

Economic Regulation Authority
4th Floor Albert Facey House
469 Wellington Street, Perth

publicsubmissions@erawa.com.au

14th Jun 2018

To Senéad Mangan

Subject: Draft Decision on Proposed Revisions to the Western Power Network Access Arrangement – AA4

Thank you for the opportunity to comment.

My comments to the Draft Decision are attached to this Submission DD-FIVE.

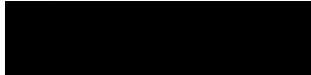
The objective of my comments is to minimize the cost of electricity to the large and small consumers, regardless where these cost savings fall. My focus is on elements of the proposed AA4 design, the changes of which would in my opinion, lead to the quickest reduction of the price of electricity to WA consumers and a fairer allocation of costs to causers, decision makers and beneficiaries of these decisions.

Kindly refer to the attachments.

Yours sincerely,



Stephen Davidson



Continued on attachment

Attachment 1: Submission on Draft Decision on Proposed Revisions to
the Western Power Network Access Arrangement
(2017/18 to 2021/22) -
Appendix B – Application and Queuing Policy:

Reference is made to paragraphs 1709 to 1718 on pages 387 to 388 of the Draft Decision. These are found useful in explaining the relevant clauses and helped to resolve confusion caused by poor choice of wording of the Western Power Proposed Revised Applications and Queuing Policy (**Proposed AQP**).

Instead of clearly stating mutual rights and obligations the Proposed AQP describes individual actions parties may take, from which the readers have to infer the rights and obligations of individual parties. This offers room for improvement, for example see the model applications and queuing policy in the Access Code (**Model AQP**), to the satisfaction of the Authority.

In addition, the Proposed AQP does not follow the format of the Model AQP nor its clarity. In contrast to the Model AQP, which clearly distinguishes between the Informal Communication (in A2.9 and A2.10) and Formal Access Application Communication (in A2.21 to A2.29), the line between formal and informal is blurred and unclear in the Proposed AQP. This offers room for improvement, to the satisfaction of the Authority.

Attachment 2: Submission on Draft Decision on Proposed Revisions to
the Western Power Network Access Arrangement
(2017/18 to 2021/22) -
Appendix B – Application and Queuing Policy:

Reference is made to paragraph 1716 on page 388 of the Draft Decision, which refers to clauses A2.13 to A2.19 of the Model AQP.

Clause 3.7(f) and clause 17(c) to be deleted

Clause 3.7(f) to be deleted

Comparison of clauses A2.13 to A2.19 of the model AQP and Proposed AQP reveals that clause 3.7(f) of the Proposed AQP has no equivalent in the Model AQP, hence the Authority's conclusion stated in paragraph 1716: "therefore must be accepted" does not apply to this clause 3.7(f).

Section 3.7 of the Proposed AQP is titled "*Information Required with Connection Application*" and is submitted at the very early stage of the access application process and provides an early input for decision-making and future direction of the project.

Clause 3.7(f) of the Proposed AQP reads: "*3.7(f) a full description of any exemption to the technical rules sought by the applicant under Chapter 12 of the Code*".

The Access Code does not restrict the right of an applicant to request exemption only at the specified time (when submitting the access application, in this particular case), as could be interpreted from Western Power's inclusion of clause 3.7(f) in section 3.7.

In addition, inclusion of clause 3.7(f) in section 3.7 of the Proposed AQP is inappropriate and inconsistent with the Code Objectives, as it actively encourages non-compliance with the Technical Rules from the very beginning of all projects, that often results the least cost development options (compliant with the Technical Rules, but not preferred by the applicant) not being investigated at all, therefore leading to the unnecessary / inefficient project related CAPEX and OPEX incurred by Western Power and unnecessary consequential rises of the cost of electricity to small users.

The examples are not included in this submission for succinctness. These can be provided upon request. Alternatively to speed up the process, the Authority has permission to release/publish 2017 submissions to the Energy Review Board it received as the Respondent.

Further, inclusion of cause 3.7(f) in Section 3.7 of the Proposed AQP contradicts the common sense, defeats the spirit of the Access Code and purpose of the

Technical Rules: the exemptions from compliance should be the measure of the last resort, not a starting point for the project. This is also clearly stated the Western Power's Users Guidelines, publicly available on the Western Power web site, as well as in its earlier versions obtained through the FOI.

Finally, there is no need to include clause 3.7(f) anywhere in the Proposed AQP, because it is an unnecessary repetition of the one of the rights of connection applicants stated in the Access Code and elaborated in the Technical Rules, hence not required in the Model AQP.

In conclusion, clause 3.7(f) to be deleted from the list of information required with the connection application in the Proposed AQP.

Clause 17(c) to be deleted

The above arguments to delete clause 3.7(f) also apply to clause 17(c).

The title of section 17 and wording of clause 17(c) are shown below for ease of reference:

Section 17(c) of the Proposed AQP is titled "17 Lead Time for Connection Applications".

