



Government of Western Australia  
Department of Finance  
Public Utilities Office

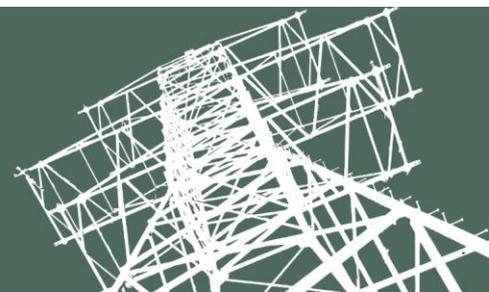
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# Transitioning to the National Electricity Regulatory Framework

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## Information Paper

Department of Finance | Public Utilities Office  
23 June 2016



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## Executive Summary

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On 22 June 2016, the Western Australian Government introduced a package of legislation into Parliament to implement reforms to the regulation of the State's main electricity network in the South West, the Western Power network.

One of the principal objectives of this legislation package is to adopt the National Electricity Law regulatory scheme in Western Australia. This is to be achieved through the *National Electricity (Western Australia) Bill 2016*, and the *Energy Legislation Amendment and Repeal Bill 2016*.

Specifically, the legislative reforms related to the electricity sector include:

- transferring regulation of Western Power's transmission and distribution networks to the National Electricity Law and National Electricity Rules, with regulatory responsibility assigned to the Australian Energy Regulator; and
- implementing a constrained network access framework.

The Western Australian Government's decision to adopt the national regulatory framework was made through the Electricity Market Review. The Electricity Market Review found that the current regulatory framework for the Western Power network under the State-based *Electricity Networks Access Code 2004* is not meeting the needs of electricity industry participants and electricity customers.

The Access Code has not been materially revised since its inception and is not delivering regulatory outcomes that are in the long term interest of Western Australia's electricity customers. The Access Code has been found to be deficient in three material respects.

First, the Access Code presents substantial barriers to entry to new generation businesses and customers that seek to connect to Western Power's network. Generation businesses and customers are commonly subject to substantial connection cost and delays in the connection process. The cost of connection to the network is currently very high because generation businesses and customers are required to fully fund any network investment required to maintain unconstrained network capacity.

Secondly, the Access Code does not provide balanced incentives to encourage the Western Power network to spend efficiently relative to its expenditure forecasts and service obligations. The Access Code does not incorporate adequate expenditure incentive schemes to encourage the network business to pursue efficiency improvements in network expenditure. There is also an inadequate framework to encourage Western Power to consider non-network alternatives when planning major network investments. Non-network alternatives can defer or reduce the need for expenditure on building more network capacity. The current investment rules primarily focus on options for building more capacity in the network to accommodate new customers rather than pursuing less costly options, such as by giving connecting customers the option of deciding the level of service they want to pay for.

Thirdly, the methods of regulating network businesses have become increasingly sophisticated since network regulation was first introduced in Australian jurisdictions in the 1990s. As a consequence, the capability for effective and best-practice regulation cannot

easily be developed and sustained by the Economic Regulation Authority, which is only regulating one electricity network in Western Australia.

Deficiencies of the Access Code will become more pronounced in the new future as technological changes in the electricity industry and greater reliance on renewable energy together drive changes in the use of the network, investment requirements and commercial models of network businesses.

The necessary improvements to regulation are best achieved by transferring regulation of Western Power to the national regulatory framework for electricity networks through adoption of the National Electricity Law scheme. The National Electricity Law provides a uniform legislative approach to the regulation of electricity markets across all States and Territories in Australia, with the sole exception being Western Australia. Details of the regulatory framework largely reside in the National Electricity Rules which is a delegated legislation under the National Electricity Law.

The operation of the national regulatory framework in Western Australia will result in lower connection costs for generators and customers connecting to Western Power's network. It will reduce existing barriers to entry into the wholesale electricity market for generation businesses that can offer more efficient, lower cost generation.

Adopting the national framework will fundamentally change the manner in which decisions are made for investment in the network. Greater discipline will be imposed on investment decisions by Western Power that will ensure that electricity customers only pay for investment costs that support effective delivery of electricity services at lowest possible cost.

The requirements for capital contributions will be different under the national framework, which recognises that a network upgrade or reinforcement generally benefits all customers connected to the network by making the whole electricity network more robust and reliable. The national framework will require recovery of network augmentation costs in a more equitable and efficient manner from all network customers rather than from the individual customer whose connection necessitates a network upgrade or reinforcement.

The process for network connection under the national framework is also much more streamlined and faster than the years of waiting that is currently seen under the Access Code.

The regulation of electricity networks also requires a specialised regulator that has the necessary in-depth expertise. The Australian Energy Regulator has been specifically created under the national framework to be the regulator with specialisation and scale in regulation of energy markets. The Australian Energy Regulator currently regulates 21 electricity networks nationally.

The legislative package currently being progressed by the Western Australian Government through Parliament is the first step to transitioning the regulation of the Western Power network to the national regulatory framework under the National Electricity Law.

Not all elements of the National Electricity Law regulatory framework will apply in Western Australia under *National Electricity (Western Australia) Bill 2016*. Matters under the national framework pertaining to interconnection of electricity networks and the wholesale electricity market operations will not be adopted.

This is to recognise that Western Power's network will not be interconnected with other electricity networks operating in the National Electricity Market and the current Western Australian wholesale electricity market regulatory arrangements for the South West Interconnected System will be retained.

In Western Australia, only the Western Power network will be subject to regulation under the national framework. Horizon Power and other unregulated electricity networks in Western Australia will not be brought under the national regulatory framework at this time.

The move to the national regulatory framework will still require the existing State-based regulatory framework to be maintained for the following important matters.

- *Consumer protection*
  - Western Australia will retain the existing local customer protection framework to provide guaranteed and fair access to supply of energy by small-use energy customers. Existing customer protections established under the *Electricity Industry Act 2004* will continue, subject to some minor changes to ensure they work effectively with the national framework for regulating Western Power's network.
  - The Economic Regulation Authority will retain its licensing and enforcement functions, including maintaining the Code of Conduct for the Supply of Electricity to Small Use Customers.
- *Retail price regulation*
  - The Western Australian Government will continue to regulate electricity prices for small-use customers.
- *Safety regulation*
  - Existing framework for the regulation of safety performance of electricity networks in Western Australia, including Western Power's network through the independent energy safety regulator. Matters such as using electricity safely, licensing of tradesmen and safety of electrical installations and equipment will continue to be overseen by Western Australian body, EnergySafety.
- *Power quality and reliability standards*
  - Western Australia will retain control of determining the network planning and reliability standards for electricity networks in the State through the continued operation of the Electricity Industry (Network Quality and Reliability of Supply Code) 2005.
- *Tariff Equalisation Fund*
  - The existing scheme that requires Western Power to recover from its customers a portion of costs associated with providing electricity to regional electricity customers on Horizon Power's network will continue. This scheme will continue to ensure that regional electricity customers can receive their electricity supply at affordable prices.

- *Uniform tariff though postage stamp network pricing*
  - The existing scheme to protect regionally located small-use customers on Western Power's network from paying a higher price for network service will remain. Regionally located customers are more expensive to supply but they will continue to pay the same price for network services as city customers within Western Power's distribution network.
- *State Underground Power Program*
  - This Program will remain to be delivered in partnership between the Government, Western Power and local governments for putting overhead distribution power lines underground.

The Electricity Market Review has also been developing transitional arrangements to facilitate regulation of Western Power's transmission and distribution network by the Australian Energy Regulator from early 2017, with the new regulatory framework commencing from 1 July 2018.

# 1. Introduction

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This paper has been prepared by the Electricity Market Review to provide interested stakeholders with information about:

- transitioning the regulation of Western Power's network from current regulatory arrangements under the Electricity Networks Access Code 2004 to the network revenue and pricing regulatory framework in Chapter 6 (distribution network) and Chapter 6A (transmission network) of the National Electricity Rules;
- adopting Chapter 5 (registered participants connections) and Chapter 5A (retail customer connections) of the National Electricity Rules that deal with technical and procedural requirements for new entrants (or modifications) seeking access to network services and for planning and expanding the network; and
- other parts of the National Electricity Rules that are required to be adopted as a consequence of adopting the transmission and distribution network revenue and pricing regulatory framework and the network connection and access framework noted above.

The modifications to the National Electricity Rules will be subject to approval from the Council of Australian Governments Energy Council. Approval is expected to be obtained by October 2016.

This paper is part of a series of information papers and position papers being released by the Electricity Market Review as part of the Network Regulation workstream.

A separate information paper on the transfer of gas regulatory functions has also been released.

A position paper on the proposed role of the Australian Energy Market Operator in Local Transmission Network Planning under the Wholesale Electricity Market Rules has also been released for consultation.

The next papers to be released are expected to be as follows:

- A consultation paper on the implementation of a constrained network access framework.
- A consultation paper on proposed changes to the *Network Quality and Reliability of Supply Code 2005* that will apply to Western Power's transmission and distribution network.
- An information paper on the registration scheme for determining registered participants under the National Electricity Rules for the Western Power network.
- A consultation paper on the proposed changes to the Wholesale Electricity Market Rules that are required to adapt the relevant power system security and reliability provisions in Chapter 4 of the National Electricity Rules for the Wholesale Electricity Market.

## 2. Legislative approach to implementation

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### 2.1 Overview of legislative architecture

The legislative changes that are to underpin the adoption of the national regulatory framework and implementation of a constrained access framework will occur in three packages as follows.

1. Principal legislation in three Bills.
  - a. An Application Act that will apply the National Electricity Law as a law in effect in Western Australia.
  - b. An Amendment and Repeal Act that will amend and repeal aspects of existing Western Australian energy legislation that will be inconsistent or superseded by the new framework and no longer appropriate.
  - c. An Act that deals with other matters of a transitional and consequential nature.
2. Regulations and other instruments. Both the Application Act and the Amendment Act will provide for heads of power to make regulations and other subordinate instruments that will:
  - a. prescribe which elements of the National Electricity Rules will apply;
  - b. provide for Ministerial instruments to be made that outline transitional matters, including temporary modifications to the National Electricity Rules;
  - c. create other necessary instruments to implement the national framework and introduce constrained network access.
3. A set of “Rule Change Proposals” to be submitted to the Australian Energy Market Commission for the purpose of implementing permanent changes to Western Australia’s implementation of the national framework, as may be required.

### 2.2 Principal legislation

The principal legislation includes two Bills being progressed in the current legislative package and a third Bill that will be progressed in 2017:

- the *National Electricity (Western Australia) Bill 2016* and the *Energy Legislation Amendment and Repeal Bill 2016* are currently being progressed by the Western Australian Government through Parliament; and
- the *National Electricity (Transitional and Consequential Provisions) Bill 2017* will be progressed in 2017.

Each Bill is explained below. There is a fourth Bill related to transfer of gas pipeline regulatory functions to the Australian Energy Regulator, which is the subject of a separate information paper.<sup>1</sup>

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<sup>1</sup> Refer to a separate information paper released on transfer of gas pipeline regulatory functions.

### 2.2.1 Application Act

The *National Electricity (Western Australia) Bill 2016* is required to adopt the national framework as embodied in the National Electricity Law as a law in effect in Western Australia. This Bill will be the means through which Western Australia becomes a participating jurisdiction in the applied law scheme through which the National Electricity Law is established.

In each State and Territory except Western Australia, electricity networks are regulated under a national scheme established under the National Electricity Law and Regulations, and the National Electricity Rules. This is given effect to as follows:

- The National Electricity Law is a schedule to the *National Electricity (South Australia) Act 1996* (SA), with the National Electricity Rules being made by the Australian Energy Market Commission pursuant to the National Electricity Law.
- Each participating jurisdiction has enacted an application Act, which gives the National Electricity Law the force of law in that jurisdiction, subject to any jurisdiction specific amendments.

The Council of Australian Governments Energy Council has approved the *National Electricity (Western Australia) Bill 2016* as Western Australia's application Act for adoption of the National Electricity Law.

The Western Australian Government is currently progressing the *National Electricity (Western Australia) Bill 2016* through Parliament and is expected to be passed into law by November 2016.

The *National Electricity (Western Australia) Bill 2016* adopts the regime established under the National Electricity Law for the regulation of Western Power's transmission and distribution networks in the South West Interconnected System. Responsibility for the regulation of Western Power's network will be transferred from the Economic Regulation Authority (under the Western Australian *Electricity Networks Access Code 2004*) to the Australian Energy Regulator (under the National Electricity Rules). The national electricity framework will not apply to any other networks in the State (although the *National Electricity (Western Australia) Bill 2016* will provide some flexibility to achieve this in the future).

The *National Electricity (Western Australia) Bill 2016* provides for modifications to the national electricity regime to suit Western Australia's specific circumstances, including that:

- the South West Interconnected System is not connected to the interconnected national electricity system;
- Western Australia is not joining the National Electricity Market, and
- Western Australia has not made a decision to adopt the National Energy Retail Law at this time.

As a result of the above, some parts of the national electricity regime are either not applied to Western Australia or are modified in their application.

### 2.2.2 Amendment Act

The *Energy Legislation Amendment and Repeal Bill 2016* amends and repeals certain parts of existing Western Australian energy legislation to the extent they are inconsistent with or superseded by, provisions of the National Electricity Law, National Electricity Rules or required for implementation of a constrained network access framework.

Specifically, this Bill:

- makes consequential amendments to existing local legislation necessary to facilitate the operation of the national regulatory framework in Western Australia;
- establishes temporary 'gap year' regulatory arrangements to apply to Western Power's network for one year from 1 July 2017 to 30 June 2018.
- provides immunity to Western Power in respect of potential exposures it may have to existing generators (and others who transfer electricity into Western Power's network) under existing connection agreements that include some terms that have been interpreted as requiring Western Power to maintain the network to provide firm access capacity, contrary to the constrained network access requirements under the National Electricity Rules.
- abolishes the Western Australian Energy Disputes Arbitrator and Electricity Review Board; and
- implements a new contracting model to regulate the relationship between Western Power as the distribution network service provider, electricity retailers, and customers.

