4 December 2017

Mr Noel Ryan
Acting Director, Electricity Networks
Public Utilities Office
Department of Treasury

Sent via email: PUOsubmissions@treasury.wa.gov.au

Dear Noel

Improving access to, and operation of, the Pilbara electricity network – the North West Interconnected System

Alinta Sales Pty Ltd (**Alinta**) welcomes the opportunity to provide a submission to the Public Utilities Office (**PUO**) on its Issues Paper: "Improving access to, and operation of, the Pilbara electricity network, the North West Interconnected System" (**NWIS**), sometimes broadly referred to as the implementation of a "light handed regulatory regime".

Background

Alinta has long held the view that significant benefits will flow to both participants and customers of the NWIS from an open access regime, including retail competition in the Pilbara. These benefits include: significant energy cost savings for customers leading to material economic growth; greater innovation in the generation and retailing of electricity; and improved customer service.

Alinta first attempted to realise these benefits by seeking access to Horizon Power's owned and operated portion of the NWIS (**Horizon Network**) in April 2014. After failing to agree access terms with Horizon Power at that time, Alinta pursued two further avenues for access:

1. A regulatory outcome, through applying for coverage of the Horizon Network under section 3.8 of the Electricity Networks Access Code 2004. It's noted the Minister for Energy recently announced his intention to approve Alinta's application for the Horizon Network to be covered in his Draft Decision[1]; and

2. With support from the then Minister for Energy, negotiating an Electricity Transfer Access Contract (**ETAC**) with Horizon Power. The negotiations started in November 2015, but after a year of intensive negotiation it became clear there were a number of material issues which the parties were unable to agree and that a dispute resolution

[1] Hon. Ben Wyatt MLA, Treasurer; Minister for Finance; Energy; Aboriginal Affairs: *Coverage of the Horizon Power electricity network in the North West Interconnected System*, 27 November 2017.

process would not achieve a binding outcome. These negotiations were officially abandoned in early 2017.

Alinta welcomes and supports changes to the NWIS regulatory framework to allow the benefits from open access to be realised by participants and customers of the NWIS as soon as possible.

In this regard Alinta supports the development of a light handed access regime which maximises net benefits. That is, it allows for all benefits to be realised but at the least cost. This approach would lend itself to minimal regulatory interference.

A lighted handed regime

Alinta supports a light handed access regime which results in minimal regulatory interference but allows for all benefits to be realised. Accordingly, Alinta supports the following features.

Networks to be covered by the Light Handed Framework

Alinta believes that to maximise net benefits, only those networks which, if subject to an open access regime are likely to deliver competition benefits should be covered. This is clearly the Horizon Network which has the largest number of customers and available network capacity to deliver the benefits of competition.

Therefore the focus of reform, at least in the initial stages, should be on the Horizon Network where the largest beneficiaries exist.

Noting this, if an independent system operator is established under the light handed framework, then all network operators in the NWIS should participate in that part of the regime. To ensure the NWIS Network Operators voluntarily participate, robust consultation with those networks in the design of the system operation functions is essential.

Access Framework

For competition to be effective in the NWIS, the structural separation of the Horizon Network business from the Horizon Power retail/generation business is required. This will remove conflicts of interest and allow the effective negotiation of access terms.

Once structural separation has occurred, the parties will be able to negotiate under a light handed access framework which will need to provide detailed principles upon which an ETAC can be negotiated and arbitrated if required. Alinta supports drawing on existing access regimes in developing these principles for the NWIS.

The failure of Alinta and Horizon Power to negotiate an ETAC in 2016 was in part due to the absence of detailed principles upon which access terms could be agreed, as well as a robust dispute resolution framework which was both binding and clear in providing guidance to an arbitrator.

Alinta considers it vital that market participants have broad confidence in the regulatory framework of the NWIS, and that a well-designed regulatory framework is in the best interests of all involved.

