
Appendix J – Response to Submissions to the Proposed Mid-Term Revisions to the Applications and Queuing Policy

September 2011



Proposed revisions to the
Applications and Queuing Policy

Response to Submissions



Document release information

Author	Alistair Butcher
Document owner/custodian:	Alistair Butcher
Document number	8568747
Document title	Proposed revisions to the Applications and Queuing Policy
Revision status	FINAL

Document prepared by:

Western Power
ABN 18540492861

363 Wellington Street, PERTH WA 6000

Prepared by:

Alistair Butcher

© Copyright of Western Power

Any use of this material except in accordance with a written agreement with Western Power is prohibited.

Table of contents

1	Introduction	1
2	Response to submissions	2

1 Introduction

By notice dated 31 January 2011 the Economic Regulation Authority (ERA) invited public submissions on Western Power's application for "within period" amendments to the Applications and Queuing Policy (AQP).

Submissions were received from six parties:

- Verve Energy;
- Pacific Hydro;
- Synergy;
- Moonies Hill Energy Pty Ltd;
- Griffin Energy; and
- ERM Power Pty Ltd.

In its decision of 1 April 2011 to not approve Western Power's proposed amendments, the ERA stated (paragraph 6):

The Authority considers that a revised Applications and Queuing Policy should be assessed as part of the next Access Arrangement review, which will provide Western Power with the opportunity to consider the submissions raised by interested parties during the Authority's public consultation...

Western Power has analysed the submissions, and extracted each argument. A response to each argument is set out in the table within this document. As indicated in the Access Arrangement Information, Western Power has adopted a number of procedural suggestions in further revisions to the AQP proposed as part of AA3 which are considered to improve aspects of the proposed revision.

2 Response to submissions

In the following table, Western Power has responded to the main points raised in submissions. Western Power has modified the proposed AQP as indicated.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
1	General	Verve	1	--	The proposed AQP is a significant improvement on the existing AQP	Noted	Supports the proposed AQP
2	Process	Verve	2	18	Ensure the enquiry stage does not create delays by prescribing a maximum timeframe for processing enquiries, at the end of which the applicant may proceed to submit an application for access	Accepted – proposed AQP modified	It is reasonable for WP to adhere to a clear timetable for progressing enquiries. WP has modified clause 18.2(a) and 18.2A(b) of the proposed AQP to provide a timeframe for providing an enquiry response letter.
3	Studies, costs and fees	Verve	2	20A	It is unreasonable for application to be deemed withdrawn unilaterally by WP because fees are not paid where the payment has been overlooked or there is a dispute over fees.	Accepted in part – proposed AQP modified	Applicants are responsible for payment of fees on time. WP has modified clause 20A of the proposed AQP to provide that applicants will be warned in writing 7 business days prior to a deemed withdrawal due to unpaid fees or costs.
4	Process	Verve	2	5.3, 20.2, 20A, 24.3, 24.5	Applicants should be able to remedy any defaults before an application is deemed withdrawn. Applicants should have ability to formally appeal withdrawal decisions.	Accepted in part – proposed AQP modified	WP has retained the broad approach in the proposed AQP but, in relation to unpaid fees or costs, has modified clause 20A of the proposed AQP to provide that applicants must be warned in writing 7 business days prior to a deemed withdrawal due to unpaid fees or costs. WP has not modified other areas where applications can be deemed withdrawn as these other areas are all areas where WP and the applicants are in communication with each other (e.g. negotiations to amend preliminary access offers).