The Bill makes amendments, transitional amendments and/or repeals to the following instruments:

- *Electricity Industry Act 2004*
- *Energy Operators (Powers) Act 1979*;
- *Electricity Corporations Act 2005*;
- *Electricity Transmission and Distribution Systems (Access) Act 1994*;
- *Economic Regulation Authority Act 2003*
- *Electricity Networks Access Code 2004*;
- *Code of Conduct for the Supply of Electricity to Small Use Customers Code 2014*;
- *Electricity Industry (Metering) Code 2012*;
- *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*; and
- *Electricity Industry (Arbitrator and Board Funding) Regulations 2009*;

The *Energy Arbitration and Review Act 1998* will also be repealed under the Bill to transfer the functions of the Western Australian Electricity Review Board and abolish the Western Australian Energy Disputes Arbitrator. Following the repeal, the arbitration of all energy industry disputes in Western Australia, except electricity network (and gas pipeline access

matters), will be conducted in accordance with the processes and procedures of the *Commercial Arbitration Act 2012*.

As regulation of electricity networks (and regulation of gas pipelines) will be transferred to the national framework, arbitration will be undertaken by the Australian Energy Regulator in accordance with the provisions of national regulatory framework requirements. The Western Australian Electricity Review Board's state-based functions will be transferred to the State Administrative Tribunal or other entity. Consistent with the national framework, merit based reviews of electricity network regulatory decisions will be undertaken by the Australian Competition Tribunal.

The *Energy Legislation Amendment and Repeal Bill 2016* is currently being progressed through Parliament by the Western Australian Government along with the *National Electricity (Western Australia) Bill 2016*.

### 2.2.3 Act dealing with other matters of a transitional and consequential nature

The *National Electricity (Transitional and Consequential Provisions) Bill 2017* will provide for the resolution of two important policy matters that have arisen as a result of the transition to the national framework.

The two policy matters to be addressed by this Bill will include:

- the development of a framework to assist existing network users manage changes to the contractual underpinnings for network access brought about by the adoption of the national framework (that is, moving from legacy access contracts under the local regulatory framework to connection agreements under the national framework); and
- the form of third party access framework that will apply to the North Western Interconnected System once Part 8 of the *Electricity Industry Act 2004* and the *Electricity Networks Access Code 2004* are repealed, or cease to apply to the South West Interconnected System, on 1 July 2018.

Because these matters are likely to have important implications for industry, the Electricity Market Review will commence extensive industry consultation process during the remainder of 2016.

To enable sufficient time to conduct the consultation process, the *National Electricity (Transitional and Consequential Provisions) Bill 2017* be introduced into the Parliament following the March 2017 election, and passed into law by late 2017.

This will not impede the implementation of the National Electricity Law in Western Australia and the framework can operate in the absence of the *National Electricity (Transitional and Consequential Provisions) Bill 2017*.

## 2.3 Regulations and other instruments

Regulations and other instruments under the principal legislation will contain detailed transitional arrangements for implementation.

Certain regulation making powers is conferred under the *National Electricity (Western Australia) Bill 2016* to allow modifications to be made to the National Electricity Law as well as the National Electricity Regulations and National Electricity Rules (in each case, insofar as they are to apply in Western Australia), and to allow for transitional regulations to be made to assist with the implementation of the transfer to the national electricity framework.

It is intended that the Australian Energy Regulator undertake the next regulatory determination for the Western Power transmission and distribution networks under the National Electricity Rules. The current Access Arrangement for Western Power's network is due for revision on 30 June 2017, and the National Electricity Rules typically require the Australian Energy Regulator to undertake regulatory determination process over a 32 month period. However, the Australian Energy Regulator cannot commence that process until the relevant functions are conferred on it by the *National Electricity (Western Australia) Bill 2016*.

Given these timing constraints, it is intended that the current Western Australian regime will be extended for a period of 12 months (under separate regulatory instrument) and that the Australian Energy Regulator's regulatory determination process be truncated (through transitional amendments to the National Electricity Rules) and undertaken over a shorter period of 18 months, between the *National Electricity (Western Australia) Bill 2016* receiving Royal Assent and 1 July 2018.

Accordingly, the transition to the national electricity framework will occur in two stages. Upon relevant parts of the *National Electricity (Western Australia) Bill 2016* being proclaimed, certain parts of the new regime will come into effect immediately to allow the Australian Energy Regulator to commence the regulatory determination process for Western Power's transmission and distribution network. The remaining parts of the National Electricity Law and National Electricity Rules, as modified to apply in Western Australia, will then commence on 1 July 2018, together with the Australian Energy Regulator's first regulatory determination for Western Power's transmission and distribution network.

The modifications to the National Electricity Rules are subject to approval of the Council of Australian Governments Energy Council. Approval is expected to be obtained in October 2016.

## **2.4 Rule change proposals**

A set of "rule change proposals" are expected to be submitted to the Australian Energy Market Commission for the purpose of implementing ongoing modifications and jurisdictional derogations to the National Electricity Rules.

Once submitted, the Australian Energy Market Commission will then undertake a rule change process as required under the National Electricity Law before making its decision.

As a parallel process, the Wholesale Electricity Market Rules will be amended to ensure that they work with the adopted National Electricity Rules to accommodate the transition to the national electricity framework.

## **2.5 Timing of implementation**

Table 2.1 details the timing schedule for electricity regulatory reforms, which includes the progression of the Bills and other regulatory instruments.

**Table 2.1: Timing schedule for electricity regulatory reform**

Key stages	Timing
<b>Primary legislation</b>	
Introduction of <i>National Electricity (Western Australia) Bill 2016</i> and <i>Energy Legislation Amendment and Repeal Bill 2016</i> into Western Australian Parliament	22 June 2016
<i>National Electricity (Western Australia) Bill 2016</i> and <i>Energy Legislation Amendment and Repeal Bill 2016</i> passing into law and in force	November 2016
<b>Regulations and other instruments</b>	
Modifications to National Electricity Rules finalised	July 2016
Council of Australian Governments Energy Council approval of modifications to National Electricity Rules	October 2016
Regulations and Ministerial instruments in force	December 2016
<b>Rule change proposal</b>	
Submission of rule change proposal to the Australian Energy Market Commission on temporary and permanent Western Australian derogations in the National Electricity Rules	January 2017

## 3. Regulation of revenue and prices under Chapters 6 and 6A of the National Electricity Rules

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### 3.1 Introduction

Under the national regulatory framework, the Australian Energy Regulator is the economic regulator of electricity distribution and transmission network service providers (the network businesses) operating in the National Electricity Market.

Chapter 6 of the National Electricity Rules sets out the timelines, regulatory processes and principles governing the determination of revenues that a distribution network business can earn from distribution network services it provides and the tariff structures and associated prices it can charge for distribution network services. A similar framework applies to transmission network businesses under Chapter 6A of the National Electricity Rules.

Economic regulation of Western Power's distribution and transmission network is to be transferred to the Australian Energy Regulator under Chapters 6 and 6A of the National Electricity Rules. Once Western Power's network is regulated under the National Electricity Rules, there will be no need for an access arrangement and the current *Electricity Networks Access Code 2004* can be repealed.

The first regulatory control period (RCP1) for which the Australian Energy Regulator will make a regulatory determination for Western Power will commence on 1 July 2018. The Australian Energy Regulator will make two separate determinations: one for Western Power's transmission network under Chapter 6A of the National Electricity Rules and another for Western Power's distribution network under Chapter 6 of the National Electricity Rules.

There is a need to adopt a limited number of transitional provisions to facilitate the application of the economic regulatory framework to Western Power in RCP1, to recognise both practical issues arising from timing constraints as well as issues stemming from differences in approach between the current *Electricity Networks Access Code 2004* provisions and the requirements in National Electricity Rules.

This section explains the transitional provisions for RCP1 under Chapter 6 and 6A of the National Electricity Rules.

### 3.2 First Regulatory Control Period (RCP1)

Regulatory determinations apply for a 'regulatory control period'. Under the National Electricity Rules, regulatory control periods are typically five years. However, to facilitate inclusion of Western Power in the Australian Energy Regulator's national regulatory determination schedule, the first regulatory control period for Western Power's distribution and transmission network will be for four years, from 1 July 2018 to 30 June 2022.

Future regulatory control periods for Western Power will be determined by the Australian Energy Regulator under the National Electricity Rules and are typically five years.

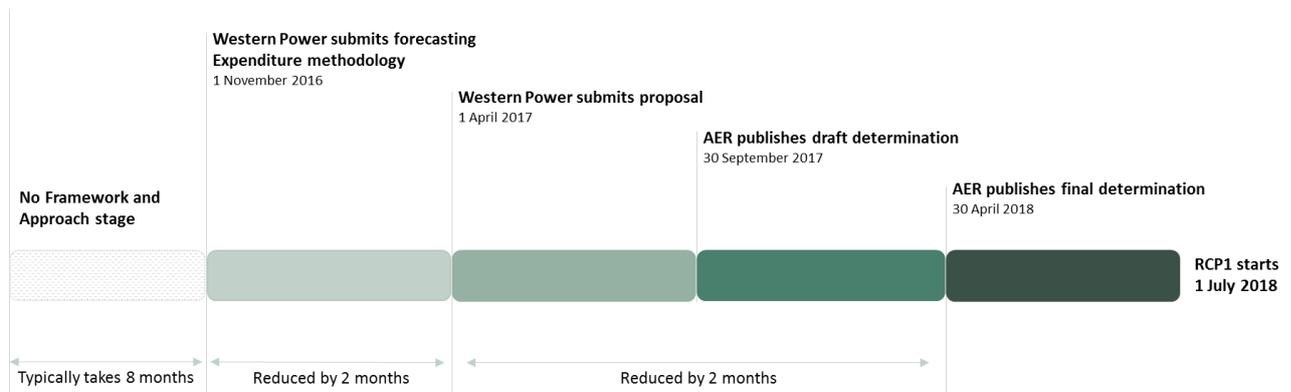
### 3.2.1 Regulatory Process for RCP1

The National Electricity Rules set out a 32 month process for undertaking a regulatory determination, beginning with the preparation of a Framework and Approach Paper.<sup>2</sup> Similar to the current access arrangement review process, the National Electricity Rules provide opportunities for stakeholders to make submissions on Western Power’s regulatory proposal, the Australian Energy Regulator’s draft determination, and Western Power’s revised regulatory proposal.

There is insufficient time to allow the full 32 month regulatory determination process for Western Power’s transmission and distribution networks for RCP1. This is because the *National Electricity (Western Australia) Bill 2016* vests regulatory responsibility with the Australian Energy Regulator under the national framework and will not be law until November 2016. There is a need to have new regulatory determinations for Western Power in place as soon as its current approved access arrangement expires.

As a result, a truncated regulatory process has been developed to apply for RCP1. Figure 3.1 shows the differences between the Australian Energy Regulator’s standard timeline for a regulatory determination, and the truncated process proposed for RCP1. A key feature of the truncated process is that the typical Framework and Approach stage of the regulatory determination process will not apply, and the matters usually covered in the Framework and Approach stage will instead be addressed directly in the RCP1 regulatory instrument. This is discussed further in section 3.2.2.

**Figure 3.1: Truncated timeline will apply for the first regulatory control period**



<sup>2</sup> The Australian Energy Regulator’s process typically stretches over 30 months, with the final determination due to be published two months before the start of the regulatory control period.

Transitional arrangements will provide for two separate regulatory processes – one for Western Power’s transmission network, and the other for its distribution network. The same timeline will apply to each regulatory process (ie, they will run concurrently). However, Western Power will be required to prepare and submit two separate regulatory proposals:

- a proposal for its transmission network, which will be submitted together with its proposed transmission pricing methodology and negotiating framework; and
- a proposal for its distribution network, which will be submitted together with its proposed tariff structure statement.

Similarly, the Australian Energy Regulator will make two separate regulatory determinations, one for each of Western Power’s transmission network and distribution network. The proposed regulatory determination timeframe for RCP1 is set out in the table below.

Table 3.1: Truncated regulatory process for the first regulatory control period

Milestone		Deadline for distribution	Deadline for transmission	Months before the first regulatory control period
<b>Regulatory proposal</b>				
1	Western Power submits cost allocation methodology	1 September 2016	1 September 2016	22 months
2	Western Power submits forecasting expenditure methodology	1 November 2016	1 November 2016	20 months
3	Western Power submits regulatory proposals: Transmission proposal to be submitted together with pricing methodology and negotiating framework Distribution proposal to be submitted together with tariff structure statement	1 April 2017	1 April 2017	15 months
4	AER publishes issues papers	15 May 2017 (optional)	15 May 2017 (optional)	13.5 months
5	AER holds public forum on the issues papers and regulatory proposals	Optional - Determined by AER	Optional - Determined by AER	
6	Submissions close	15 June 2017 (Indicative)	15 June 2017 (Indicative)	12.5 months
<b>Draft decision</b>				
7	AER issues draft determinations	30 September 2017	30 September 2017	9 months
8	Predetermination conference held	15 October 2017	15 October 2017	
<b>Final decision</b>				
9	Western Power submits revised regulatory proposals	30 November 2017	30 November 2017	7 months
10	Submissions on revised proposals due	30 January 2018	30 January 2018	5 months
11	AER issues final determinations	30 April 2018	30 April 2018	2 months
12	Regulatory control period commences	1 July 2018	1 July 2018	

### 3.2.2 Framework and Approach stage for RCP1

At the start of the regulatory determination process, the National Electricity Rules normally require the Australian Energy Regulator to publish a Framework and Approach Paper for that business.<sup>3</sup>

The Framework and Approach Paper is intended to operate as a guideline for the forthcoming regulatory determination and sets out the Australian Energy Regulator's proposed approach with respect to:<sup>4</sup>

- the classification of distribution services;
- the form (or forms) of the control mechanism applying to prices for distribution services, and the formulae that give effect to these control mechanisms;
- the application of any incentive schemes to the business;
- the application of the Australian Energy Regulator's Expenditure Forecast Assessment Guideline; and
- whether depreciation for establishing the opening regulatory asset base for the regulatory control period following the subsequent regulatory control period is to be based on actual or forecast capital expenditure.