In this regard, Alinta believes the Issues Paper has done a good job at identifying the key guiding principles as a reference point including:

- Recognition of existing property rights
- Safety of the network and security of existing supply arrangements
- Open access with light handed regulation
- Cooperative approach to system operation
- Contractual and regulatory certainty
- Greater transparency of energy demand
- Stakeholder feedback and industry feedback on regulatory design issues

In addition to the guiding principles outlined in the Issues Paper above, Alinta suggests that the following overarching high level principles should be included as a useful reference point:

- Efficient utilisation of NWIS resources
- The effective resolution of defined responsibilities
- Transparent processes and procedures
- Responsive and timely
- Accountable and durable

In terms of access pricing, Alinta believes that if the principles for negotiation include efficient pricing principles, and an effective and binding dispute resolution process is in place, then price regulation, including price oversight is unnecessary.

Other regulatory matters which are essential to be considered are appropriate rules regarding customer transfer, customer data and metering arrangements.

<u>Independent System Operator</u>

Alinta believes there are benefits in having an independent system operator to ensure system security and stability in the NWIS, both intra-day and in the medium term.

The System Operator should manage and/or oversee:

- ancillary services;
- the centralised development of a whole-of-system model for use by network operators;
- technical rules and technical rules development in consultation with network operators; and
- the independent investigation of system critical events.

In terms of the governance of the System Operator, Alinta supports it being independent and low cost. In the first instance Alinta urges the PUO to consider using the Australian Energy Market Operator, which is independent and has extensive experience in operating electricity and gas markets in Australia.

Alinta's detailed submission on each of these issues, and the questions in the Issues Paper, is attached.

Please contact me on Jacinda.papps@alintaenergy.com.au or 08 9486 3009 if you have any questions in relation to this submission.

Yours sincerely

Jacinda Papps
Manager, National Wholesale Regulation

Issues Paper – Improving access to, and operation of, the Pilbara electricity network – the North West Interconnected System

Alinta Energy

Submission

4 December 2017

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1 Introduction

Alinta Sales Pty Ltd (**Alinta**) welcomes the opportunity to provide a submission to the Public Utilities Office (**PUO**) on its Issues Paper: *Improving access to, and operation of, the Pilbara electricity network, the North West Interconnected System* (**NWIS**), sometimes broadly referred to as the implementation of a "light handed regulatory regime".

Alinta supports the Government's decision to implement a light handed regulatory regime in the NWIS. A light handed access regime will provide a foundation for competition and avoid the potential for resource misallocation and inefficiencies created in markets with unregulated monopoly assets, while avoiding the costs and potential market failure caused by significant regulatory burden.

In Alinta's view the implementation of a light handed regulatory regime in the NWIS will help to facilitate the fair and reasonable access to Horizon Power's owned and operated portion of the NWIS (the **Horizon Network**) and subsequently will promote competition and spur significant benefits including lower electricity costs for consumers, more efficient electricity generation investment, innovation and economic growth across the Pilbara region.

1.1 Background

The NWIS is comprised of interconnected electricity generation, transmission and distribution assets in the Pilbara region of Western Australia, including the major towns of Port Hedland and Karratha. The NWIS is made up of assets owned by many different parties, under both private and public ownership.

The NWIS is not currently centrally planned and operated and has developed in an ad hoc manner over several decades, as resources and energy companies made individual investments in generation capacity and network infrastructure to meet their own needs.

The Pilbara region is a significant economic driver for Western Australia, yet the electricity system supporting the region is fragmented and uncompetitive. The ad-hoc evolution of the market has at times led to sub optimal outcomes.

Despite its size and importance to the State, currently Horizon Power (**Horizon**) is the sole electricity retailer to almost all of the customers connected to the NWIS.

Alinta is seeking to enter the market to supply competitively priced electricity to customers connected to the Horizon Network supported by generation from its Port Hedland Power Station and potentially other sources. A number of customers with significant sized loads connected to the Horizon Network have indicated to Alinta a strong interest in the opportunities that competition delivers: price differentiation, innovative and focussed product offers and enhanced customer service. The only barrier to Alinta's entry to the NWIS is gaining access to the Horizon Network to deliver energy and other tailored offerings to customers.

