement*.

- (a) The *distribution low voltage connection headworks scheme* price is expressed as \$ per kVA.
- (b) The *distribution low voltage connection headworks scheme* prices will vary depending on—
  - (i) whether the incremental capacity requirement at the *connection point* determined under clause 6.3(a) is—
    - (A) less than 216 kVA; or
    - (B) between 216 kVA and 630 kVA; or
    - (C) greater than 630 kVA, and
  - (ii) whether the location of the *connection point* is on a land lot separate from the *relevant distribution transformer*.

#### **6.5 Exclusion from Distribution Low Voltage Connection Headworks Scheme**

The methodology used to develop the *distribution low voltage connection headworks scheme* exclusion threshold is described in Appendix C (*Distribution Low Voltage Connection Headworks Scheme Methodology*) of this *Access Arrangement*.

A *distribution low voltage connection headworks scheme application* is excluded from the provisions of this clause 6 where the *forecast costs of works* (as determined assuming clause 5.4 applies to those *works*) is in excess of the *distribution low voltage connection headworks scheme base charge* plus the exclusion threshold. For the purposes of applying this clause 6.5, only the cost of those *works* which would otherwise fall within the *distribution low voltage connection headworks scheme* apply.

Where a *distribution low voltage connection headworks scheme application* is excluded, the *contribution* is determined under this *contributions policy* excluding the provisions of this clause 6.

### **7. General Provisions**

For the avoidance of doubt, this clause 7 is to be read subject to the provisions of clause 2 of this *contributions policy*.

#### **7.1 Connection Assets**

The *applicant* must pay the full *forecast costs* of any *works* to provide *connection assets*.

#### **7.2 Non-capital Costs**

The *applicant* must pay to Western Power the full amount of any *non-capital costs* that Western Power incurs in performing *works*, which in any case must not exceed such costs that would be incurred by a prudent *service provider* acting efficiently in accordance with *good electricity industry practice*.

{Note: these costs might include, for example, adjusting protection settings, reprogramming computer equipment and so on.}

#### **7.3 Works Over and Above Standard Works**

If an *applicant* seeks a *covered service* that is better or different in some respect than an equivalent *service* in the *technical rules* or an equivalent *reference service* in the *access arrangement*, then the *applicant* must pay to Western Power—

- (a) a *contribution* calculated under this *contributions policy* for the equivalent *service*; and
- (b) the difference between the *forecast costs* of the *works* required to provide the equivalent *service* and the *forecast costs* of the *works* required to provide the better or different *service*, to the extent that the better or different *service* does not otherwise meet those parts of the *new facilities investment test* dealing with *net benefit*, safety or reliability.

{Note: this could be, for example, a design philosophy delivering increased security of supply}

#### **7.4 Costs Related to Technical Rules Compliance**

- (a) The *applicant* must pay a *contribution* calculated under this *contributions policy* in respect of any *works* required to upgrade the fault level ratings of *network assets*, or any other *works* required to ensure that Western Power complies with the *technical rules* with respect to the *network assets*.
- (b) The *applicant* must pay all of its own costs in relation to ensuring that its *facilities and equipment* comply with the *technical rules* and with any requirements of the *WEM rules* (including any Registered Generator Performance Standards (as that term is defined in the *WEM rules*)) applicable to those *facilities and equipment*.

#### **7.5 Temporary Supplies**

The *contribution* to be paid by an *applicant* who seeks a temporary supply is, if no applicable amount is published on Western Power's website, an amount equal to the full *forecast costs* of the *required works*.

## 8. Manner of Contribution

### 8.1 Options for Payment

A contribution may be made—

- (a) by the *applicant* by way of a financial payment comprising either—
  - (i) periodic financial payments, subject to clause 8.2; or
  - (ii) an upfront financial payment;
- (b) by the Western Australian Government under any appropriate government policy; or
- (c) by the *applicant* undertaking the *augmentation* and transferring ownership of the *augmentation*, subject to clause 8.4.

Where the *contribution* is greater than \$1,000,000, the *applicant* and Western Power may negotiate to adjust the *contribution* to reflect actual costs of the *required works* determined after the completion of the *works*. This does not exclude the *applicant* from any obligations to pay a *contribution* under this *contributions policy*.

### 8.2 When Applicant May Choose Periodic Payment

The *applicant* may not elect under clause 8.1(a)(i) to make the *contribution* by way of a periodic financial payment unless the total amount of the *contribution* exceeds \$50,000.

### 8.3 Terms and Amount of Periodic Payment

- (a) If the *applicant* elects to make a *contribution* by way of periodic financial payment under clause 8.2, then—
  - (i) the maximum term over which the periodic payments may be made is 5 years;
  - (ii) interest will be payable on each periodic payment, at a reasonable commercial rate to be negotiated between Western Power and the *applicant*; and
  - (iii) Western Power (acting as a *reasonable and prudent person*) may require the *applicant* to procure an unconditional, irrevocable bank guarantee, or equivalent financial instrument, in terms acceptable to Western Power, guaranteeing the *contribution*.