For Western Power's first regulatory determination, constraints on timing mean that there will not be a separate Framework and Approach stage. Instead, the matters that would usually be covered in the Australian Energy Regulator's Framework and Approach Paper will be set out in the RCP1 instrument.

The proposed transitional provisions in the RCP1 instrument:

- are based on the Australian Energy Regulator's recent approach in its Framework and Approach Papers;
- have been developed in consultation with the Australian Energy Regulator and Western Power; and
- provide the same level of discretion to the Australian Energy Regulator to depart from the approach set out in the F&A schedule as it would ordinarily have under the National Electricity Rules.

Key elements of the Framework and Approach proposed for RCP1 are:

- a revenue cap form of price control will apply for distribution services;<sup>5</sup>
- the proposed service classification for Western Power's distribution services;
- the Australian Energy Regulator's Expenditure Forecast Assessment Guideline will apply to Western Power;

<sup>3</sup>The exception is if there is already an F&A paper applying to the business, and the business does not request a new one.

<sup>4</sup>The National Electricity Rules also require the F&A paper to cover the treatment of dual function assets, which are not applicable for Western Power.

<sup>5</sup>Under the national framework a revenue cap will automatically apply to Western Power's transmission business.

- the Australian Energy Regulator’s Efficiency Benefit Sharing Scheme, Capital Expenditure Sharing Scheme, Service Target Performance Incentive Scheme are proposed to apply to Western Power; and
- depreciation for establishing the opening regulatory asset base for the second regulatory control period commencing from 1 July 2022 will be based on forecast capital expenditure.

### 3.2.3 Initial Regulatory Asset Base

In order to facilitate the economic regulation of Western Power under the National Electricity Rules, an initial value for the regulatory asset base needs to be specified for both its transmission and distribution network.

The initial regulatory asset bases for Western Power’s transmission and distribution networks will be based on the opening regulatory asset bases that were determined at the start of its current access arrangement (AA3), and will be adjusted for efficient new investment, depreciation and disposals over AA3 and the “gap year”.<sup>6</sup> They will also reflect any reclassification of services and any reallocation of zone substation assets. The initial value of the regulatory asset base will also incorporate the ‘deferred revenue’ amount which Western Power is entitled to recover under the current *Electricity Networks Access Code 2004* provisions.

Consistent with the current regulatory approach set out in the *Electricity Networks Access Code 2004*, Western Power’s actual capital expenditure during AA3 will be subject to review by the Economic Regulation Authority to ensure that it meets the efficiency test set out in the current regulatory arrangements, before being incorporated by the Australian Energy Regulator into the transmission and distribution network regulatory asset base.

## 3.3 Continuation of Government Policies

The transitional arrangements for RCP1 also allow for the continuation of a number of current Western Australian Government policies. Where applicable, permanent derogations to the National Electricity Rules are expected to be sought in these areas to apply from the second regulatory control period onwards.

### 3.3.1 Postage stamp pricing

The National Electricity Rules include a number of provisions for setting transmission and distribution network tariffs. These provisions are aimed at ensuring that network businesses structure their network tariffs and charges in a way that sends efficient network pricing signals to customers. Western Power will need to comply with these provisions in the National Electricity Rules.

Currently the *Electricity Networks Access Code 2004* provides for a uniform tariff policy (termed ‘postage stamp pricing’) for customers with demand less than 1,000 kVa. There are no equivalent postage stamp pricing obligations in the National Electricity Rules.

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<sup>6</sup> See section 6 of this paper.

The pricing principles in the National Electricity Rules require tariffs to comply with jurisdictional legislative obligations. To enable postage stamp pricing to continue to apply to Western Power, a jurisdictional legislative obligation is therefore required. A new jurisdictional legislative obligation will be introduced, under the *Electricity Industry Act 2004*, which will require Western Power to maintain the current postage stamp pricing obligations.

### 3.3.2 Tariff equalisation contribution

The tariff equalisation contribution is an amount that is levied on users of Western Power's distribution network and which is then paid to Horizon Power by the Western Australian Government to equalise Horizon Power's tariffs relative to those customers that reside in the South West Interconnected System. Absent any decision by Government to change these subsidy arrangements, the tariff equalisation contribution will be recognised as a 'jurisdictional scheme' under the transitional arrangements, in order for Western Power to continue to recover this contribution through its network charges under the National Electricity Rules.

### 3.3.3 State Underground Power Program

Under the State Underground Power Program, Western Power contributes to the funding of the undergrounding of distribution lines, together with the relevant local government and the state government. The requirement for Western Power to contribute funding to this program will be reflected under the *Electricity Industry Act 2004*, in order for Western Power to be able to recover the costs it incurs as part of its regulated charges under the national framework.

## 3.4 Legacy payments

The RCP1 arrangements will provide for Western Power to receive revenue adjustments accruing in AA3 that would have otherwise been part of Western Power's next approved access arrangement revenue. In addition, any revenue adjustments accruing in 2017/18 in accordance with the gap year arrangements will become part of the revenue in RCP1.

These revenue adjustments are linked to the various incentive mechanisms and cost pass-through arrangements applying under AA3 and include the unforeseen events mechanism, the gain sharing mechanism, the investment adjustment mechanism, the service standard adjustment mechanism and the D-factor scheme<sup>7</sup>. Ensuring that Western Power is able to receive the benefit (or penalty) associated with these arrangements continues the expected operation of these AA3 mechanisms and delivers on the incentives under the current regulatory framework.

These 'legacy adjustments' will be determined by the Economic Regulation Authority, and incorporated by the Australian Energy Regulator into Western Power's revenue allowance for RCP1.

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<sup>7</sup> The D-factor scheme allows Western Power to recover operating expenditure associated with deferring capital expenditure and operating expenditure in relation to demand management initiatives or network control services.

Similar mechanisms to incentivise efficiency gains and deliver service levels that customers are willing to pay for will operate during the first regulatory control period, but will be based on the national incentive mechanisms applied by the Australian Energy Regulator to other distribution and transmission businesses in Australia.

### **3.5 Removal of use of system charges for generators**

Currently, Western Power charges generators a use of system charge. Of the total revenue Western Power typically recovers from transmission use of system charges, 20 per cent is attributable to generators paying a use of system charge. In addition, a proportion of distribution use of system charges is also allocated to embedded generators connected to the distribution network.

Western Power will not be able to recover any transmission use of system charges from generators under the National Electricity Rules. This is because the pricing arrangements in the National Electricity Rules require transmission and distribution businesses to recover all use of system charges from load customers connected to the shared network.

For Western Power to comply with the National Electricity Rules, it will need to remove generator use of system charges and recover 100 per cent of revenue from load customers. This will result in increases in use of system charges for load customers since Western Power will need to recover the same quantum of revenue from fewer customers.

However, end-use customers are already paying the generator use of system charges through electricity prices that implicitly recover the costs through wholesale capacity payments made to generators. Capacity payments to generators already include an explicit allowance for use of system charges, which is passed through to customers via electricity prices.

Simultaneously removing the use of system component of capacity payments and ceasing Western Power's recovery of use of system charges from generators is unlikely to result in a material change to end-use customer bills. This is because the removal of the use of system charge will net off as the reduction in generator costs and will result in a reduction in customer costs largely commensurate with the additional customer cost imposed by the network service provider.

As a consequence, the transmission use of system charge for generators will be removed with effect from 1 July 2018 with consequential changes to the Wholesale Electricity Market Rules to allow this change to be reflected in the reserve capacity price.

### **3.6 Other changes to support the transition**

#### **3.6.1 Removal of ring fencing requirement to legally separate transmission and distribution**

Currently, the Transmission Ring-fencing Guidelines established by the Australian Energy Regulator under the National Electricity Rules would require a strict legal separation of Western Power's transmission and distribution businesses. This would result in Western Power incurring unnecessary costs in duplicating its existing functions.

For RCP1, the national ring-fencing guidelines for transmission and any new national ring-fencing guideline for distribution will be applied to Western Power, with the exception of any requirements to legally separate its transmission and distribution businesses. Any continuing exemption from the ring-fencing requirements relating to legally separate transmission and distribution beyond RCP1 would be subject to a determination by the Australian Energy Regulator.

### 3.6.2 Grandfathering rebate period for contributions

The *Electricity Networks Access Code 2004* requires in certain circumstances that a rebate is payable to the original connection applicants when a new applicant joins an extension work, within the 10 year period following its construction. The national connections framework limits the rebate period to seven years. The shortening of the rebate period from 10 years to 7 years could affect the rights of existing customers.

A derogation to the National Electricity Rules will be introduced to allow Western Power to continue the 10 year rebate period for network extensions, where a contribution has been received by Western Power under the *Electricity Networks Access Code 2004* up to 30 June 2018.

### 3.6.3 Use of SCADA data for transmission pricing and billing

Western Power's network is currently operating as an integrated transmission and distribution network. As an integrated network Western Power has not been required to have meters at the connection points between its transmission and distribution networks. Instead, estimates of energy throughput in each network are provided by Western Power's supervisory control and data acquisition (SCADA) system. In addition, a number of generation sites are currently metered through the SCADA system.

The pricing arrangements in Chapter 6A of the National Electricity Rules implicitly require metering on the transmission network to be available. Furthermore, there are various references to the need for meters within the Australian Energy Regulator's transmission pricing guidelines. Given the absence of meters in some instances, it is unlikely that Western Power's transmission pricing arrangements and billing processes would be compliant with either Chapter 6A requirements or the Australian Energy Regulator's pricing methodology guidelines.

As a consequence, transitional arrangements for RCP1 will allow Western Power to use its SCADA data to determine transmission charges where revenue metering data is not available.

## 4. A new network connection and access framework

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### 4.1 Introduction

The Electricity Market Review has considered how the network connection and access framework operating in the National Electricity Market principally via Chapters 5 and 5A of the National Electricity Rules can also be adopted for potential network users who want to connect to Western Power's network.

Access to Western Power's network is currently provided on an 'open access' basis as the consequence of requirements under the *Electricity Networks Access Code 2004*, the Technical Rules and the application of an Access and Queuing Policy. However, the current arrangements are not delivering efficient outcomes for the network or network users.

The connection and access framework in the National Electricity Rules provide an open access framework requiring the network service provider to process enquiries or applications to connect network users expeditiously, and to provide a connection offer which is fair and reasonable. It also provides connection applicants with the ability to negotiate their technical performance standards.

Adoption of the connection and access framework in the National Electricity Rules will provide material benefits when compared with the existing framework. The increased flexibility for negotiation of technical performance standards will significantly improve the outcomes for connection applicants.

The Electricity Market Review has reviewed the requirements in Chapters 5 and 5A of the National Electricity Rules to determine whether any changes should be made. The following sections set out how the new framework will be adopted for access to Western Power's network from 1 July 2018.

### 4.2 Concept of a Registered Participant

The operation of the connection and access framework in the National Electricity Rules, just like the Wholesale Electricity Market Rules, relies on a system of registration for network users (or exemption from registration). Under the National Electricity Rules the requirements for registration (or exemption from registration) are set out in Chapter 2 and are supported by certain prohibitions in the National Electricity Law itself.

This registration system is not only central to the connection and access framework, but is also important to other parts of the National Electricity Rules including the operation of the National Electricity Market.

The National Electricity Law provides that a person must not own, control or operate a generating system which is connected to the interconnected national electricity system unless that person is a 'Registered Participant'<sup>8</sup>, or is subject to an exemption under the National Electricity Rules that exempts the person, or is otherwise exempt by the Australian Energy Market Operator, from the requirement to be registered.<sup>9</sup>

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<sup>8</sup> The same prohibition applies to the purchase of electricity through a wholesale exchange.

<sup>9</sup> Section 11(1) of the National Electricity Law. However, generating facilities with a nameplate rating under 5MW have a standing exemption from having to register as a generator with the Australian Energy Market

A similar prohibition applies to a person owning, controlling or operating a transmission or distribution system which is connected to the interconnected national electricity system, except that it is the Australian Energy Regulator who administers the exemption regime<sup>10</sup>.

Chapter 2 of the National Electricity Rules outlines the categories of Registered Participants and details the procedures to be followed for registering, or obtaining an exemption, under the National Electricity Rules. An exemption from registration for a network user means that the network user will not be required to comply with the requirements of Chapter 5.

The registration system in Chapter 2 of the National Electricity Rules cannot be adopted for Western Power’s network (in the same way that Chapter 5 and 5A will be adopted) since the South West Interconnected System will not be participating in the National Electricity Market and Western Power’s network will not be an interconnected network to the national electricity system. However, in order that other parts of the National Electricity Rules can be adopted and applied to Western Power’s network, a registration system analogous to the National Electricity Rules registration system is necessary.

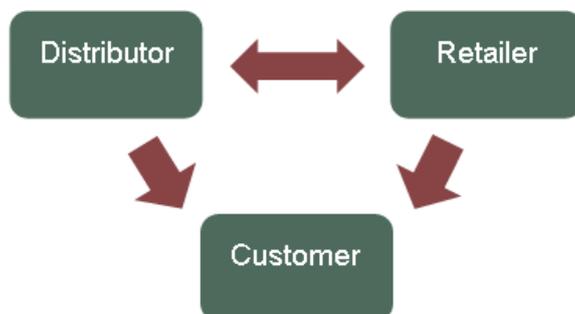
As noted above, Chapter 2 of the National Electricity Rules cannot be adopted for practical reasons. Therefore it will be necessary to establish a separate registration system for Western Power’s network so that the National Electricity Rules that are being adopted can operate effectively.