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
5	Transition	Verve	2	2.4	Prior applications should not be disadvantaged by the proposed AQP	Noted	Prior applications are not disadvantaged by the proposed AQP as they are not treated as withdrawn and would be processed in the same time or less, compared with the existing AQP
6	Process	Verve	2	4.5	It is unreasonable that a condition precedent to processing of an application is that competing applications also proceed	Rejected	Applicants in a CAG are first offered a joint solution. If one or more reject then the solution may need to be reworked. If no other competing applicant proceeds then a single-applicant solution will still be considered, as at present
7	Process	Verve	2	5.3	WP must negotiate in a timely manner in relation to access offers to applicants that the applicant initially rejects	Rejected change (already covered)	Clause 5.3 already requires both parties to negotiate in good faith, which encompasses a requirement to negotiate in a timely manner.
8	Process	Verve	2	14.1(d)	The word 'adjacent' should be inserted before 'premises' to account for connections in a premises over multiple lots	Rejected change (already covered)	The requirement in cl 14.1(d) is only that the connection is to a single premise, and thus already covers the situation where the premise is spread over several lots.
9	CAGs	Verve	2	19.3	Where a CAG is formed, it should not be held up by new applications arriving mid-process	Accepted in part – proposed AQP modified	WP has modified clause 24.7 of the proposed AQP such that when processes are commenced in respect of joint solutions to CAGs, those processes will not be interrupted by new applications except in circumstances where existing applications are not impeded.
10	Studies, costs and fees	Verve	3	20.1(b1)	Additional charges charged under 20.1(b1) should be agreed with the applicant prior to being incurred	Rejected	Clause 20.1(b1) simply clarifies for the avoidance of doubt that in addition to the charges under clause 20.1 there are a number of other charges through the application process but those other charges are set by formula and are not based on a pre-estimate of actual costs to be incurred by WP.
11	Process	Verve	3	20.2(b)	WP should have an obligation to act in a timely manner in negotiating amendments to an application	Rejected change (already covered)	Clause 20.2(b) requires both parties to negotiate in good faith, which encompasses a requirement to negotiate in a timely manner.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
12	<i>Studies, costs and fees</i>	Verve	3	20.2(e)(ii)	An applicant should be informed and their approval obtained prior to additional costs being incurred	Accepted – Proposed AQP modified	WP has modified clause 20.2(b) of the proposed AQP such that where costs exceed the reasonable pre-estimate, applicants will be advised, with reasons. The modification provides that applicants may choose to pay additional costs for the additional work, but if they do not their application will be deemed withdrawn.
13	<i>Process</i>	Verve	3	20.3(b)	WP should not have a discretion to determine if competing applications are impeded by an applicant-specific solution but should inform all competing applications as a matter of course.	Accepted in part – proposed AQP modified	WP has modified clause 20.3(b)(ii) of the proposed AQP to require it to inform all applicants in the same CAG of an applicant-specific solution that affects them.
14	<i>Process</i>	Verve	3	20.3(c)	Impeded applicants may not have the ability to object where impeded by an applicant-specific solution unless they have been informed under cl 20.3(b) above	Accepted – proposed AQP modified	WP has modified clause 20.3(b)(ii) of the proposed AQP so that applicants in the same CAG as the applicant offered the applicant-specific solution must be informed
15	<i>Process</i>	Verve	3	20.3(d)	There should be specified timeframes for resolving objections to applicant-specific solutions.	Accepted – proposed AQP modified	WP has modified clause 20.3(d) of the proposed AQP to specify a timeframe for resolving objections.
16	<i>CAGs</i>	Verve	3	24.7	WP's ability to reform a CAG may delay offers to applicants in mid-process.	Accepted in part – proposed AQP modified	As for point 9 above. The primary objective of reforming a CAG is to accommodate applicants dropping out of a CAG. WP has modified clause 24.7 of the proposed AQP consistent with point 9 above such that once a CAG has been formed and work is underway to determine a solution for that CAG then the CAG will not be reformed to add a new applicant except in the specific circumstances mentioned in point 9 above.
17	<i>Process</i>	Verve	3	24A.3(d)	WP's ability to reject an amendment to an application after a preliminary access offer has been made should only apply where the amendment is a material one.	Accepted – proposed AQP modified	WP has modified clause 24A.3(d) of the proposed AQP to provide that where WP agrees an amendment is not material it may not reject the amendment to an application when it is making a preliminary access offer.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
18	General	ERM	1	--	Support the proposed AQP as the current first-come first-served processes frustrate the efficient and timely connection of new generation	Noted	Supports the proposed AQP
19	General	Moonies Hill	1	--	Generally supportive of a change to the existing AQP as the existing AQP distorts access to the SWIS	Noted	Supports the proposed AQP
20	Enquiry	Moonies Hill	1		The existing AQP does not allow prospective applicants to obtain information from WP, even basic capacity information	Noted	Supports the proposed AQP
21	Enquiry	Moonies Hill	1-2	18	At the end of the enquiry phase, the enquiry response letter should provide information on capacity, known network constraints, and the existence of competing applications (existence not detail)	Accepted – proposed AQP modified	WP has modified clause 18.2A(a) of the proposed AQP to provide that the enquiry response letter will release information on capacity, known network constraints, and the existence of competing applications (existence not detail). Consequent amendment has been made to clause 6.1 to clarify that this does not breach confidentiality. It is noted that, in any case, clause 24.9 (previously clause 24.16) permitted release of similar material.
22	General	Griffin	1	--	The existing AQP needs reform but the primary problem is the lack of transmission capacity.	Noted	WP considers that the proposal is a significant improvement on the status quo because it streamlines the transmission planning process and is solutions focus. Point is acknowledged but is beyond scope of revising AQP
23	CAGs	Griffin	1	24	Where an application is accepted, it is likely that other applications in the same CAG will not proceed. Thus the CAG process is flawed as it assumes all competing applications are accepted.	Rejected	The ability to offer a joint transmission solution enables lower cost offers to applicants, making applications more likely to proceed including multiple applications. The CAG process allows for the possibility of some applications dropping out and would seek a solution for remaining applicants (even if only one).