Clause 17(c) of the Proposed AQP reads: "17(c) if the applicant has requested a derogation from the technical rules, then the time required to process this request"

In conclusion, clause 17(c) to be deleted, from the list of lead times for connection application in the Proposed AQP.

Clause 3.5(d) to be modified

3.5 Information required with all applications

3.5(d) sentence end (after comma).

Include reference to the Technical Rules after word "under", as any formal communication must refer to the applicable statutory instruments.

Namely, Section 3.5 applies to the application stage of the multi-stage access process, which is the Formal Access Application Communication stage of A2.21 to A2.29 of the Model AQP

Section 3.5 is neither the 'pre-enquiry stage' nor 'enquiry stage', which are preliminary and unbinding, as per section Informal Communication of A2.9 and A2.10 of the Model AQP, so that the new sentence end reads as follows:

"..., to assess the applicant's ability to meet its obligations under the Technical Rules and resulting access contract

Attachment 3: Submission on Draft Decision on Proposed Revisions to
the Western Power Network Access Arrangement
(2017/18 to 2021/22) -
Appendix B – Application and Queuing Policy:

Reference is made to Section 4.6 Objectives with Regard to Condition Precedent of the Proposed AQP, which corresponds to Conditions Precedent and Determination of Spare Capacity (A2.84 and A2.85) of the Model AQP.

These relate to customized connection solutions.

Of concern is potential adverse effect of these customized connection solutions for individual applicants in the form of transfer of risk and costs to other network users, who are the 3rd parties to these access contracts. For example, refer to the 2nd and 3rd last paragraph on page 3 here (Attachment 2). Confidentiality often prevents full transparency, hence the need for the proposed below:

Add new Clause 4.6(d)

4.6 Objectives with Regard to Condition Precedent

4.6(d) sentence end (after full stop).

Add new clause 4.6(d) that protects the interest of other network users (3rd parties to the access contracts): “not to the detriment (transfer of risk and costs to) of other network users”,

so that the new clause 4.6(d) reads as follows:

“ 4.6(d) not to the detriment (by transfer of risk and costs) of other network users”.

In case that the Authority disagrees that Western Power and applicants have obligation not to disadvantage (by transfer of risk and costs to) other network users who are 3rd parties to their access contracts, justification for that opinion would be appreciated, so it can be used in the future correspondence.

Attachment 4: Submission on Draft Decision on Proposed Revisions to the Western Power Network Access Arrangement (2017/18 to 2021/22) - Appendix B – Application and Queuing Policy:

Reference is made to the Model AQP: Informal Communication (A2.9 and A2.10) and formal Access Application communication (A2.21 to A2.29) and Part C – Connection Application, of the Proposed AQP.

One

In contrast to the Model AQP, the line between informal and formal communication is unclear in the Proposed AQP. This needs to be clarified, to the satisfaction of the Authority. The following are suggestions.

Section 17A Pre-enquiry Discussions and Section 18 Enquiry State of the Proposed AQP correspond to the Informal Communication (A2.9 and A2.10) of the Model AQP. These should be grouped under a new single heading titled “Informal Communication”.

Section 19 Reporting During the Processing of the Connection Application and Section 20 Connection Application Costs of the Proposed AQP correspond to the Formal Access Application Communication (A2.21 to A2.29). The former deals with the issues of A2.23. These two sections should be grouped under a new single heading titled “Formal Connection Application Communication”.

Two

Each section title of the Proposed AQP should be self-explanatory to which stage of the access application communication process of the Model AQP it belongs to. The following are suggestions.

Informal Communication

Title of section “17A Preliminary Discussions” to be “Section 17A Pre-enquiry Stage”.

Title “Section 18 Enquiry state” to be “Section 18 Enquiry Stage”.

Title “Section 18.2 Applicant May Request Studies and Information” to be “Section 18 Enquiry Power System Studies and Data”.

Formal Connection Application Communication

Title “Section 19 Reporting During the Processing of the Connection Application” to be “Section 19 Initial Connection Application Stage”.

Title “Section 20 Connection Application Costs” to be “Section 20 Follow-up Connection Application Stages”.

Title “Section 20.2 Processing Proposal” to be “Section 20.2 Preliminary Connection Application Power System Studies and Data”.

Title “Section 20.5 Use of Engineering Firms to Provide Studies” to be “Detailed Connection Application Power System Studies and Data”.

Three

The content/wording of each section should be consistent with the section title.

Re-word to the effect of that Western Power has obligation to provide to the applicant the scope of works (SOW) for power system studies and other works for the Enquiry Stage and Preliminary Connection Application Stage. The SOW must include data requirements and obligations, for example, the list of data to be provided by the: a) applicant, and b) Western Power.

That would enable the applicant timely to obtain (an alternative) quotes for the study and other works, hence enabling competition, as is required in the Code Objectives.

Re-word to the effect to include obligation of Western Power to provide to the applicant the final and binding scope of work (SOW) for the detailed connection application power system studies and works at the Detailed Connection Application Stage. Explicit clarification of this obligation of Western Power, and its inclusion in Section 20.5 of the Proposed AQP, would foster overall efficiency of the process, by obligating Western Power to timely think and act clearly and responsibly, and not to unreasonably delay the process by ‘unreasonable additional requirements and own changes of mind’ (as the anecdotal evidence suggests).