The Electricity Market Review is currently developing a proposal for a registration system for the operation the National Electricity Rules for Western Power’s network. An information paper on this will be published in due course.

### 4.3 Concept of a triangular relationship

Another important concept, underpinning the connection and access framework in the National Electricity Rules and generally in the network regulation provisions of the national framework, is that of a triangular contractual relationship. This contractual model implies direct contractual relationships between the network customer, retailer and distributor.

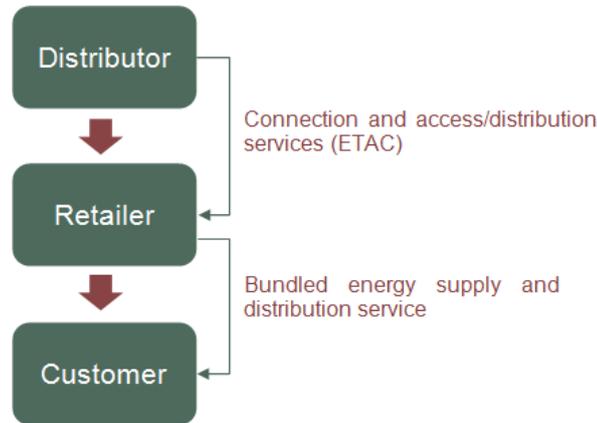
Figure 4.1: Triangular contractual model



Operator. A generating system with a nameplate rating under 30MW with annual exports below 20GWh may apply for an exemption from having to register as a generator.  
<sup>10</sup> Section 11(2) of the National Electricity Law.

Currently, a ‘linear’ contracting model exists in Western Australia, whereby distribution services are on-sold to the customer through the customer’s retailer. Under the current model, customers do not have an ongoing contractual relationship with the distributor (although, as discussed, direct relationships do exist with respect to some physical connection services).

**Figure 4.2: Current ‘linear’ model under the Electricity Networks Access Code 2004**



From 1 July 2018, a triangular contracting model will be adopted for the South West Interconnected System. While it is possible to continue with a linear relationship, this would require substantial derogations from the National Electricity Rules to such extent as to potentially repudiate the operating philosophy and processes of the national regulatory regime. Amendments to the Western Australian contractual framework will involve changes to local legislation and regulations; however the changes are considered less onerous than the derogations from the National Electricity Rules that would be required to maintain a linear relationship. Furthermore, there are additional benefits to moving to a triangular contracting model, which make it a more attractive option.

One such additional benefit is the more appropriate risk allocation. Due to the present linear contracting model, the network customer’s retailer is liable for damage to the network resulting from the actions of a customer (or a customer’s equipment). This can result in conservative behaviour on the part of the retailer, which is not well-placed to assess risks concerning network damage. Under the triangular model, the contractual relationship between the distributor and customer will govern the risk allocation for network damage. As the distributor’s core business is the management of the network, this enables the distributor to more appropriately identify network risks and respond accordingly.

As an example, a customer currently seeking to connect a renewable energy system must seek the approval of their retailer before sending the application to the network operator for technical assessment. If the customer fails to secure the consent of their retailer, the application is not considered by the distributor. Under the new model, the customer will not

require the retailer's consent prior to connection.<sup>11</sup> It is expected that this will improve the connections process for renewable energy systems, particularly those of a large size.<sup>12</sup>

There are different frameworks in place for physical connection services and ongoing supply services. While Chapter 5A of the National Electricity Rules establishes the model offers for physical connection and connection alterations, in the national framework ongoing supply services are established through the National Energy Retail Law, the National Energy Retail Regulations and the National Energy Retail Rules, all of which form part of the National Energy Customer Framework.

Western Australia will not be adopting the National Energy Customer Framework at this time, and as a result, a local framework will be established to govern the ongoing supply contracts between customers and distributors. The local arrangements will be regulated by a local regulator, potentially the Economic Regulation Authority.

The important point to note is that very little will change from a customer's perspective. Customers will continue to contact their retailer when they move into a new premises, and will continue to pay for ongoing distribution services through their retailer. Furthermore, the existing ongoing supply contracts will be deemed, meaning that the customer's explicit consent will not be required. Deemed contracts for ongoing supply are considered standard, with deemed arrangements existing in every other Australian jurisdiction.

The framework for new ongoing supply contracts is being developed by the Market Competition workstream of the Electricity Market Review. The ongoing supply contracts are a new contractual relationship that will be established between the distributor and consumers. They are noted here because the majority of the changes to Chapter 5A of the National Electricity Rules are to ensure that the ongoing supply contracts can function effectively in the South West Interconnected System. Notwithstanding, the scope of this Information Paper does not include ongoing supply. A separate paper covering matters relating to ongoing supply was released on 15 June 2016 by the Market Competition workstream to address matters pertinent to retail sector reform.

A position paper covering matters relating to ongoing supply arrangements under a triangular contractual model was released on 15 June 2016 through the Electricity Market Review Market Competition workstream.

#### 4.4 Adoption of Chapter 5A of the National Electricity Rules

As discussed in section 3.3 above, network services in the South West Interconnected System are supplied via a linear model under current legislative arrangements. Western Power (as the distributor) provides the network service to retailers, who then on-supply that service to customers.

<sup>11</sup> The customer may be obligated to advise the retailer. However, consent will not be required.

<sup>12</sup> There is anecdotal evidence that currently some retailers are reluctant to approve larger system sizes due to concerns around the risks of network damage, even in instances where the technical specifications are to the satisfaction of the network operator.

By comparison, under the national framework for the regulation of network services, distributors supply network services directly to customers, while coordinating financial and other details through the retailer. This constitutes a triangular contracting relationship or 'triangular model'.

For the National Electricity Rules to operate as intended in Western Australia, a triangular contracting relationship must be established between the distributor, retailers and customers. While there are sound policy reasons for implementing the triangular model in any case, the National Electricity Rules are premised on the existence of a triangular relationship. Consequently, a triangular model must be implemented if the National Electricity Rules are to be adopted. Chapter 5A in particular operates to establish a direct relationship between a distributor and network customer for connection services.

Chapter 5A governs contracts for new connections and connection alterations for retail electricity customers. Adopting Chapter 5A will create a new framework for regulating the contractual arrangements relating to a distributor's provision of physical connection services in the South West Interconnected System.

Chapter 5A will apply to the Western Power network in the South West Interconnected System from 1 July 2018. Consequently, the triangular contracting model will take effect from 1 July 2018 with regard to the network services supplied by Western Power. It will not apply outside the South West Interconnected System or to other (non-registered) networks.

Under the Chapter 5A framework, retail customers seeking a new connection or a modification to an existing connection to Western Power's distribution network will need to apply to Western Power to obtain a connection contract under which the customer's physical connection will be provided or modified. Provisions in Chapter 5A will govern how these connection contracts are developed, providing both for regulated offers and guided negotiation. The Australian Energy Regulator will have responsibility for monitoring and enforcing Western Power's compliance with requirements under Chapter 5A<sup>13</sup>. Contracts for ongoing supply will continue to be regulated through local instruments with the Economic Regulation Authority having an oversight role.

Some modifications to Chapter 5A provisions will be needed to remove the application of the National Energy Retail Law since the National Energy Customer Framework will not be adopted in Western Australia at this time. Linkages to the National Energy Retail Law will be amended to ensure that Chapter 5A is applied in a way that works with local arrangements for ongoing network supply.

The following section outlines how Chapter 5A will operate to enable new connections and connection alterations for customers seeking to connect to the Western Power network. Section 4.4.2 then discusses the modifications that will be made to Chapter 5A provisions.

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<sup>13</sup> Arrangements to be established under a new Distributor Customer Part of the Electricity Industry Act will be enforced by the Economic Regulation Authority.

#### 4.4.1 New connections and connection alterations under Chapter 5A

The scope of Chapter 5A applies to retail customers as defined under the National Electricity Law, meaning end-use residential and small business customers, real estate developers plus non-registered embedded generators and micro-embedded generators (such as photo-voltaic systems).

Most of the connection obligations apply to the Distribution Network Service Providers under Chapter 5A. Other obligations apply to the Australian Energy Regulator, a connection applicant (a retail customer, retailer or other person acting on behalf of a retail customer, or a real estate developer), the retail customer or retailer. From 1 July 2018, Western Power will be the relevant Distribution Network Service Provider under Chapter 5A.

The obligations that apply to the various parties that are relevant for Western Australia are discussed in the next section.

#### 4.4.2 Obligations that will apply under Chapter 5A to various parties in Western Australia

##### *Obligations on Western Power as the Distribution Network Service Provider*

As a Distribution Network Service Provider, Western Power will be required to have a model standing offer to provide basic connection services to retail customers seeking connection to its network. The National Electricity Rules permit Western Power to have a model standing offer to provide standard connection services to retail customers or to negotiate a connection contract that is different from the model standing offer.

Basic connections are those requiring little or no connection augmentation (however, the customer must pay for the service cable and metering equipment). For those connections, Western Power will be prohibited from seeking an upfront payment (capital contribution) from the customer for shared network reinforcement. These costs are expected to be smeared across all customers and recovered through 'distribution use of system' tariffs.

Under Chapter 5A, the model standing offer for basic connection services can be of two classes:

- retail load; and
- micro-embedded generators.

As required under the National Electricity Rules, Western Power will need to submit for the Australian Energy Regulator's approval a proposed model standing offer to provide basic connection services for each class (or subclass) of basic connection services on specified terms and conditions. The National Electricity Rules prescribe the terms and conditions that the model standing offer must cover, such as customer connection timeframes, charges and payment terms, safety and technical requirements, and advise on customer contestability provisions.

The National Electricity Rules allow, but does not require, a Distribution Network Service Provider to submit for the Australia Energy Regulator's approval a proposed model standing offer for standard connection services on specified terms and conditions.

Standard connections apply to those customers that are not eligible for a basic connection. The connection may require some network upgrade, extension or augmentation<sup>14</sup>. Other conditions may also apply. Whether a capital contribution needs to be paid for a standard connection depends on whether the incremental cost is more than the incremental revenue to the Distribution Network Service Provider. The model standing offer for standard connection services must cover similar terms and conditions as the model standing offer for basic connection services.

The National Electricity Rules provide Western Power and a connection applicant with the ability to negotiate a connection contract that is different from the model standing offer. However, these contracts must be negotiated in accordance with the negotiation framework that is set out in Chapter 5A<sup>15</sup>. The negotiating framework requires, among other things, that parties negotiate in good faith and that the Distribution Network Service Provider must make reasonable endeavours to make a connection offer that complies with the connection applicant's reasonable requirements.

Chapter 5A also contains other obligations that Western Power will need to meet such as:

- a register of non-registered embedded generation connected to its network;
- requirements for provision of information to parties enquiring about a connection;
- refund of connection charges where a customer has funded a connection asset that is subsequently used by other parties within seven years; and
- timeframes relating to connection offers.

### *Obligations that apply to the Australian Energy Regulator*

The Australian Energy Regulator has the responsibility of approving a Distribution Network Service Provider's model standing offer for basic connection services and standard connection services, having regard to factors set out in Chapter 5A. The Australian Energy Regulator must take into regard the National Electricity Objective, the basis on which the Distribution Network Service Provider provided the relevant services in the past and the geographical characteristics of the area served by the Distribution Network Service Provider.<sup>16</sup>

The Australian Energy Regulator is also required to develop and publish a connection charge guideline and to make a determination for any dispute between the Distribution Network Service Provider and a retail customer or a real estate developer.

The National Electricity Rules require the Australian Energy Regulator to, as far as practicable, give effect to the relevant connection policy and model standing offer, and any other matters the Australian Energy Regulator considers relevant. It must also publicly consult on the Distribution Network Service Provider's proposed model standing offer as part of the revenue determination regulatory process.

<sup>14</sup> Micro-embedded generation (photo-voltaic systems) must connect under Chapter 5A of the National Electricity Rules regardless of the need for network upgrade, extension or augmentation.

<sup>15</sup> Clause 5A.C.3 of the National Electricity Rules.

<sup>16</sup> The Australian Energy Regulator must also be satisfied that the services will be sought in significant volume, the terms and conditions are fair and reasonable and comply with the energy laws, and the connection charges have met specified requirements.

*Obligations on the connection applicant (includes a retail customer or retailer)*

The connection applicant's application for a connection service must be in the form prescribed by the Distribution Network Service Provider. The connection applicant may negotiate with the Distribution Network Service Provider for a negotiated connection service and the negotiation must be done in good faith and in accordance with the negotiating framework under Chapter 5A.

The connection applicant must provide the Distribution Network Service Provider with information it reasonably requires to negotiate on an informed basis.<sup>17</sup>

The connection applicant must pay for any of the Distribution Network Service Provider's reasonable expenses for site inspections and must comply with the terms and conditions of the Distribution Network Service Provider's connection offer, where the offer is accepted.

*Retail customers (other than a real estate developer or non-registered embedded generator)*

A retail customer is only liable for a capital contribution towards the cost of augmentation, if the connection is not a basic connection service or where the Distribution Network Service Provider's shared network augmentation threshold is exceeded. A retail customer is also:

- required to have suitable metering installed at the connection point;
- obliged to meet technical and safety requirements relating to the installation (of connection assets and equipment) as set out in the connection offer;
- obliged to allow access to premises by the Distribution Network Service Provider's agents, contractors and employee; and
- obliged to accommodate on its premises, and protect from harm, any equipment required for the installation.