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
24	CAGs	Griffin	1-2	24	Competing projects may fall away during a CAG process, leaving the applicant at the head of a queue to pay the full capital contribution. In this situation that application may be uneconomic, leading to the same situation as under the current AQP.	Rejected	Where some applications within a CAG fall away, leaving perhaps only one application to face paying the full cost of connection, then the fundamental difference with the present AQP is that the applicant need not be the applicant at the head of the queue, but could be any applicant within a CAG. This promotes the most economic connection within a CAG in the situation where only one application is likely to be successful.
25	CAGs	Griffin	2	24	To avoid speculative projects blocking serious projects, instead of the CAG arrangements, impose a series of escalating payments on applicants that discourage the speculative projects	Rejected	Where this approach is successful, it approximates the position under the proposed CAG arrangements. However, it will be inferior to the CAG arrangements in promoting connection at the lowest cost in the case where a number of applications within a CAG are likely to be successful. In a worst case scenario, it may lead to all applications being unsuccessful in a situation where a joint solution arrived at through a CAG process might lead to two or more applications proceeding. Also, payments will escalate under the proposed AQP as the applicant incurs progressively greater study costs and fees under the proposed AQP.
26	General	Griffin	2	--	The NFIT needs to be addressed before the AQP is revised	Rejected	If the NFIT is revised in a way that leads to more spare capacity a mechanism such as the AQP will still be needed to determine access to that spare capacity. WP considers that the proposed AQP is a more efficient way of allocating such access under the current access and approvals regime and as such the AQP arrangements should be resolved now rather than after resolving any changes to the NFIT arrangements.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
27	General	Pac Hydro	2	22	Abandoning the first-come first-served principle introduces unacceptable sovereign risk to existing queue participants.	Rejected	There is no ownership right, nor were there intended to be ownership rights in relation to queue position. Any sovereign risk issue therefore appears to relate to expectations around the ability to connect. The proposed AQP speeds up likely connection times for applicants and increases the economic viability of connection.
28	General	Pac Hydro	2	24	Removal of the queue mechanism will create uncertainty and a 'capacity rush'.	Rejected	The current unconstrained market design makes access to capacity valuable. The queue arrangement allocates this capacity on a non-economic basis, namely the date order of applications. These factors create 'capacity rush' and distortions in connection under the current AQP. The proposed AQP will minimise the incentive of applicants to rush to queue because the focus would be on developing joint solutions that all relevant applicants could accept or reject.
29	General	Pac Hydro	2	--	Further industry consultation is required to promote better understanding	Rejected	WP engaged in two extensive consultation processes, including with all the interested parties that responded to the ERA consultation. A large number of interested parties attended the WP consultation sessions and there was a high degree of support from those parties.
30	General	Pac Hydro	2	2.4 and 22	Retrospective treatment of applications is unacceptable, and in particular loss of queue position for existing applications.	Rejected	Existing queue position is preserved under clause 2.4. An applicant will have an equal or improved timing for connection under the proposed AQP.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
31	General	Pac Hydro	2	4 and 22	The queue arrangements provide the sufficient level of connection certainty to permit projects to proceed.	Rejected	The current queue arrangements slow down access offers to subsequent applicants in a queue. WP considers that in the current and the proposed AQP, once an access offer is made the level of connection certainty is the same. WP notes that under the proposed AQP an applicant can accept an access offer subject to conditions precedent (clause 4.5), including financial conditions precedent.
32	General	Pac Hydro	2	--	The proposed AQP puts investment at risk	Rejected	WP considers that the proposed AQP will improve the investment environment for generation by reducing connection costs where joint solutions can be found, and by speeding up processing for applicants currently in a queue but not at the head of the queue. WP has not been made aware of situations where risk would be increased for current investments.
33	Transition	Pac Hydro	2	2.4	Existing applicants will need to reapply under the new AQP, creating additional costs and uncertainty	Rejected change (already covered)	Existing applications are preserved under clause 2.4
34	General	Pac Hydro	3	24	Compared to the current arrangements, the CAG arrangements do not have clear arrangements for how to manage coordination and equitable allocation of resources to progress connection enquiries.	Rejected	The proposed AQP allows connection applications to proceed based on commercial decisions by the applicants and is more applicant-driven than the current AQP which is considered to have cumbersome processes for progressing applications that are commercially viable but not at the head of the queue. WP has recognised in its submission the opportunity to take a more strategic approach to assessment of investments that would relieve constraints for the benefit of multiple applicants, and will take the opportunity to develop these more strategic planning procedures on approval of the proposed AQP.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
35	General	Pac Hydro	3	--	The process under the proposed AQP would be less efficient as WP would negotiate with multiple applications rather than the application at the head of the queue, which by virtue of its position is well-progressed.	Rejected	At present WP must in any case negotiate with multiple applicants as a significant number of applicants may be blocking or impeding other applicants. In WP's experience an application is not necessarily well-progressed simply because it is at the head of the queue. It may be that some applications at the head of the queue may block other applications and thus limit competition from other generators building new generation.
36	CAGs	Pac Hydro	3	24	It is unclear how WP will determine and resource its CAGs.	Rejected change (already covered)	The process for determining CAGs is set out in some detail in the proposed AQP. As detailed in response to Verve's and Moonies Hill's submission, WP will further clarify some aspects of the proposed AQP, in particular the timing for different stages of the connection process.
37	CAGs	Pac Hydro	3	24	How each of the applications within a CAG are assessed is unclear. Applicants in groups that are not progressing will have an interest in being included in groups that are progressing.	Rejected change (already covered)	This appears to misunderstand the CAGs process. CAGs will be formed based on constraints that are relevant to each generator application; the generator cannot 'choose' except by proposing a differently-located application. All applicants in a CAG will be provided with offers at the same time.
38	Process	Pac Hydro	3	--	WP has set timelines for applicants to respond to WP's offers but there are no timelines for WP to provide information.	Accepted in part – proposed AQP modified	WP has modified clauses 18.2A(b), 20.3(b), 24.4, and 24.6 of the proposed AQP to clarify the timing for different stages of the application process.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
39	Process	Pac Hydro	3-4	--	WP should include an extension of time for applicants to respond to WP during the application process	Rejected change (already covered)	The proposed AQP includes a number of processes to allow more time for applicants to progress applications. For example, cl 4.8(b) provides applicants with more time to satisfy conditions precedent. Cl 5.2 and 5.3 provide more time for an applicant to negotiate changes to access offer. Cl 24.3 provides time for an applicant to negotiate changes to a preliminary access offer. Cl 20.2(b) provides more time for agreeing on amendments to the scope of an application. Clause 15.1(b) is a catch all provision that allows WP and applicants to mutually agree to extend any time period in the application process. At the same time, under cl 15.2, WP must progress applications within a reasonable time and meet the timeframes set under the AQP even where there are multiple applications to be progressed.
40	Studies, costs and fees	Pac Hydro	4	--	WP should permit selected engineering firms to conduct studies.	Accepted – proposed AQP modified	WP has drafted a new clause 20.5 of the proposed AQP to permit an applicant to propose a suitable engineering firm to conduct a study. The studies conducted by the selected firms will be required to provide the information necessary for WP's considerations.
41	CAGs	Pac Hydro	4	24.1 and 24.7	There is no transparency in how WP implements the CAG process or how applicants can choose to enter a CAG	Accepted in part – proposed AQP modified	WP will form CAGs based on its views on the most efficient way of meeting existing applicants' needs. It is not possible to be completely prescriptive in advance, especially given CAGs may change as indicated under the conditions in clause 24.7. However, WP has modified clause 24.7 of the proposed AQP to limit the way in which new applications may interfere with processing of applicants in a CAG (see point 9 above). In addition, WP has modified clause 24.4 and 24.6 to provide timeframes for steps during the CAG process.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
42	CAGs	Pac Hydro	4	24	How WP allocates resources to attend to the CAG groups is not known	Rejected	As under the current AQP, WP must progress all applications within a reasonable timeframe, and in particular non-competing applications. Network planning processes will be much clearer as studies and solutions development will be made on a good industry practice basis. (See also response to issue 34)
43	Transition	Pac Hydro	4	24	WP provides no discussion on the transition of existing applications to the new AQP	Rejected change (already covered)	Cl 2.4(b) provides that existing applications will be retained and will be treated as having been made on their original date.
44	Transition	Pac Hydro	4	24	There is a risk that applicants that are currently well progressed but awaiting augmentation will be effectively bypassed using the new queue arrangements	Rejected	Applicants currently awaiting augmentation (and which are already 'competing applications' under the current AQP) will be able to progress their applications more quickly through the CAG process (which may reduce the costs of connection for them and thus progress an augmentation) or, if they wish, through the applicant-specific solution process which in effect is the current status quo.
45	General	Pac Hydro	4	--	WP's proposed AQP is not consistent with the Code objective of promoting economically efficient investment and operation of networks and services	Rejected	First, the proposed AQP includes for the first time a process for coordinating and thus reducing the costs of augmentation (deep connection) among multiple applicants. Second, the proposed AQP will permit the processing of multiple applications rather than one application at a time as under the current first-come first-served principle, thus facilitating quicker connection for viable and efficient generator applicants. Third, the proposed AQP will permit applications to proceed based on their commercial merit (through the processes in the CAG where any party in the CAG can elect to accept an offer) rather than dealing with applications on the current non-economic basis