### 8.4 Augmentations Undertaken by Applicants

- (a) An *applicant* may, with Western Power's approval, construct an *augmentation* of the *network*.
- (b) Where an *applicant*, in accordance with (a) above, constructs an *augmentation* of the *network*, the *applicant* shall agree to transfer the ownership of the *augmentation* to Western Power on such reasonable terms and conditions as may be stipulated by Western Power (after Western Power has tested the *augmentation* and certified that it meets the applicable technical standards) but in no circumstance will Western Power become obliged to make any payment to the *applicant* or any other person with respect to the *augmentation*.

{Note: An *applicant* is required to pay to Western Power the fees set by Western Power from time to time associated with Western Power testing the *augmentation* to establish that it meets the applicable technical standards for the *augmentation* to connect to the *network*.}

## 9. Rebates and Recoupment

### 9.1 Applicability

This clause 9 does not apply to *contributions* made under clause 6 (*distribution low voltage connection headworks scheme*) of this *contributions policy*.

### 9.2 Parties May Negotiate a Rebate

- (a) Where—
  - (i) an *applicant* has paid a *contribution*, or is paying a *contribution* in the form of periodic payments, for *works* with respect to a *connection point*; and
  - (ii) the value of the *contribution* is in excess of \$1,000,000,

then Western Power and the *applicant* may negotiate to require Western Power to provide a rebate in circumstances where a subsequent *applicant* associated with a different *connection point* benefits from the *works* or a part of the *works* in respect of the original *connection point*. The rebate can only be in relation to assets, the costs of which were included in the calculation of the original *contribution* under this *contributions policy*.

- (b) Where—
  - (i) an *applicant* has paid a *contribution*, or is paying a *contribution* in the form of periodic payments, for *works* with respect to a *connection point* for which the full *forecast costs* of the *works* were allocated to the *applicant* under clause 5.4;
  - (ii) at the time that the *works* are carried out, it is only the *applicant* who will benefit from the *works* in relation to that *connection point*; and
  - (iii) the value of the *contribution* is in excess of \$200,000 but less than \$1,000,000,

then Western Power and the *applicant* may negotiate to require Western Power to provide a rebate in circumstances where a subsequent *applicant* associated with a different *connection point* benefits from the *works* or a part of the *works* in respect of the original *connection point*.

- (c) Where—
- (i) an *applicant* has paid a *contribution*, or is paying a *contribution* in the form of periodic payments, for *works* with respect to a *connection point* for which the full *forecast costs* of the *works* were allocated to the *applicant* under clause 5.4;
  - (ii) at the time that the *works* are carried out, it is only the *applicant* who will benefit from the *works* in relation to that *connection point*; and
  - (iii) the value of the *contribution* is less than or equal to \$200,000,
- then Western Power and the *applicant* may negotiate to require Western Power to provide a rebate in circumstances where a subsequent *applicant* associated with a different *connection point* benefits from the *works* or a part of the *works* within 10 years of the date that the *contribution* was paid, or periodic payments of the *contribution* began, in respect of the original *connection point*.
- (d) Any negotiated rebate will be payable to the *customer* or the *user* associated with that *connection point* at the time of the *rebate* being payable.
  - (e) The amount of a rebate given to a *user* or *customer* under clause 9.2(a), (b) or (c) is determined by apportioning the amortised *contribution* paid in respect of the original *connection point* between the *user* or *customer* associated with the original *connection point* and each subsequent *applicant* based on the relative *contracted capacity* of each party, where the *contribution* is amortised completely in a straight line over 10 years.
  - (f) Western Power is not under any obligation to pay any rebate for a *contribution* to any *user* or *customer* under any circumstance other than that expressly provided for under clause 9.2(a), (b) or (c).

### 9.3 New Applicants Must Pay Rebate

Where Western Power must pay a rebate to a *user* or a *customer* in respect of a *connection point* under clause 9.2, each subsequent *applicant* that triggers such a rebate must pay to Western Power an upfront amount equivalent to the rebate.

### 9.4 Scheme Rebates Determined Under Appendix 8 of the Code

Nothing in this clause 9 affects the obligations of Western Power to pay a member of a *scheme* a rebate in accordance with the provisions of Appendix 8 of the *Code*.

## 10. Obligation to provide information

Upon request from an *applicant*, and in respect of a *contribution* for *works*, Western Power will provide the *applicant* with the following information—

- (a) where the *contribution* is in respect of *new facilities investment*, details of assessment of the *new facilities investment* against the requirements of the *new facilities investment test* and details of the calculation of the amount that does not meet the *new facilities investment test*;
  - (b) where the *contribution* is made in respect of *non-capital costs* related to *alternative options*, details of assessment of the *non-capital costs* against the *alternative options test* and details of the calculation of the amount that does not satisfy the *alternative options test*;
  - (c) details of assumptions and calculations applied in the apportionment of any forecast cost of *works* between the *user* or *applicant* and other *users* or *applicants* or Western Power under clause 5.4 of this *contributions policy*; and
  - (d) details of the calculation of a *distribution low voltage connection headworks scheme contribution* under clause 6 of this *contributions policy*.
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