*Obligations on the retailer*

A retailer must pay its retail customer's connection charges to the Distribution Network Service Provider, unless the customer is required to pay the charge directly to the Distribution Network Service Provider.

**4.4.3 Application of Chapter 5A of the National Electricity Rules**

The connection framework under Chapter 5A will be adopted and apply to the South West Interconnected System with respect to Western Power's network.

While the framework under Chapter 5A will represent changes in responsibility, process and oversight, most of these changes will be at the distributor and regulator level. For customers, the changes experienced will be less significant. For example, under the current arrangement, customers make applications directly to Western Power in respect of new connections (ie. newly built homes) and connection alterations (ie. increase in capacity, or

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<sup>17</sup> Each party must maintain the confidentiality of confidential information disclosed by the other party during negotiation (unless that disclosure is authorised).

installation of embedded generation). The requirement for an application will not change under the new arrangement.

Under the national framework, contracts formed under Chapter 5A are not deemed, meaning that the customer's explicit consent is required for the establishment of the contract. It is likely that most contracts will result from Australian Energy Regulator-approved model standing offers, and as physical connection to the network facilitates ongoing supply services, it stands to reason that customers seeking a connection under Chapter 5A will also require ongoing supply services. As such, Chapter 5A was designed to operate in conjunction with the National Energy Customer Framework for ongoing supply contracts, and allows for these contracts to be integrated for negotiated contracts, and for basic and standard model offers.

Western Australia will not be adopting the National Energy Customer Framework. Consequently, for Chapter 5A to work properly in the context of the South West Interconnected System and in regard to local arrangements for ongoing supply, the way in which Chapter 5A is applied must be modified.

Connection contracts formed through Chapter 5A will be limited to facilitating connection. The contracts will not include terms and conditions of ongoing supply, as this aspect of the national framework is not suitable for the local framework. This is because the responsibilities of the Australian Energy Regulator for initial or modified connection must be clearly distinguished from the Economic Regulation Authority responsibilities for ongoing supply. Therefore, to maintain a clear distinction between contracts for connection on the one hand and ongoing network supply on the other, interactions between Chapter 5A (connections) and arrangements for ongoing network supply will need to be removed.

There are clauses in Chapter 5A that cross-reference to the National Energy Retail Rules<sup>18</sup>, which were inserted when Chapter 5A was introduced as part of the National Energy Customer Framework.<sup>19</sup> These clauses cannot take effect in Western Australia as the National Energy Retail Rules are not being contemplated to be adopted for the South West Interconnected System at this time.

Chapter 5A will therefore be applied in Western Australia, with the following jurisdictional derogations.

- The definition of 'customer connection contract' will be removed, as this refers to contracts of a type created under the National Electricity Retail Law and National Electricity Retail Rules.
- Clauses will be removed so that negotiated connection contracts only apply in relation to connection alterations and new connections (and do not extend to ongoing supply connection services).

<sup>18</sup> For example, the model standing offers developed by a Distribution Network Service Provider must comply with the model terms and conditions for deemed standard connection contracts, which are provided for by Schedule 2 of the National Energy Retail Rules.

<sup>19</sup> The National Energy Customer Framework gives effect to the national customer protection regime, which comprises the National Energy Retail Law and the National Energy Retail Rules and Regulations. The regime seeks to maximise the availability of electricity to consumers, while minimising the risk of poor consumer decision making when negotiating contracts or changing retailers.

- A clause that requires a connection offer to contain terms relating to supply services (if the connection applicant elects to extend negotiations to include supply services) will be removed.
- A clause that allows the Chapter 5A contract to be integrated with the National Electricity Retail Law contract will be removed.
- Schedule 5A.1 Part A(b) and Part B(b), which specify terms of a connection offer relating to ongoing supply, will be removed.

Chapter 5A will also be modified to explicitly exclude ongoing supply provisions from contracts formed under that framework. This will ensure separation between ongoing supply contracts and network connection contracts and will remove the potential for overlap in regulatory functions.

## 4.5 Adoption of Chapter 5 of the National Electricity Rules

The scope of Chapter 5 of the National Electricity Rules applies to Registered Participants (or persons intending to become Registered Participants) connected to (or seeking connection to) a network. The chapter provides a complete framework for the establishment of new or altered connections to a network, as well as for network planning and expansion requirements. Western Power will be required to apply this framework to all new customers connecting to its network, and all existing connected customers, from 1 July 2018.

Chapter 5 also specifies the technical standards to which the network must operate and the performance standards required to be met by network users. It contains provisions in regard to network investment and justification, and places requirements on Western Power and the Australian Energy Market Operator to publish information about the current and projected state of the power system.

The connection and access framework in Chapter 5 of the National Electricity Rules is based on the premise of an open, negotiated access framework. It prescribes process related obligations on network users, network service providers and the Australian Energy Market Operator, while also providing flexibility for negotiations around technical performance standards for network access arrangements and general service level agreements. The framework provides a minimum 'floor' access standard for each of the relevant performance standards, as well as an automatic access standard. Network users are free to negotiate any level of access standard at or above the minimum requirements, subject to power system security not being compromised and other users not being adversely affected. Negotiated access standards are subject to approval by the Australian Energy Market Operator.

The current framework for connecting to a network in the South West Interconnected System (specifically the Western Power network) is one of unconstrained access for generators<sup>20</sup> and customers (loads). This creates barriers to new entry as new applicants can be required to pay significant capital contributions toward network augmentation in order to preserve the unconstrained access rights of other users, whilst also providing capacity for their needs.

<sup>20</sup> In recent years a number of generators have been connected on high speed runback schemes that operate automatically after one or more transmission elements are removed from service.

A party wishing to connect is subject to Western Power's 'Applications and Queuing Policy', which is required by the *Electricity Networks Access Code 2004*, and governs how applications lodged with Western Power for access to the electricity network are processed.<sup>21</sup> A party who wishes to connect is also subject to the Technical Rules that detail the technical requirements that must be met by network users seeking to connect facilities to Western Power's network.

Where Western Power assesses that an application is competing with other applications for the same network capacity, the applications are placed into one or more Competing Applications Groups. If Western Power determines that a shared network solution will address the requirements of a Competing Applications Group, it will develop and offer the solution to all members of the Competing Applications Group who have had a Preliminary Assessment completed by Western Power. The solution may involve resolution of a network constraint and therefore enable multiple applicants to connect.

In practice the Competing Applications Group process can be very complex, as applicants are seeking to progress their connections at different speeds and particular circumstances. Also service requirements can be varied among the group. The success of a shared network solution usually requires commitment from all parties involved, therefore, the withdrawal of one party at a late stage can materially affect the process and costs for the remainder. The progress of a Competing Applications Group takes priority over other connection applications in the same area that may have been submitted since the Competing Application Group was formed. Although there is some allowance for a Competing Applications Group to be expanded, it is not always feasible as Western Power is required to consider the impact on all applicants. This process can potentially stall the progress of any other applicant in the same area as an active Competing Application Group.

#### 4.5.1 New or altered connections under Chapter 5

The national framework under Chapter 5 of the National Electricity Rules facilitates an open connection framework for connection applicants (that is, load and generators) and does not have a legislated access queuing arrangement. However, in practice the Network Service Provider needs to be able to manage multiple connection applications behind a common network constraint should this occur. The Electricity Market Review understands this process generally occurs via negotiation with the applicants and the Network Service Provider has some discretion with how it effectively deals with this situation. Chapter 5 of the National Electricity Rules does have some requirements on the Network Service Provider to provide information to a connection applicant if other parties will need to be involved in the planning of a connection.<sup>22</sup>

Under present arrangements, Western Power attempts to connect all connection applicants on a reference service. For generators this generally means an unconstrained connection. The Electricity Market Review plans to introduce constrained network access as part of broader reforms. Although constrained network access will not impact all generators, it will apply to scheduled and semi-scheduled generating units. For these types of generators the network connection process is likely to be more straight forward as there is no requirement

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<sup>21</sup> The Applications and Queuing Policy is part of Western Power's Access Arrangement 3 and is approved by the Economic Regulation Authority.

<sup>22</sup> Clause 5.3.3(b)(3) of the National Electricity Rules.

for deeper shared network augmentation to provide unconstrained access – their access to the shared network is governed by least cost Wholesale Electricity Market dispatch objectives.

The ability for connection applicants under Chapter 5 to negotiate their performance standards (at or above a minimum standard) removes barriers to new entrants and also improves options for existing network customers and generators who wish to modify their existing plant. At present, the Technical Rules provide a single standard which is typically higher than the minimum standard prescribed by the National Electricity Rules.

More generally, the adoption of a framework consistent with the national framework offers benefits to both existing and potential access seekers that are already familiar with the National Electricity Rules. New entrants familiar with the National Electricity Rules will not need to learn a new rule book when seeking connections to the Western Power network and their facilities will be subject to the same type of connection agreement, performance standards and compliance programs arrangements.

The obligations and requirements imposed under Chapter 5 in regard to network connections fall mainly on the Transmission or Distribution Network Service Provider (Western Power), the Australian Energy Market Operator and other Registered Participants (which for the most part include generators and customers). The obligations that fall on the various parties that are relevant for Western Australia are discussed in the following section.

#### **4.5.2 Obligations under Chapter 5 that will apply to various parties in Western Australia**

##### *Obligations on Western Power as the Network Service Provider*

Western Power will be required to proceed to prepare an offer to connect at the automatic access standard or negotiated access standard upon receiving an application to connect to its network<sup>23</sup>. The automatic access standard relates to standards of performance in relation to technical requirements of access, including (but not limited to) reactive power capability, quality of electricity generated, generating system response to frequency and voltage disturbances. However, if requested by a connection applicant, a Network Service Provider must negotiate in good faith and offer a negotiated access standard that is subject to certain requirements that ensure the power system operates securely and reliably, and in accordance with the system standards and other standards specified in schedules under the National Electricity Rules.

Western Power must also comply with the power system performance and quality of supply standards that are described in Schedule 5.1 of the National Electricity Rules.<sup>24</sup> These performance requirements include planning, design and operating criteria that must be applied to Network Service Providers.

<sup>23</sup> Clause 5.3.5(a) of the National Electricity Rules.

<sup>24</sup> The criteria ensure that the network will comply with the system standards, under some circumstances, and provides other requirements associated with the planning and operation of the network. A Network Service Provider may deviate from these standards in certain circumstances relating to a connection agreement with a Registered Participant.

Chapter 5 sets out the annual planning and reporting for Transmission Network Service Providers and Distribution Network Service Providers. As Western Power performs both of these roles it will be required to:

- Analyse the expected future operation of its transmission network over a minimum ten-year period, taking into account the relevant forecast loads, any future generation, demand side and transmission developments (and other relevant data) in an Annual Planning Report.<sup>25</sup> Despite the fact that Western Power already publishes an Annual Planning Report, there is no requirement for it to do so under current arrangements.
- Analyse the expected future operation of its distribution network over a forward planning period of 5 years, taking into consideration all assets that would be expected to have a material impact on its network.<sup>26</sup>

Chapter 5 also sets out obligations relating to various other matters related to connection, such as Network Service Providers providing certain information to requesting parties and timeframes within which Network Service Providers must respond to connection enquiries and connection applications.

The network service provider must permit and participate in inspection, testing and commissioning of facilities and equipment.

In addition, Chapter 5 sets out requirements for a Transmission Network Service Provider to undertake a Scale Efficient Network Extension Design and Costing Study to assist in the efficient connection of multiple generators to the transmission network.<sup>27</sup> Where a Transmission Network Service Provider proposes to construct a funded augmentation, it must make available to all Registered Participants and the Australian Energy Market Operator a notice containing prescribed information.<sup>28</sup>

### *Australian Energy Regulator*

Currently, the *Electricity Networks Access Code 2004* defines two investment tests, the Regulatory Test (for which the Economic Regulation Authority sets an ‘application threshold’ in its Regulatory Test Guidelines) and the New Facilities Investment Test. This test seeks to ensure benefits to all network users by requiring that only efficient investment is recovered through regulated tariffs. The New Facilities Investment Test essentially determines the regulated return that Western Power can earn and therefore is a core consideration in Western Power planning and developing its network. There is no equivalent to the New Facilities Investment Test under national arrangements.

<sup>25</sup> Chapter 5 of the National Electricity Rules require the Annual Planning Report to cover factors such as forecast loads, planning proposals for connection points, network constraints and the consequent risk of being unable to meet network performance standards and interactions between proposed augmentations and the most recent National Transmission Network Development Plan.

<sup>26</sup> In addition to providing details on network related issues, such as forecast minimum demands, network limitations and investment requirements, Western Power must develop a strategy for engaging with non-network providers and considering non-network options for addressing system limitations.

<sup>27</sup> The Transmission Network Service Provider does not pay for any shared network augmentation arising from a Scale Efficient Network Extension unless it can pass as a RIT-T. The Scale Efficient Network Extension process is rarely used.

<sup>28</sup> Chapter 5 contemplates connection applicants funding or contributing to transmission augmentations of the shared network. However, in practice, shared transmission augmentations for loads are generally subject to a RIT-T and justified on the basis of reliability criteria. If the project satisfies the RIT-T, it is paid for by customers through Transmission Use of System charges.

Chapter 5 prescribes economic cost benefits tests for the assessment of network augmentations, the Regulatory Investment Test for Transmission and Distribution, and gives the Australian Energy Regulator responsibility for developing, publishing and replacing (from time to time) these tests and their application guidelines. The Australian Energy Regulator will also be required to identify any interested parties who have the potential to suffer a material and adverse impact under the preferred option identified in the process for the investment tests, and must undertake a review of the costs thresholds for the two investment tests every three years.