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
							of the time of lodgment of the application. WP considers that this will lead to increased economic efficiency compared with the current AQP and, as stated in the submission, is the primary design goal for the proposed AQP.
46	Enquiry	Pac Hydro	5	18	The inclusion of an enquiry process is reasonable	Noted	Supports the proposed AQP
47	Enquiry	Pac Hydro	5	18	The obligations and timelines for the enquiry process need to be embodied in the AQP.	Accepted – proposed AQP modified	WP has modified clause 18.2(a) and 18.2A(b) of the proposed AQP to clarify WP's timeframes during the enquiry process. See point 2 above.
48	Enquiry	Pac Hydro	5	18	The enquiry process needs to specify relevant line flow information and the timeframe for provision of this information	Accepted in part – proposed AQP modified	WP considers that there is merit for both parties in remaining flexible as to the information sought in the enquiry stage. Tightly-specified information is required at the Application stage. As per point 21, WP has modified clauses 18.2A(a) and 6.1 of the proposed AQP so that the enquiry response letter will contain information on known network constraints.
49	Enquiry	Pac Hydro	5	18	WP should provide details regarding the progress of competing applications	Accepted in part – proposed AQP modified	WP already must make extensive progress reports, e.g. see clause 24.10. To further assist applicants, WP has modified clause 18.2A(a) of the proposed AQP to provide that the existence but not detail of competing applications will be revealed in the enquiry response letter.
50	Enquiry	Pac Hydro	5	--	Existing confidentiality arrangements around legacy contracts will create difficulty in WP's ability to provide transparent and equitable information to connecting parties for the purposes of completing studies or more generally to assess the timeframe for likely connection.	Accepted in part – proposed AQP modified	As noted above in point 21, WP has modified clauses 6.1 and 18.2A(a) of the proposed AQP to release some information about competing applications in the enquiry response letter and to clarify this information is not considered confidential.
51	Studies, costs and fees	Pac Hydro	5	--	WP should include an accreditation list to enable applicants to choose third parties to complete network studies.	Accepted in part – proposed AQP modified	WP has drafted clause 20.5 of the AQP to permit the applicant to propose an engineering firm to conduct a study subject to the qualification noted in point 40 above.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
52	Process	Pac Hydro	6	14	The new AQP process assumes applicants will be in a position to determine the primary plant and connection configuration before they proceed with a connection application	Rejected	The issue raised does not relate to the changes made by the proposed AQP compared to the existing AQP. To progress an application, WP needs some information including information about primary plant and connection configuration.
53	Investment	Pac Hydro	6	--	Pac Hydro needs reasonable certainty around connection arrangements before committing to a specific manufacturer's turbine	Rejected	The issue raised does not relate to the changes made by the proposed AQP compared to the existing AQP. Both the current and proposed AQP provide as much certainty as can be provided (except in relation to acceptance of preliminary access offers as noted in point 54). An Applicant would not need to commit to a specific turbine design or rating prior to receiving an access offer. The current and proposed AQP have processes to process material changes to applications.
54	Process	Pac Hydro	6		Pac Hydro supports the concept that the Preliminary Access Offer should be accepted by applicants within 30 days of issue (with an additional 30 days to negotiate changes)	Noted.	Supports the proposed AQP
55	Process	Pac Hydro	6	24.5(a)	WP should not deem applications withdrawn that do not accept a preliminary access offer	Rejected	Applications should be deemed withdrawn to prevent them interfering with a current CAG process. The applicant may re-lodge the applications and since priority is of little value under the proposed AQP (except in relation to oversubscriptions under clause 24.6(c)) there will be no significant cost involved in the deemed withdrawal.
56	Process	Pac Hydro	6	24	The AQP does not address the issues of transparency or workability and in particular how existing applications will transition to the new arrangements.	Rejected change (already covered)	Addressed in point 9 and points 41-42 above.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
57	CAGs	Pac Hydro	6	24	The CAG process using identical unit charging and technical requirements will not necessarily result in an efficient outcome	Rejected	The joint solution progressed under a CAG will take account of the needs of all the CAG applicants. As the proposed AQP would place generators on a level playing field, WP considers that the outcome is pro-competitive and has the potential to considerably improve efficiency. See more detailed response to point 45.
58	General	Pac Hydro	6	24	Projects may progress their development activities to the point of commitment only to find capacity has been used by other projects, which is an inefficient outcome	Rejected	Supports the proposed AQP as the CAG arrangements promote connection of projects on commercial merit rather than the date order lodgement of a particular application. WP considers that this leads to a more efficient outcome. The proposed AQP will also seek to release more information during the application process as discussed above in point 21 and points 46-50.
59	Queues	Pac Hydro	7	2.1, 2.4, and 22	Current queue order should be grandfathered as part of any transition	Noted (already covered)	Current queue order is preserved in the transition by clause 2.4
60	Out of scope	Pac Hydro	7	--	Moving from an unconstrained to an open access arrangement will cause 'capacity rush'	Noted	The proposed AQP does not change the unconstrained access policy. Addressed further in point 28 above.
61	Out of scope	Pac Hydro	7	22	The current unconstrained market design is commensurate with an orderly access arrangement such as currently exists and moving away from it creates significant investment risks for current applicants	Noted	The proposed AQP does not change the unconstrained access policy.
62	Applicant-specific solutions	Pac Hydro	7	20.3	In relation to applicant-specific solutions, Pac Hydro supports network solutions adapted for connection arrangements	Noted	Supports the proposed AQP.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