Namely, the time is of essence for applicants. Typically they have no negotiating power to say ‘No’ nor can afford any further project delays by initiating a potentially protracted dispute resolution process.

In the meantime, may I suggest the following clarifications and changes to the above effect:

Section 18.2 Wording:

(a) Western Power has obligation to provide to the applicant a scope of work (SOW) for enquiry connection application power system studies and works. The SOW must include data requirements and obligations, for example, the list of data to be provided by the: a) applicant, and b) Western Power.

(b) The applicant has right to choose an engineering firm to carry out enquiry connection application power system studies and works stipulated in clause 18.2(a).

Clause 20.2(a) Wording:

(a) Western Power has obligation to provide to the applicant a scope of work (SOW) for preliminary connection application power system studies and works. The SOW must include data requirements and obligations, for example, the list of data to be provided by the: a) applicant, and b) Western Power.

(b) The applicant has right to choose an engineering firm to carry out preliminary connection application power system studies and works stipulated in clause 20.2(a).

Clauses 20.5(a) & (b) Wording:

(a) Western Power has obligation to provide to the applicant a scope of work (SOW) for detailed connection application power system studies and works. The scope of work (SOW) for detailed connection application power system studies and works is final and binding for Western Power. The SOW must include data requirements and obligations, for example, the list of data to be provided by the: a) applicant, and b) Western Power.

(b) The applicant has right to choose an engineering firm to carry out detailed connection application power system studies and works stipulated in clause 20.5(a).

Attachment 5: Submission on Draft Decision on Proposed Revisions to the Western Power Network Access Arrangement (2017/18 to 2021/22) - Appendix B – Application and Queuing Policy:

Reference is made to the last paragraph of Section 19.3 Preliminary Assessment of the Proposed AQP which reads: *“To avoid doubt, a preliminary assessment must be undertaken in relation to the connection application either before the 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(a)(i), unless otherwise agreed by Western Power”*.

That is inconsistent with the Model AQP, Section Preliminary Assessment, Clause A2.95, which reads: *“The preliminary assessment must be provided as soon as practicable after the application is lodged, having regard to the nature of the application”*.

In addition, there is no need for last paragraph of Section 19.3 Preliminary Assessment of the Proposed AQP, because Section 18 Enquiry Stage (see subsection 18.2 Applicant May Request Studies and Information) of the Proposed AQP expressly obligates Western Power to assist the applicants to fine-tune their intended connection application into the formal/final connection application.

There is no limit on the number of connection applications an applicant can make, each of which provides transparency and a clear snapshot in time.

The effect of that paragraph is the loss of transparency, clarity and fairness of the connection application process, as it apparently deliberately blurs the otherwise clear boundary, in the Model AQP, between the formal and informal communication, and the rights applicants receive after they submit a formal connection application. Its retention allows for continuation of non-transparent gaming of the system and is detrimental to the trust in the overall process, which was clearly not the intention nor objective of the Access Code and Model AQP.

Finally, removal of the last paragraph of Section 19.3 Preliminary Assessment of the Proposed AQP would improve efficiency of the overall process, because parties will be forced to make timely decisions and bear consequences of their own decisions, which would help to better achieve the Code Objectives.

In conclusion, delete the last paragraph of Section 19.3 Preliminary Assessment of the Proposed AQP and replace it with Clause A2.95 of the Model AQP which reads: *“The preliminary assessment must be provided as soon as practicable after the application is lodged, having regard to the nature of the application”*.

Attachment 6: Submission on Draft Decision on Proposed Revisions to
the Western Power Network Access Arrangement
(2017/18 to 2021/22) -
Appendix B – Application and Queuing Policy:

Reference is made to clause 20.2(a)(i) of the Proposed AQP which reads: “*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 the studies, cost estimates and other works*”.

An important question is whether or not Western Power has legal obligation to make an offer to the applicant to do power system studies and other works. The Author of this submission could not find such an obligation in the current legislation and regulation; other than in very qualified circumstances of Section Preliminary Assessment (A2.93 to A2.95) of the Model AQP, which corresponds to Section 19.3 Preliminary Assessment of the Proposed AQP. If so, then the word “must” in clause 20.2(a)(i) of the current version of the Proposed AQP is misleading and should be removed.

Further, if Western Power wants to be a competitor in the market for power system studies and other engineering works, the author of this submission considers that to be outside of the scope of the Access Code, hence words to this effect should not be included in the Proposed AQP and Proposed Access Arrangement, other than in Section 19.3 Preliminary Assessment of the Proposed AQP.

In conclusion, either exclude the cost of conducting power system “*studies*” and “*other works*” from clause 20.2(a)(i) of the Proposed AQP, relocate “*studies*” and “*other works*” from clause 20.2(a)(i) to Section 19.3, or delete the whole clause 20.2(a)(i).