Chapter 5 also requires the Australian Energy Regulator to consider and make determinations in regard to any disputes raised by Registered Participants, the Australian Energy Market Commission, connection applicants, intending participants, the Australian Energy Market Operator and interested parties on a Transmission Network Service Provider's project assessment conclusions report in regard to a Regulatory Investment Test for Transmission and a Distribution Network Service Provider's final project assessment report in regard to a Regulatory Investment Test for Distribution.

The Australian Energy Regulator must promptly notify the Australian Energy Market Operator where it applies for a direction to disconnect a load.

#### *Australian Energy Market Operator*

The Australian Energy Market Operator is given obligations and responsibilities in regard to the following matters:

- *Network connections* – the Australian Energy Market Operator is required to provide information or advice to Western Power on proposed variations to technical requirements or any proposed negotiated access standard. If Western Power believes the terms and conditions of any existing connection agreements will be affected by a proposed connection agreement it must consult with the Australian Energy Market Operator (and other Registered Participants).<sup>29</sup>

The Australian Energy Market Operator (as well as any other interested party) can make a request to the Australian Energy Market Commission's Reliability Panel to determine if, with regard to a technical requirement for access, an existing Australian or international standard may be adopted as a plant standard (for a particular class).

- *Negotiated access standards* – the Australian Energy Market Operator must advise and carry out assessments on matters relating to negotiated access standards.
- *Network planning* – the Australian Energy Market Operator may inspect a facility and its operation and maintenance, and may instruct a generator to undertake a compliance testing.
- *Commissioning* – where there is an unresolved disagreement between Western Power and a generator, the Australian Energy Market Operator is required to make a decision on the parameter settings for control and protection setting for equipment. The Australian Energy Market Operator may also witness commissioning tests of new or replacement equipment and may require changes to a Registered Participant's

<sup>29</sup> Clause 5.3.5(d) of the National Electricity Rules.

commissioning program in the interest of maintaining power system security, safety or quality of supply.

- *Disconnection and connection* – the Australian Energy Market Operator may direct Western Power to disconnect a Registered Participant’s facilities from its network or a Registered Participant’s market loads (under certain circumstances), and, to reconnect a Registered Participant’s facilities to its network at a reasonable cost (if the reasons for involuntary disconnection no longer applies).
- *Regulatory Investment Test for Transmission* – the Australian Energy Market Operator is required to publish Regulatory Investment Test for Transmission reports and project assessments on its website.
- *Funded augmentation* – the Australian Energy Market Operator is required to publish any summary of Western Power’s proposal to construct a funded augmentation to its network.
- *Transmission planning* – the Australian Energy Market Operator will be required to produce an annual Transmission Network Outlook and database containing specified information for the South West Interconnected System.

#### *Registered Participants (including generators and customers)*

A Registered Participant who wishes to establish a connection to the Western Power network is required to make a connection enquiry, submit an application to connect and enter into a connection agreement (if it wishes to accept an offer to connect). The connection applicant must negotiate and enter into a connection agreement with Western Power and in doing so must use its reasonable endeavours to negotiate in good faith with all relevant parties.

The connection agreement must include proposed performance standards with respect to each of the technical requirements identified in schedules 5.2 and 5.3 of Chapter 5 of the National Electricity Rules. The proposed performance standards must be at or higher than the minimum access standards for the relevant technical requirement. Western Power must consult with the Australian Energy Market Operator should a connection applicant propose a negotiated access standard, which includes any proposal lower than the automatic access standard, but no less onerous than the minimum access standard.

Chapter 5 details obligations on Registered Participants in relation to the design and connection of equipment. This includes requirements to advise of any inconsistency between the proposed equipment and the connection agreement, to provide information reasonably requested by Western Power and to submit specified design information to Western Power where Western Power believes the design can potentially adversely and materially affect the performance of the power system. Furthermore, Chapter 5 sets out (amongst other things) the:

- rights and obligations of Registered Participants where one party to a connection agreement believes they are suffering (or likely to suffer) a material adverse effect as the result of the other party’s suspected non-compliance with the National Electricity Rules;

- obligations on a Registered Participant in regard to notifying Western Power of an intention to permanently disconnect and procedures that must be followed for decommissioning;
- obligations on a Registered Participant when undertaking testing of their own plant that requires changes to normal operation; and
- obligations on a Registered Participant to provide information to inform Western Power's connection forecasts.

Registered Participants must additionally plan and design their facilities and ensure they are operated to comply with the applicable performance standards, the relevant connection agreement and the system standards.

Prescribed procedures must be followed to modify, or to alter a generating system or customer connection, particularly where the modification will lead to a change in registered performance standards or the connection agreement.

Western Power may require a generator to test their generation units (potentially at the request of the Australian Energy Market Operator), or to demonstrate to Western Power and the Australian Energy Market Operator that its generating system complies with the applicable technical rules and the connection agreement, including the relevant performance standards.

Registered Participants also have obligations to participate in inspection and testing of their facilities and to follow prescribed commissioning procedures.

### 4.5.3 Treatment of performance standards

From 1 July 2018, Registered Participants to whom performance standards apply will need to prepare a set of registered performance standards reported against the requirements under Chapter 5 of the National Electricity Rules. Those Registered Participants will be required to establish and agree with the Australian Energy Market Operator a set of technical performance standards for the operation of their plant, which will then form the basis of a compliance program. The purpose of the program is to aid system security decisions, provide a means to measure compliance and allow the Australian Energy Market Operator to accurately determine power system transfer limits based on its knowledge of agreed plant capability. The performance standards are detailed in various schedules within Chapter 5 of the National Electricity Rules.<sup>30</sup>

The requirement to establish an agreed set of performance standards, and compliance program, generally comes about as part of the connection process for new users in accordance with provisions in Chapter 5 of the National Electricity Rules.

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<sup>30</sup> For non-registered participants the technical requirements and any on-going compliance obligations are specified by the network service provider.

For new jurisdictions joining the national framework there is a process to establish performance standards based on Chapter 5 requirements. This process is prescribed in Chapter 4 of the National Electricity Rules.<sup>31</sup> These provisions will be adopted in a modified form to transition existing performance standards.

When establishing performance standards for existing plant, it is not expected that modifications to plant capability will be necessary, unless it is determined that the plant affects the quality or security of supply to other users. The existing capability of plant will, in effect, be deemed compliant with the requirements of the technical schedules in Chapter 5 of the National Electricity Rules. The establishment of performance standards for existing facilities provides a means to document the 'actual' capability of plant with respect to these requirements. In some cases testing may be required to demonstrate the 'actual' capability of the plant is being reported as its performance standard.

#### 4.5.4 Modifications to the National Electricity Rules

The Electricity Market Review has conducted a detailed comparison of the Applications and Queuing Policy and Technical Rules with the requirements in Chapter 5 of the National Electricity Rules. This included a comparison of the present Regulatory Test process, governing network investment decisions, and the Regulatory Investment Test, which applies under Chapter 5 of the National Electricity Rules. Some minor overlap was also identified with the Wholesale Electricity Market Rules and this was also taken into account.

The review of the Applications and Queuing Policy and Technical Rules relative to the relevant provisions of the National Electricity Rules was critical to understanding the key differences and similarities in the:

- connection processes and timelines;
- power system performance standards;
- technical requirements on the network service provider when planning and operating its network;
- network service provider investment justification requirements;
- technical performance standards and investment requirements to be met by users of the network;
- power system modelling requirements and information to be provided or exchanged by various parties;
- requirements on network service providers to publish information; and
- terminology and definitions within the various instruments.

Recognising that the connection and access framework in the National Electricity Rules was designed to operate for the national grid and the National Electricity Market, some modifications are required to the National Electricity Rules to give effect to their application in Western Australia in regard of the Wholesale Electricity Market. This includes treating defined terms such as Registered Participant to suit the local power system and the Wholesale Electricity Market.

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<sup>31</sup> Clauses 4.14 to 4.17 of the National Electricity Rules.

There are also some departures necessary in the content of Chapter 5 to accommodate a mixture of legacy arrangements in Western Australia as well as differences in responsibilities between parties. The reasons for these departures are outlined below.

#### *Performance standards*

A limited number of performance standards in the schedules of Chapter 5 will require jurisdictional derogations to reflect legacy technical arrangements, as well as the islanded nature of the South West Interconnected System. The modifications are mostly focused on generator frequency control requirements. These amendments are mostly driven by the differences in System Frequency Standards that apply to the South West Interconnected System.

Unlike the National Electricity Market, the Wholesale Electricity Market in the South West Interconnected System does not yet have mature competitive frequency control ancillary service markets. This has also influenced the need to amend the National Electricity Rules to retain some existing requirements on generators.

#### *Transmission Network Planning*

The Australian Energy Market Operator's National Transmission Planner function under Chapter 5 will not be adopted for Western Australia. This means the Australian Energy Market Operator will not be required to produce a National Transmission Network Development Plan that includes Western Australia. However, the Electricity Market Review proposes that the Australian Energy Market Operator publish a local equivalent of the document called the Transmission Network Outlook under the Wholesale Electricity Market Rules.

The Electricity Market Review has separately released and is consulting on a position paper on the Australian Energy Market Operator's role in publishing a document similar to the National Transmission Network Development Plan for the South West Interconnected System.

#### *Alignment with local requirements*

There will need to be modifications to coordinate requirements of Chapter 5 of the National Electricity Rules with the Wholesale Electricity Market Rules requirements, and to address linkages in Chapter 5 to other provisions of the National Electricity Rules, which are not being adopted.

Transitional derogations to Chapter 5 of the National Electricity Rules will be time limited until the end of RCP1 for Western Power (being 30 June 2022). At this time, any permanent amendments will be undertaken through a Rule Change proposal to the Australian Energy Market Commission for a Western Australian jurisdictional derogation.

## **4.6 Constrained access in the Wholesale Electricity Market**

The Electricity Market Review is continuing to work on implementing constrained network access for generators in the South West Interconnected System from 1 July 2018.

Although Chapter 5 of the National Electricity Rules provides for a form of connection agreement consistent with the provisions of a constrained access market model, Chapter 5 does not expressly provide for constrained access. In the National Electricity Market, Chapter 5 works collectively with other chapters such as Chapter 2 (Registered Participants and Registration), Chapter 3 (Market Rules) and Chapter 4 (System Security) to give effect to the constrained network access environment for generators.

The model proposed for constrained access in Western Australia is similar in many respects to that of the National Electricity Market where generation is dispatched based on a merit order of generation bids, subject to various constraints that may impose limitations on generation output, including network constraints.

As part of broader Electricity Market Review reforms amendments are proposed to the Wholesale Electricity Market Rules to facilitate a least cost economic dispatch environment, accounting for network constraints. This will present a significant change to the way in which Western Power contracts with generators for access to its network, because historically some generators have been provided physical access rights under certain operating conditions.<sup>32</sup>

Access Contracts with Western Power will require amendment so that they are not inconsistent with the constrained access model (or overridden by legislation) and constrained access will need to be expressly provided for under Western Australian legislation and regulations. From 1 July 2018 network access for generators will be managed in a similar fashion to the National Electricity Market.

The Electricity Market Review intends to release in due course a paper for consultation on the implementation of constrained network access.

## 4.7 Consequential changes to existing instruments

### 4.7.1 Effect of Repealing Western Power's Technical Rules

From 1 July 2018 Western Power's Technical Rules will no longer apply to Western Power because the *Electricity Networks Access Code 2004* will cease to apply to Western Power. The various matters that are dealt with by the Technical Rules will continue to be addressed, but will be housed in different instruments. Figure 4.3 shows the various instruments that will apply the matters dealt with by the Technical Rules from 1 July 2018.

<sup>32</sup> These conditions are typically only when all major transmission elements are in service.

Figure 4.3: Instruments containing elements of the Technical Rules from 1 July 2018



The majority of the content of the Technical Rules will be superseded by provisions in Chapters 5 and 5A of the National Electricity Rules. This includes:

- system standards desirable for the safe and reliable operation of facilities;
- technical performance standards to be met by generators, customers and network service providers;
- commissioning and testing; and
- data, communications and remote monitoring requirements.

Some aspects of the Technical Rules will not be superseded and it is important that content is retained where it remains relevant. Notable inclusions are as follows:

- **Western Power design standards.** These will be transferred to internal Western Power design standard policy documents.
- **Network capacity planning criteria.** These are specific jurisdictional requirements on Western Power to ensure sufficient transmission and distribution network capacity is available for certain operating conditions.
- **Rules governing power system security.** These are expected to be replaced with new power system security requirements in the Wholesale Electricity Market rules.

### 4.7.2 Network capacity planning criteria

The National Electricity Rules do not contain all the provisions that are required to specify network reliability and power quality planning criteria, and reliability service standards obligations on a network service provider. These are typically specified through regulatory obligations specific to each jurisdiction.

Once regulation of Western Power is transferred to the National Electricity Rules, the instruments that incorporate the reliability and power quality obligations (namely the Access Arrangement, the *Electricity Networks Access Code 2004*, and the Western Power's Technical Rules) will cease to apply to Western Power and/or will be repealed.

The Electricity Market Review has determined that the existing *Electricity Industry (Network Quality and Reliability of Supply) Code 2005* will be retained and that it will be amended to incorporate the current relevant provisions in the three documents pertaining to Western Power and to remove any requirements that will no longer apply.

The Electricity Market Review is currently designing the necessary amendments to the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005* to:

- incorporate the network reliability and power quality planning criteria and reliability service standards that currently apply to Western Power; and
- establish a new governance framework for changes to the network reliability and power quality planning criteria and reliability service standards.

The Electricity Market Review intends to release in due course a position paper for consultation on the proposed changes to the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*.

### 4.7.3 Power system security

Under current arrangements power system security and reliability criteria for the South West Interconnected System reside in several places, predominantly the Wholesale Electricity Market Rules and Western Power's Technical Rules. System Management Power System Operating Procedures also cover security and reliability related matters.