63	<i>Studies, costs and fees</i>	Pac Hydro	7	18.4 and 20.1	Application and enquiry fees should not be recharged where applicants are unable to proceed when WP makes a preliminary access offer.	Rejected	When applicants are unable to proceed in response to a preliminary access offer, their application should be considered withdrawn in order to clarify which applications are proceeding and to avoid delays in processing such applications. Such fees are relatively small. (See also response to point 55 above)
64	<i>Studies, costs and fees</i>	Pac Hydro	7	20	Applicants should be able to seek studies from alternative parties to WP as part of a competitive process	Accepted-proposed AQP modified	WP has drafted clause 20.5 of the AQP to provide for applicants to propose suitable engineering firms to conduct studies subject to the qualifications in point 40 above (also see related point 51).
65	<i>Process</i>	Pac Hydro	7	24.4	There should be clear timelines and cost estimates for the processes subsequent to the charging of a preliminary offer processing fee.	Accepted – proposed AQP modified	WP has modified clauses 24.4 and 24.6 of the proposed AQP to include indicative timeframes for further processing after a preliminary offer processing fee is charged.
66	<i>Studies, costs and fees</i>	Pac Hydro	7	4	Studies should be deferred until after approval of the new regulatory test and new NFIT	Rejected	Not a matter to be considered in drafting the AQP. Addressed in point 26 above.
67	<i>Studies, costs and fees</i>	Pac Hydro	7	20	WP should provide detailed estimates and refunds for work that does not proceed	Rejected change(already covered)	WP currently charges a genuine pre-estimate of costs for studies under clause 20.1, with the cost subsequently corrected to the actual cost (cl20.2(e)). This may result in refunds where the actual cost is less than the estimate.
68	<i>Process</i>	Pac Hydro	8	4, 24.3, 24.5	WP's discretion to deem applications withdrawn is too broad, and in particular where the applicant and WP have failed to negotiate changes to an access offer or preliminary access offer within 30 days.	Rejected	WP considers that thirty days is sufficient time to negotiate changes. Both parties have an obligation to negotiate in good faith to resolve issues. A longer time period would lead to delays for other applicants. If applicants are concerned about accepting offers when other matters such as financial or regulatory matters are outstanding, they can accept access offer subject to conditions precedent.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
69	Process	Pac Hydro	8	4	An applicant may be unable to accept an offer within 30 days due to, for example, planning or environmental conditions imposed by government	Noted (already covered)	Under clause 4.5 to 4.8, an applicant is permitted to set conditions precedent when accepting an access offer. These could include planning/environmental conditions imposed by government, or other matters such as satisfaction of the regulatory test.
70	Process	Pac Hydro	8	4	The ability of applicants to accept access offers is dependent on a range of issues and some flexibility should be included in addressing these requirements.	Noted (already covered)	As noted above in points 68-69, the AQP contains flexibility to insert conditions precedent when accepting access offers.
71	Process	Pac Hydro	8	--	There is a lack of timelines applying to WP	Accepted – proposed AQP modified	WP has modified clauses 18.2(a), 18.2A(b), 20.3(d), 24.4 and 24.6 of the proposed AQP to include timelines for elements of the proposed AQP process, as noted above.
72	General	Synergy	4	--	WP considers the proposed AQP will lead to more efficient development of generation plant but no basis for this claim is stated	Rejected	The improved-efficiency basis for the changes is explained in the proposed AQP submission and in WP's December 2009 Discussion Paper. Similar points have been made by the ERA in its market reviews and by the AEMC. See also response to point 45.
73	CAGs	Synergy	4	--	An assessment on the basis of a 'shared access offer' focuses on network optimisation, which may lead to sub-optimal outcomes for the market as a whole.	Rejected.	WP notes that shared solutions are typically lower-cost, because of economies of scale that underlie the rationale for providing electricity networks as opposed to point-to-point connection solutions. Moreover by providing shared access offers, more economically-viable generators are more likely to proceed, thus improving competitiveness for retailers.
74	CAGs	Synergy	4	--	A proposed AQP that forces business solutions to align with network constraints does not provide a reasonable mechanism to accommodate the interests of users	Rejected.	The submission appears to misunderstand the proposed changes. Network constraints currently constrain access to the network and the proposed AQP proposes a mechanism to efficiently resolve investments to remove those constraints. Electricity supply to retailers can be at lower cost if the combined transmission and generation costs are minimised.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
75	<i>Applicant-specific solutions</i>	Synergy	4	20.3(c)	Applicant-specific solutions can be objected to, which means business and generation solutions may need to be modified to serve the constraints of the network	Rejected.	The grounds for objection in relation to applicant-specific solutions are that the applicant-specific solution impedes other applications. It does not relate to nor could it be used to alter a business or generation solution in response to network constraints.
76	<i>Queues</i>	Synergy	4	--	Queues are a necessary mechanism to ensure efficient business solutions get access to the network.	Rejected.	The proposed AQP enables applicants at the head of the queue to receive consideration equivalent to current consideration but enables in addition, joint solutions and applicant-specific solutions. WP has considerable evidence of the inefficiencies of the existing queue, based on submissions from market participants which were drivers for the current review.
77	<i>Queues</i>	Synergy	4	--	The bypass mechanism provides a proactive and real-time basis to evaluate and balance interests	Rejected	Implementation of the bypass mechanism has proved problematic in practice and even when implemented effectively is unable to provide joint connection solutions. Applicant-specific solutions are retained as a back-stop and equate to the solution provided by an efficiently implemented bypass mechanism.
78	<i>CAGs</i>	Synergy	4	--	The proposed changes are designed to limit the service providers' activities in assessing and balancing their needs with those of users and applicants.	Rejected	The purpose of the proposed changes to the AQP is to provide joint solutions at an efficient cost. Applicants do not need to change their applications or proposed plant.