As part of transitioning to the national framework, the Technical Rules will be repealed along with the power system security and reliability criteria they contain. Aspects of these rules are critically important and need to be either:

- transferred to an alternative regulatory instrument, the most logical of which is the Wholesale Electricity Market Rules where other system security and reliability matters are also covered; or
- replaced with a revised set of power system security requirements.

The Electricity Market Review investigations have identified a number of shortcomings with the existing power system security and reliability rules that have created problems for power system operations. Examples include a lack of clarity in the criteria which defines normal,

high risk and emergency operating states, making real time operating states difficult to classify on occasion. The Wholesale Electricity Market Rules linkages to the requirements in the Technical Rules are also poorly defined and some definitions, such as 'Power System Reliability', are not well articulated.

These shortcomings aside, Chapter 5 of the National Electricity Rules also relies on particular power system security and reliability concepts. For example, certain provision in Chapter 5 of the National Electricity Rules related to connection, access and compliance framework for larger generators and customers. Performance standard obligations on network service providers also have strong linkages to the power system security and reliability requirements in Chapter 4 of the National Electricity Rules. Maintaining these linkages is important for the effective operation of the connection and access regulatory framework.

The security related functions undertaken by the Australian Energy Market Operator under the National Electricity Rules (and National Electricity Law) will be defined and regulated under the Wholesale Electricity Market Rules. This will occur due to the specific differences of the Wholesale Electricity Market design features compared to the National Electricity Market. Adapting aspects of Chapter 4 of the National Electricity Rules into the Wholesale Electricity Market Rules would address some of the shortcomings in the existing power system security and reliability criteria that apply to the South West Interconnected System. It would also allow the linkages between Chapter 5 of the National Electricity Rules (which is being adopted) and Chapter 4 to remain intact.

At this stage the Electricity Market Review's preferred view is to replace the current Technical Rules and Wholesale Electricity Market Rules governing power system security and reliability with the provisions in Chapter 4 of the National Electricity Rules.

The Electricity Market Review intends to release, in due course a position paper on the proposed changes to the Wholesale Electricity Market Rules that are required to adapt the relevant power system security and reliability provisions in Chapter 4 of the National Electricity Rules for the Wholesale Electricity Market.

## 5. Adoption of supporting provisions in the National Electricity Rules

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While primary focus of the transfer to the national framework has been the adoption of Chapters 5, 5A, 6 and 6A of the National Electricity Rules, there are many other concepts and processes under other chapters in the National Electricity Rules that support the operation of these chapters.

This section provides a summary of the other chapters of the National Electricity Rules that will be adopted to support operation of Chapters 5, 5A, 6 and 6A. These other chapters include Chapter 1 (Introduction), Chapter 8 (Administrative Functions), Chapter 10 (Glossary) and Chapter 11 (Savings and Transitional Rules).

### 5.1 Chapter 1 of the National Electricity Rules

Chapter 1 of the National Electricity Rules deals with a number of matters of an introductory nature. These include nomenclature, referencing, interpretation, service of notices and the retention of documents and records, all of which underpin the operation of the National Electricity Rules. Chapter 1 will apply with a limited number of exceptions.

In regard to service of notices under clause 1.8.1, a reference will be added to Western Australian registration regulations made under the *National Electricity (Western Australia) Bill 2016* to provide a link between requirements under this provision and the local registration regime.

Note that Chapter 1 of the National Electricity Rules also contains provisions on the maintenance of certain Australian Energy Market Operator 'Rule Funds' (which relate to matters under Chapters 2 and 3 of the Rules). Specifically, Clause 1.11 requires Australian Energy Market Operator to maintain a registration and administration fund, a security deposit fund and 'any other fund which the National Electricity Rules provide will be maintained in Australian Energy Market Operator's books'. This rule will not apply in Western Australia as there will not be any funds under the National Electricity Rules which Australian Energy Market Operator will be required to administer in Western Australia.

### 5.2 Chapter 8 of the National Electricity Rules

Chapter 8 of the National Electricity Rules deals with a number of administrative processes and obligations.

The adoption of relevant rules in Parts A (Introductory), Part D (Australian Energy Regulator Monitoring and Reporting Powers) and Part F (Rules Consultation Procedures) are directly relevant to the operation of Chapters 5, 5A, 6 and 6A. Parts E, G and H of Chapter 8 are not considered relevant for application in Western Australia. The remaining Parts of Chapter 8 (Parts B, C and E) are considered in more detail below.

### 5.2.1 Dispute resolution

The dispute resolution provisions in Part B of Chapter 8 apply to any dispute which arises between two or more Registered Participants about the application or interpretation of the National Electricity Rules, the failure by Registered Participants to reach agreement where required by the National Electricity Rules, proposed access arrangements or connection agreements, the payment of money and a number of other circumstances.

Part B requires each Registered Participant and the Australian Energy Market Operator to adopt and implement a Dispute Management System to facilitate dispute resolution under Chapter 8. The first resolution stage under Part B is similar to that which applies under Chapter 2 of the Wholesale Electricity Market Rules, although the timing is different. The second resolution stage under Part B is much more complicated and detailed to that which applies under the Wholesale Electricity Market Rules.

Adopting Part B will lead to different dispute processes applying under the National Electricity Rules and the Wholesale Electricity Market Rules. However, the Electricity Market Review is proposing to adopt Part B dispute resolution process for the following reasons:

- it will give registered participants in Western Australia the benefit of having the same dispute resolution process as that available to registered participants in the National Electricity Market for applicable National Electricity Rules related disputes;
- it will be consistent with the overarching policy objective of adopting the national framework for regulating Western Power's network; and
- there would be benefit from ongoing collective developments to the dispute resolution provisions in Part B of the National Electricity Rules via the rule change processes.

### 5.2.2 Confidentiality

Part C of Chapter 8 (Clause 8.6) imposes confidentiality obligations on Registered Participants in relation to the use and disclosure of confidential information provided under or in connection with the National Electricity Rules. The exceptions to these obligations are also outlined, such as disclosure required by law, disclosure to employees and advisers, and disclosure to regulatory authorities.

Part C confidentiality provisions will be adopted in order to allow disclosure of confidential information under other provisions of the National Electricity Rules.

### 5.2.3 Functions of the Reliability Panel

While Western Australia is proposing to establish its own local committee of reliability experts, the Electricity Market Review recognises that the Australian Energy Market Commission's Reliability Panel, established under Chapter 8 of the National Electricity Rules, will still play a role for the South West Interconnected System.

Part E of Chapter 8 confers a series of functions on the Australian Energy Market Commission's Reliability Panel, many of which will be conferred on the Western Australian entity instead. However, it is proposed that any functions relating to plant standards<sup>33</sup> should still be undertaken by the Australian Energy Market Commission's Reliability Panel. Consequently, responsibility for determining power system security standards<sup>34</sup> will be shared between both entities.

This approach maintains the linkages to power system security and reliability requirements in other chapters of the National Electricity Rules, particularly in the instance of Chapter 5, which provides a connection, access and compliance framework for larger generators and customers, as well as performance standard obligations on network service providers. Maintaining these links is important for the effective operation of the total regulatory framework and leverages the existing expertise within the National Electricity Market.

### 5.3 Chapter 10 of the National Electricity Rules

There are definitions, terms and concepts defined in Chapter 10 that apply to the National Electricity Market that will need to be redefined, clarified or amended so that they work in respect to Western Australian arrangements. In some instances, the definition, term or concept used in the Glossary may reference a local instrument, such as the '*RCP1 transition instrument*', or make a general reference to local Western Australian Regulations.

### 5.4 Chapter 11 of the National Electricity Rules

The majority of Chapter 11 is not relevant to Western Australia and does not need to be adopted. This is because Chapter 11 largely contains historical transitional provisions and provisions that are specific to certain jurisdictions and/or participants.

However, a few transitional provisions from Chapter 11 will need to be adopted for operation in regulation of Western Power. The majority of the transitional provisions are required to support Rule Change Proposals that have been approved by the Australian Energy Market Commission but contain parts that will not take effect until (various dates in) 2016 or 2017. The adoption of these transitional provisions are necessary for the period in which Western Power will be transitioned into the national electricity framework between November 2016 and 1 July 2018 and include:

- *Transition to Chapter 6A (Economic Regulation of Transmission Services)*<sup>35</sup> – Western Power's historical approach prior to the commencement of the Access Arrangement in 2006 has been to include generation connection assets in its regulatory asset base with the result that the cost of connecting these assets is shared amongst all network users. This strongly parallels the circumstances in the national electricity market prior to the announcement of the transmission revenue rules in 2006. Minor changes will be required to the dates in this clause to reflect the date from which the national framework applies in Western Australia.

<sup>33</sup> Clause 8.8.1(8) of the National Electricity Rules.

<sup>34</sup> Clause 8.8.1(2) of the National Electricity Rules.

<sup>35</sup> Clause 11.6.11 of the National Electricity Rules.

- *Demand management incentive schemes developed and published by the Australia Energy Regulator*<sup>36</sup> - to support the Australia Energy Regulator developing the demand management incentive scheme and the demand management innovation allowance mechanism resulting from the National Electricity Amendment (Demand management incentive scheme) Rule 2015.
- *Common definitions of distribution reliability measures*<sup>37</sup> – to support the Australian Energy Regulator to develop and publish the distribution reliability measures guideline resulting from National Electricity Amendment (Common definitions of distribution reliability measures) Rule 2015.
- *Expanding competition in metering and metering related services*<sup>38</sup> (with the exception of the clause relating to B2B Arrangements) - to replace references to ‘responsible person’ with references to ‘Metering Coordinator’ in regard to metering arrangements under Chapter 7, and to prescribe conditions for the appointment of ‘Metering Coordinator’. These provisions are a consequence of the National Electricity Amendment (Expanding competition in metering and related services) Rule 2015.
- *Embedded networks*<sup>39</sup> - to require the Australian Energy Market Operator to develop and publish specified service level procedures, guide to embedded networks and a list of embedded network managers resulting from the National Electricity Amendment (Embedded Networks) Rule 2015.

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<sup>36</sup> Clause 11.82 of the National Electricity Rules.

<sup>37</sup> Clause 11.85 of the National Electricity Rules.

<sup>38</sup> Clause 11.86 of the National Electricity Rules.

<sup>39</sup> Clause 11.87 of the National Electricity Rules.

## 6. Regulatory Arrangements for the Gap Year (2017/18)

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### 6.1 Introduction

Under the *Electricity Networks Access Code 2004* framework that currently applies, Western Power is required to have an Access Arrangement in place that is approved by the Economic Regulation Authority. The Access Arrangement covers prices, services, policies and terms and conditions for access to Western Power's transmission and distribution networks. Western Power's current approved Access Arrangement (AA3) covers the five year period from 1 July 2012 to 30 June 2017.

The earliest date on which commencement of regulation of Western Power's networks under the National Electricity Rules can practically occur is 1 July 2018. This is because of the expected timing of the National Electricity Law coming into force in Western Australia in late 2016 and allowing for a minimum period that will be necessary for Western Power to prepare its regulatory proposal and for the Australian Energy Regulator to review that proposal to make a regulatory determination for Western Power.

There will therefore be a 12 month regulatory 'gap' over the financial year 2017/18, following the time when Western Power's Access Arrangement is due for revision and prior to the commencement of the National Electricity Rules framework. It is, therefore, necessary to retain the current Western Australian regulatory framework to ensure the ongoing regulation of Western Power's prices and revenue for 2017/18, along with the application of the associated policies and contracts that provide the framework for customers to connect to the network and to modify their connection.

The Electricity Market Review has given consideration to the regulatory arrangements that can provide a fully functional regulatory framework for Western Power's transmission and distribution networks for 2017/18 (the 'gap year').

The Electricity Market Review did not consider it appropriate to proceed with the approval of a revised Access Arrangement under the current *Electricity Networks Access Code 2004* just for the gap year. In order to reduce the administrative burden associated with the arrangements for 2017/18, the Electricity Market Review has taken the view that the existing Access Arrangement (AA3) will be applied in 2017/18 with a limited number of exceptions, rather than there being a full Access Arrangement review, as required by the *Electricity Networks Access Code 2004*.

The following sections describe how Western Power's revenue and prices will be determined for 2017/18 (including the role of the Minister for Energy as the decision-maker), the incentives that will apply to Western Power to achieve efficient outcomes during the gap year, and the modifications that will be made to the non-price terms and conditions.

## 6.2 Determination of revenue and prices for 2017/18

### 6.2.1 Decision-maker

To reduce the complexities associated with the gap year, the Minister for Energy will be the decision-making body for 2017/18. Having the Minister for Energy as the decision-making body minimises the resourcing requirements and administrative costs associated with implementing regulatory decisions to apply in the gap year.

The Minister for Energy will be required to make decisions only on certain matters to further reduce the administrative costs associated with the gap year. Decisions are required for: reference services for the gap year; prices for reference tariffs during the gap year; and the revenue caps for the gap year. For other aspects of the Access Arrangement, the arrangements that will apply during the gap year largely reflect the current Access Arrangement, with a limited number of exceptions.

The Minister for Energy will initially consider any proposal from Western Power to introduce new reference services and reference tariffs for 2017/18. Once a decision on this has been made, the Minister for Energy will make a decision on the prices to apply in 2017/18 and, separately, the Minister for Energy will make a decision on the revenue cap for Western Power following the approval of the State Budget.

Having the Minister for Energy as the decision maker provides certainty for network customers and Western Power on the arrangements for the gap year. This is important at a time when Western Power will be preparing its first regulatory submission to the Australia Energy Regulator. It will minimise the resourcing requirements and administrative costs associated with the gap year arrangements, while achieving efficient outcomes for electricity customers.