79	<i>CAGs</i>	Synergy	4	--	The proposed AQP has the potential to artificially constrain competing generation projects	Rejected	The submission appears to misunderstand the proposed changes. The proposed AQP does not seek to change generation projects embodied in applications. The proposed AQP is specifically designed to accommodate as many competing generation applications as possible.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
80	CAGs	Synergy	4	--	The proposed AQP bears the potential to preclude or restrict or force changes upon individual projects based on network constraints	Rejected	The proposed AQP does not require any changes to individual projects. The proposed AQP will signal the cost implications of relieving particular network constraints to accommodate the most cost-efficient generation/transmission solutions, thus minimising costs to WA consumers.
81	CAGs	Synergy	4	--	The changes have the potential to positively discriminate against large-scale projects, sacrificing economies of scale and low cost services by unduly constraining solutions in order to optimise the existing network in preference to the commercial requirements of the applicants	Rejected.	The submission appears to misunderstand that the proposed changes to the AQP are designed to assist in developing joint solutions to a number of applications as those applicants stand rather than forcing applications (either large-scale or otherwise) to change to fit some solution imposed by WP. By definition those joint solutions are typically larger-scale lower-cost solutions than single-applicant solutions.
82	General	Synergy	5	--	It would be unlikely for the Code to be capable of certification as an effective access regime under the TPA [now the Competition and Consumer Act 2010] if the proposed changes were incorporated	Rejected.	No evidence is provided for this assertion. The proposed changes promote greater competition among generators compared to the current AQP by reducing the influence of queue order in processing connections for new generation.
83	CAGs	Synergy	5	--	The proposed AQP provides WP with significant discretion to require applicants to modify their business plans and applications in order to conform to shared network access offers based on network constraints	Rejected.	The submission appears to misunderstand the nature of the changes in the proposed AQP. The proposed AQP does not confer powers on WP to change applications.
84	CAGs	Synergy	5	Part B of the AQP	The SWIN will need to accommodate connection of renewable generation which may require specific network connection designs not accommodated in shared network access offers	Rejected.	The proposed AQP is mainly directed at more efficient augmentation (deep connection) arrangements. Shallow connection to the network, which is primarily dealt with under Part B of the AQP, is not fundamentally altered by the proposed AQP.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
85	Franchise	Synergy	5	Part B of the AQP	Synergy queries whether WP intends to treat franchise connections (e.g. photovoltaic) differently under the proposed AQP	Noted	The proposed AQP does not propose any changes to franchise connections such as photovoltaic cells, which are dealt with under Part B of the AQP.
86	Out of scope	Synergy	6	--	The AQP does not address the needs of Synergy as supplier of last resort. To do so, it would need to allow for bulk off-market transfer processes and provision of data to the supplier of last resort. The current AQP is also deficient in this regard.	Noted	The proposed AQP does not change arrangements in respect of supplier of last resort, nor are supplier of last resort arrangements intended to be covered by the AQP.
87	Enquiry	Synergy	6		Synergy supports a formal enquiry stage.	Noted	Supports the proposed AQP
88	Process	Synergy	6	--	Synergy considers a formal service level agreement outlining timeframes for processing enquiries is essential. The current AQP does not contain any incentives for WP to comply with the specified timeframes.	Accepted – proposed AQP modified	The current and proposed AQP already contain a requirement for WP to progress applications in a reasonable timeframe. As noted above, WP has modified clauses 18.2(a), 18.2A(b), 20.3(d), 24.4 and 24.6 of the proposed AQP to introduce timeframes for progressing elements of the AQP process where it is feasible to do so.
89	Franchise	Synergy	6	--	The formal enquiry stage is not feasible for the franchise market.	Rejected.	As noted in point 85 above, the proposed AQP does not propose any changes to franchise connections such as photovoltaic cells, which are dealt with under Part B of the AQP.
90	CAGs	Synergy	6	--	WP will develop joint solutions based on its own network optimisation.	Noted	The joint network solutions are not developed to optimise the existing network but to provide joint solutions providing new transmission capacity at lower incremental cost than a number of specific solutions. In combination with cost-efficient generation, this optimisation reduces the cost of energy to WA consumers, consistent with the WEM objective.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
91	Queues	Synergy	6	--	The current bypass provisions if used in combination with the dormant application provisions and the proposed formal enquiry stage would be effective and satisfactory to overcome the existing problems of the queue arrangements.	Rejected	Rejected for the reasons in point 77 above.
92	CAGs	Synergy	7	24	Study churn can occur under the CAG arrangements if applicants drop out of the group. In some cases, the increases in connection costs may mean it is no longer feasible for remaining applicants.	Rejected	The CAG offers the opportunity for coordination of the connection needs of a number of applicants at lower connection cost per application. The current queue process and its use in prioritising studies results in significant study churn as noted in WP's submission but without the above opportunities provided by the CAG. As noted in WP's submission, this was a significant driver of the proposed AQP.
93	CAGs	Synergy	7	--	It is highly improbable that multiple independent projects will achieve coincident project approval	Noted (covered already)	The condition precedent provisions in clause 4.5 mean project approval does not need to be coincident. The proposed AQP can continue to process applications in relation to some members of a CAG or singularly as under the present AQP.
94	CAGs	Synergy	7	24.7	CAGs will become captive to any applicant that encounters a delay in moving to readiness, thereby delaying the process	Rejected	The CAG can be reformed under cl 24.7 to exclude applicants that are delaying a process. Where offers are made, there are provisions to ensure offers are accepted in a timely fashion to prevent delays.
95	CAGs	Synergy	7	24	A shared network augmentation solution developed by WP would likely be a compromise between various applicants in a group	Rejected	The submission appears to misunderstand that the CAG process does not involve requirements to make any changes to projects embodied in applications. Where there are economic advantages to parties in modifying their applications to facilitate a solution, then incentive and processes will exist for them to do so.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
96	CAGs	Synergy	7	24	A CAG assumes or forces like needs for applicants	Rejected	The AQP (either in its current or proposed form) is a way of offering essentially the same product to all applicants - access to transmission capacity. The offer varies according to the needs of the applicant for capacity.
97	CAGs	Synergy	7	24	The presence of over-subscription indicates that the CAG process is not fit for purpose.	Rejected	CAGs will be formed around expected outcomes, based on applications lodged. Over-subscription caters to the situation where interest from applicants exceeds expected interest from members of a CAG. It is not possible in advance to anticipate all possible outcomes arising from a joint offer to a range of applicants and providing for this possibility does not imply that it will often eventuate.
98	CAGs	Synergy	7	24	The presence of an over-subscription provision indicates that it must apply in conjunction with bypass processes	Rejected	The CAG process contains time-limited provisions for applicants to accept preliminary access offers and offers. Where they do not do so, their applications are deemed withdrawn, clearing room for other applicants. In any event, over-subscription indicates the success of a joint solution, rather than that some of the applications should be bypassed. The over-subscription will lead to clearing of the applicant list, leaving other applicants to be considered through a further CAG or single offer.
99	CAGs	Synergy	7	24	The oversubscription provisions create uncertainty	Rejected	To the extent that the over-subscription provisions reimpose queue-like arrangements similar to those under the existing AQP, it is not clear how they create uncertainty compared to retaining the existing AQP.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
100	General	Synergy	7-8	22	Synergy does not support the proposal to delete the queue framework. The present framework works if the bypass and dormant application provisions are applied appropriately.	Rejected	As noted in points 76-77 above, the current queue arrangements are neither efficient nor effective and multiple submissions to WP and assessments by other parties have made this clear.
101	General	Synergy	8	22	The queue provides a means whereby projects with the most advantageous commercial merit that best meet the Code objectives in the market are given priority	Rejected	The submission appears to misunderstand the basis for the current queue. The current queue arrangements give priority on a first-come first-served basis rather than to the projects with the most commercial merit.
102	Queues	Synergy	8	22	WP may be exposed to the risk of challenge by applicants that are bypassed but this risk is manageable provided WP follows due process	Rejected	The bypass provisions are difficult to implement in practice, as has been recognised through WP's consultation processes dating back to 2009.
103	Applicant-specific solutions	Synergy	8	20.3	Applicant-specific solutions are unnecessary where the queue provisions are retained	Noted	WP has proposed that the queue provisions not be retained.
104	Applicant-specific solutions	Synergy	8	20.3	The applicant-specific solution causes conflict with applications higher on the queue, where such higher applications have made investments to progress their applications in an appropriate (sufficiently early) stage of their projects. This will lead to objections from such applicants	Rejected	The fact that applicants are higher on the queue does not necessarily indicate they have made material investments or have higher commercial merit. The proposed grounds for objection to applicant-specific solutions relates to whether they might impede Western Power's ability to serve other applicants. These grounds are as per the existing AQP.
105	Studies, costs and fees	Synergy	8	20A	It is concerning that WP can remove an application where study costs or other fees remain unpaid for 60 days	Accepted in part – proposed AQP modified	As noted in points 3 and 4 above, WP has modified clause 20A of the AQP to provide that applicants will be given an additional 7 business days warning prior to withdrawal of an application.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
106	<i>Studies, costs and fees</i>	Synergy	8	20	WP has the power to arbitrarily levy fees on the customer for work WP deems appropriate	Rejected	WP does not have the power to arbitrarily levy fees. The circumstances for levying fees and charges are set out clearly in the proposed AQP. For example, clause 20 sets out the grounds and circumstances for levying study fees, provides for acceptance by applicants of the study proposals made to them by Western Power, and also provides for the refund of any unused fees.
107	<i>Studies, costs and fees</i>	Synergy	8	--	There is no recognition for the length of time that fees paid to WP are held by WP or the time value of money	Noted.	Western Power considers that it would be complicated to account for the time value of fees paid to WP but not yet expended. Western Power levies study fees only for those studies that have been scoped and agreed and expects to undertake those studies shortly after fees have been paid.
108	<i>Studies, costs and fees</i>	Synergy	8	20A	Procedural fairness must be afforded to applicants to prevent WP refusing or delaying in responding to reasonable queries while the applicant faces the threat of being deemed withdrawn	Accepted in part – proposed AQP modified.	There are processes to dispute fees under clause 20.4. As noted above WP has modified clause 18.2(a), 18.2A(b), 20.3(d), 24.4, and 24.6 of the proposed AQP to provide further clarity around timeframes for progressing applications. WP notes it is subject to a general obligation to proceed with applications within a reasonable timeframe.
109	<i>Process</i>	Synergy	9	5.2, 24.3	Synergy is concerned that WP can withdraw applications after 30 days where matters are in dispute (e.g. offers, amendments to applications, preliminary access offers)	Noted	WP has an obligation to negotiate in good faith to resolve issues in these provisions, as do applicants. There is no clear alternative that would not lead to delays in processing applications. Western Power's concern in this regard is the processing of other applications
110	<i>Process</i>	Synergy	9	20.2	Synergy is concerned at WP's wide discretion to refuse to amend applications, leaving them open to loss of their priority date.	Noted	WP has an obligation to negotiate in good faith to resolve issues in relation to amendments. Where an applicant changes its application, this can affect other parties. In any case, under the proposed AQP, priority date has little significance.