### 6.2.2 Determination of revenue

Western Power's revenue cap for 2017/18 will be determined by the Minister for Energy using a "simplified building block" approach. The building block method is the standard means that a regulator would normally apply to determine the revenue allowance of a regulated network business.

The approach to applying the building block method is being simplified to reduce the administrative burden compared to the normal regulatory assessment of each revenue building block. The simplified building block approach is expected to promote efficient outcomes by linking key decisions on the value of the various building blocks to:

- the methods used by the Economic Regulation Authority in its prior determination under the *Electricity Networks Access Code 2004*;
- recent decisions by the Australian Energy Regulator about the rate of return (cost of capital) and financial parameters; and
- the 2017/18 State budget for operating and capital expenditure.

### 6.2.3 Approval of network tariffs

Western Power's network tariffs for 2017/18 will be set by reference to its 2016/17 network price list approved by the Economic Regulation Authority.

Network prices for 2017/18 will be set by reference to 2016/17 prices rather than by reference to the revenue building block for 2017/18. This approach is being adopted to provide certainty and avoid volatility in pricing ahead of the transition to the national arrangements. Volatility in prices would unnecessarily impact network customers ahead of the transition to the national regulatory framework.

Network prices for 2017/18 will reflect a price increase when compared to the 2016/17 network prices. The level of the price increase between 2016/17 and 2017/18 across all network tariffs will be determined by the Minister for Energy.

Any difference in revenue earned under this pricing arrangement and the efficient revenue cap determined by the Minister for Energy for the gap year, on the basis of the simplified building block, will be taken into account in determining allowed revenues for the first regulatory control period. This has the benefit of reducing price volatility for customers, as the adjustment can be smoothed, if necessary, over the four years of the first regulatory control period.

### 6.2.4 Efficient expenditure incentives

Western Power will continue to face incentives during the gap year to efficiently invest in the network, to minimise its costs and to provide services valued by customers.

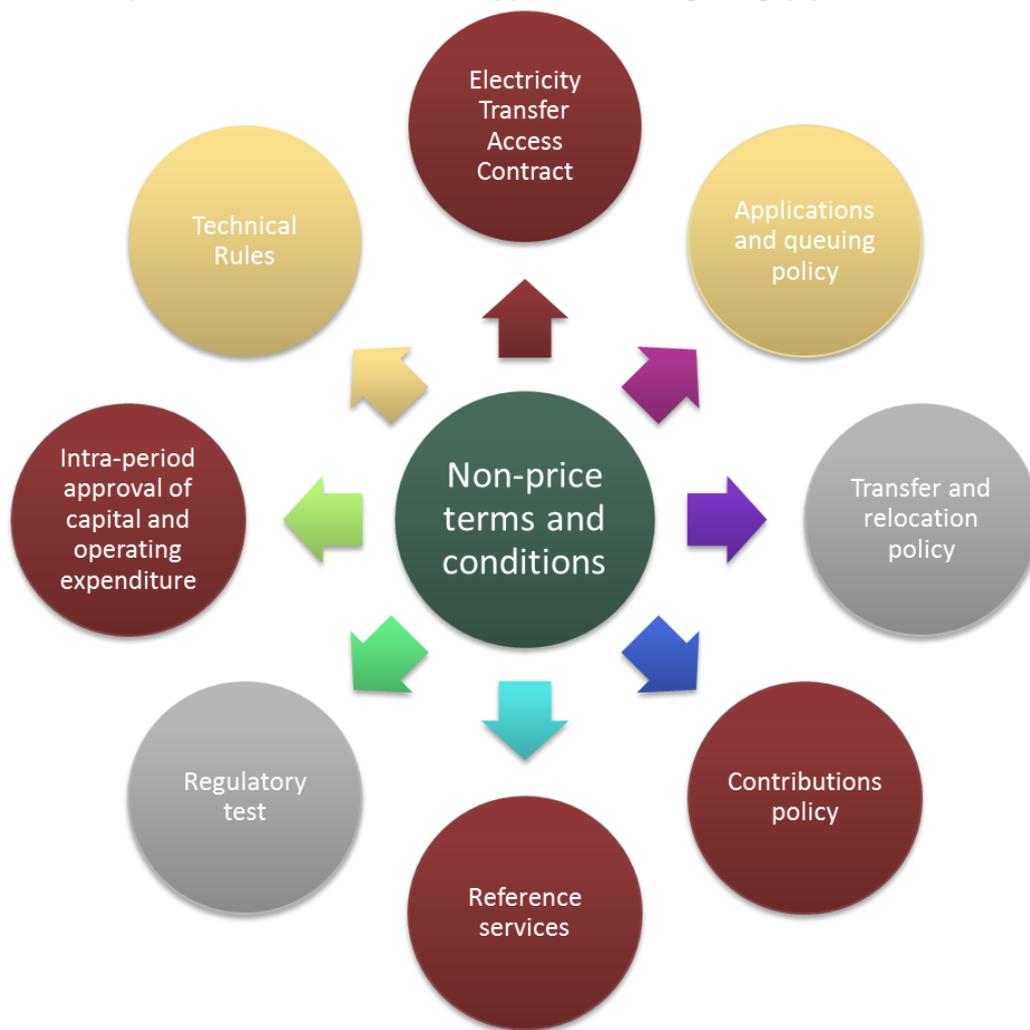
- Western Power will continue to face incentives to seek operating and capital expenditure efficiencies, albeit in a modified form.
- Western Power will continue to face incentives to efficiently defer capital expenditure through demand-side management or generation solutions.
- Western Power will remain subject to the performance targets under the Service Standard Adjustment Mechanism, although the financial incentives will not apply.

## 6.3 Non-price terms and conditions

The non-price terms and conditions within the current AA3 and *Electricity Networks Access Code 2004* will continue into 2017/18, with a limited number of exceptions. The exceptions have arisen where there is a clear and material case that continuing with an aspect of AA3 would not be sensible given the transition to the National Electricity Rules.

Figure 6.1 shows the various policies and contracts that are part of the non-price terms and conditions that will apply during 2017/18.

Figure 6.1: Non-price terms and conditions applicable during the gap year



The following sections describe changes to the non-price terms and conditions within the current AA3 and *Electricity Networks Access Code 2004*. There are no changes proposed to the Applications and Queuing Policy, the Transfer and Relocation Policy, Technical Rules or the Regulatory Test. While the current arrangements will apply in 2017/18, certain transitional provisions will be made to the Applications and Queuing Policy and the Technical Rules for connection applications made prior to 1 July 2018, but for which a connection offer is unlikely until post 1 July 2018.

### 6.3.1 Electricity Transfer Access Contract

The Electricity Transfer Access Contract details the standard terms and conditions for the provision of reference services by Western Power.

The Electricity Transfer Access Contract will be modified so that the term of the contract does not go beyond 30 June 2018 for any new contracts entered into during the gap year. This will enable Western Power to renegotiate a new agreement that will apply once the national framework applies from 1 July 2018. This removes any incentive for customers to connect to Western Power’s network during the gap year to lock in unconstrained access.

Importantly, this will not modify any existing Electricity Transfer Access Contracts that Western Power has with its customers. These contracts will continue to apply during 2017/18. Beyond 2017/18 the proposed treatments of these contracts will be detailed in the further paper on the implementation of constrained network access.

### 6.3.2 Contributions policy

The Contributions Policy details how much new customers (as well as customers modifying their connection) must contribute towards the cost of their connection and towards the augmentation of the shared network.

In certain circumstances the Contributions Policy allows for the contribution amount to be offset by the expected incremental revenue over a 15 year period. For generators, the expected incremental revenue will be zero from 1 July 2018 because under the National Electricity Rules use of system charges do not apply for generators. A change be made to the Contributions Policy to require Western Power to recognise that the use of system charge for generators do not apply from 1 July 2018.

### 6.3.3 Transfer and relocation policy

The Transfer and Relocation Policy defines the terms and conditions on which a customer may transfer or relocate contractual rights to Western Power's network services.

Western Power's Transfer and Relocation Policy will remain active in the gap year in its current form.

### 6.3.4 Reference services

Reference services are network services provided by Western Power that are sought by a significant number of users or a substantial proportion of the market.

The Minister for Energy will have the ability to approve new network tariff structures for 2017/18. A consequence of this is that additions may be required to the current set of reference services if the Minister approves any new tariff structures to be implemented.

### 6.3.5 Intra-period approval of expenditure will not apply in the gap year

The *Electricity Networks Access Code 2004* currently provides for Western Power to apply to the Economic Regulation Authority for pre-approval of proposed expenditure during the Access Arrangement period.

Any such pre-approval in the gap year for expenditure would be over-ridden by the Australian Energy Regulator's discretion to determine expenditure for the first regulatory control period. Moreover, the costs of carrying out an intra-period review would not be inconsequential, given public consultation would be required. As there is no value in having expenditure pre-approved during the 2017/18 year, the provision in the *Electricity Networks Access Code 2004* related to expenditure pre-approved will not apply during the gap year.

### 6.3.6 Application of the Technical Rules

Western Power's Technical Rules will remain active in the gap year. All network connection applications expected to have a connection offer from Western Power prior to 1 July 2018 will continue to follow the requirements in the Technical Rules. Certain transitional provisions in relation to connection applications made prior to 1 July 2018, but for which a connection offer is unlikely until post 1 July 2018 will apply.

### 6.3.7 Applications and Queuing Policy

Western Power's Applications and Queuing Policy will remain active in the gap year. All network connection applications expected to have a connection offer by Western Power prior to 1 July 2018 will continue to follow the requirements in the Applications and Queuing Policy. Any new or amended Electricity Transfer Access Contracts in the gap year will terminate on 30 June 2018. See Section 6.3.1 for more information.

On and from 1 July 2018 all existing connection enquiries and connection applications made under Western Power's Applications and Queuing Policy will be mapped to an appropriate stage of the 'Connection enquiry' process under the National Electricity Rules.

Where Western Power has progressed a connection application under the Applications and Queuing Policy to the point, where it reasonably considers the application can be considered a connection application under the National Electricity Rules, Western Power at its discretion can deem the application made under the Applications and Queuing Policy to be an application made under the National Electricity Rules. It is expected that in some cases additional data may need to be exchanged between Western Power and the applicant for the requirements of the National Electricity Rules to be reasonably fulfilled.

For connection applications made prior to 1 July 2018, but for which a connection offer is expected to be made post 1 July 2018, Western Power and the connection applicant may choose to assess (or re-assess) the connection application in accordance with the performance standards specified in Chapter 5 of the National Electricity Rules. This will enable the connection agreement prepared after 1 July 2018 to be on the basis of the National Electricity Rules requirements. It avoids a translation from Western Powers Technical Rules criteria to Chapter 5 performance standards and enables the customer's connection assets and any shared network augmentation requirements to be specified, consistent with Chapter 5.

If Western Power and the connection applicant agree to assess the application in accordance with Chapter 5 during the gap year, the negotiated access standards sought by the applicant will require Australian Energy Market Operator's approval. The Australian Energy Market Operator will only be required to consider negotiated access standards from 1 July 2018. This will need to be factored into any connection assessment timeline.

### 6.3.8 Regulatory Test for Network Investment

Under Chapter 9 of the *Electricity Networks Access Code 2004*, Western Power may need to perform a Regulatory Test for a proposed major augmentation, which increases the capability of its covered network to provided covered services. A similar investment test is contained within Chapter 5 of the National Electricity Rules called the Regulatory Investment Test. The National Electricity Rules separately prescribe the requirements for a Regulatory Investment Test for Transmission and a Regulatory Investment Test for Distribution.

Both the current Regulatory Tests and the National Electricity Rules Regulatory Investment Tests are economic cost-benefit tests that apply above certain cost thresholds. The thresholds for the Regulatory Investment Test for Transmission and Regulatory Test for transmission augmentations are \$6 million and \$35 million respectively. The cost threshold for Regulatory Investment Test for Distribution is also \$6 million.

The objective of the Regulatory Test under the *Electricity Networks Access Code 2004* and Regulatory Investment Test under the National Electricity Rules are similar, with both tests designed to select the correct option which maximises the net benefit to those who generate, transport and consume electricity.

As the Regulatory Test will not apply beyond 1 July 2018, any Regulatory Test commenced before this date will need to be complete by 1 July 2018. After this time, the Regulatory Investment Test will apply in accordance with Chapter 5 of the National Electricity Rules and will be regulated by the Australian Energy Regulator.

Transitional arrangements are required to exempt Western Power from having to retrospectively apply a Regulatory Investment Test to a shared augmentation from 1 July 2018, where that augmentation was not previously subject to the current Regulatory Test. Without such transitional arrangements, the justification for network augmentation could become very mature and a project could potentially become committed, but then be subject to a Regulatory Investment Test from 1 July 2018. This would then impose unreasonable delays and costs on both customer projects and network investments alike.

To avoid this happening, transitional arrangements will enable an augmentation to be exempt from a Regulatory Investment Test from 1 July 2018, where that augmentation was not previously subject to a Regulatory Test prior to 1 July 2018.

In order for an augmentation to be exempt, Western Power must be capable of demonstrating that the preferred augmentation option it has identified:

- has been planned and developed at least cost over the life of the investment; and
- does not exceed the capital cost threshold which would normally require a Regulatory Test to be applied.

Otherwise, the augmentation is a candidate for application of the Regulatory Investment Test for Transmission or Regulatory Investment Test for Distribution, if it meets the criteria for these assessments. A 12 month sunset clause will apply to this transitional arrangement.

The intent of a sunset clause is to avoid exemptions applying for lengthy periods beyond 1 July 2018 to augmentations that were previously progressing, but have since paused due to changes in the network needs or due to customer requirements. After the 12 month sunset period, the exemption will expire and the augmentation will be subject to the Regulatory Investment Test, if it is progressed any further and meets relevant criteria.

## 7. Disclaimer

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