No.	Category	Submitter	Page	Clause	Argument made	Response	Reason
111	Process	Synergy	9	--	The current provisions are likely to be more timely if applied appropriately	Rejected	Rejected for the reasons in points 100-102 above.
112	Out of scope	Synergy	9	10.1	Synergy does not believe the process under clause 10.1 of the proposed AQP whereby an applicant may make an electricity transfer application to select a different reference service or modify a non-reference service, sufficiently caters to the franchise market.	Noted.	The proposed AQP does not propose any changes to franchise connections such as photovoltaic cells, which are dealt with under Part B of the AQP. WP welcomes any suggestions that Synergy may have in relation to better arrangements under cl 10.1
113	Out of scope	Synergy	9	--	The process proposed by WP does not cater to the franchise market. WP is intending to phase out the portable builders supply scheme, which currently serves as an alternative to the AQP processes.	Noted.	The proposed AQP does not propose any changes to franchise connections such as photovoltaic cells, which are dealt with under Part B of the AQP. WP welcomes any suggestions that Synergy may have in relation to better arrangements for the franchise market.
114	General	Synergy	10	22	The current AQP meets the requirements of the Code and the Code objectives	Rejected	Western Power considers that the proposed AQP better meets the requirements of the Code and, in particular, the Code objective, for the reasons in points 76-77 and 101-102 above.
115	General	Synergy	10	--	The proposed changes have not been developed under a framework where the stated outcomes can be tested or demonstrated	Accepted in part (outside scope of redrafting of AQP)	WP has undertaken extensive consultation on the proposed changes and has described in that consultation how the proposed process would work in a range of scenarios. WP would consider further scenario testing with market participants if this was considered beneficial.