Alinta has sought to gain access under various mechanisms and approaches to the Horizon Network since April 2014 and has been frustrated in every instance. This has included initial access discussions, an application for coverage in 2014 (which was subsequently

withdrawn), and following a request from the Minister for Energy for Horizon to commence negotiations with Alinta, negotiations under a Memorandum of Understanding embodying a mutual objective to negotiate an Electricity Transfer and Access Contract (**ETAC**) that would apply on a reciprocal basis and commence prior to 30 June 2016.

Following protracted access discussions between Alinta and Horizon, and absent any formal framework as to process, in August 2017 Alinta applied under section 3.8 of the Code to the Minister for Energy for coverage of the Horizon Network to facilitate Alinta's entry into the market to supply electricity to customers connected to the Horizon Network under its Electricity Integrated Regional Licence (**EIRL**)[1]. The Minister made a Draft Determination in relation to this application on 27 November 2017, and stated his intention to grant coverage of the Horizon Network.

Coverage of the Horizon Network will unlock significant benefits to Pilbara customers and the region more broadly. However, coverage along with the establishment of a light-handed regulatory framework will further enhance benefits by improving the efficiency of the entire NWIS.

1.2 Commercially Fit for Purpose Regulatory Model

The PUO's Issues Paper has quite rightly recognised that the form of economic regulation that is available under the *Electricity Networks Access Code 2005* (the **Access Code**) would be unnecessarily burdensome for the size, composition and maturity of the NWIS. In place of the 'heavy-handed' form of regulation currently under the Access Code, a commercially fit-for-purpose 'light-handed' regulatory regime can balance the need for facilitating open access to the NWIS while minimising the regulatory burden and costs imposed on market participants.

Alinta considers that the key features required for a light handed regulatory regime to achieve the objective in the NWIS would need to include the following key elements:

- To maximise net benefits, only those networks which, if subject to an **open access regime** are likely to deliver benefits should be covered. In this scenario this is the Horizon Network which has the largest number of customers and available network capacity to deliver the benefits of competition.
- The **structural separation** of Horizon Power's NWIS network business from its retail/generation business is required, to remove conflicts of interest and allow the effective negotiation of access terms on a level footing.
- A robust **dispute resolution** framework which is both binding and clear in providing guidance to an arbitrator.
- An **Independent system operator** to ensure system security and stability in the NWIS. **AEMO** has extensive experience in operating electricity and gas markets in Australia and should be considered.

[1] EIRL8, dated 12 August 2014, available: https://www.erawa.com.au/electricity/electricity-licensing/licence-holders

- Consideration of an appropriate **information disclosure regime** to provide prospective access seekers with sufficient information in an effort to reduce the imbalance in bargaining power they can face when negotiating with service providers. This could include relevant standardised financial information, released on an annual or as required basis, for use in assessing the reasonableness of offered prices.

- **Minimal regulatory interference** which allows for the full range of benefits to be realised. This is appropriate given the number of NWIS access seekers is relatively small and some of these parties can themselves exercise some countervailing market power in commercial negotiations.

- A reduction or elimination of any statutory barriers to entry.

Alinta's commercial fit-for-purpose model, contained in section 3, outlines a regulatory framework which recognises the unique characteristics of the NWIS including the size, composition and maturity while providing sufficient regulatory oversight, which will in turn lead to an optimal and efficient outcome for the NWIS.

1.3 Structure of this submission

To assist the PUO in its consideration of Alinta's response to its Issues Paper this submission is structured as follows:

- Section 2 – Policy Objective for the Pilbara region
- Section 3 – Alinta's Commercially Fit-for-Purpose Regulatory Model
- Section 4 - Existing Industry Structure
- Section 5 – Current Situation and Corresponding Issues
- Section 6 – Network Access
- Section 7 – System Operation
- Section 8 – Guiding Principles for a Regulatory Framework

2 Policy Objective for the Pilbara electricity network

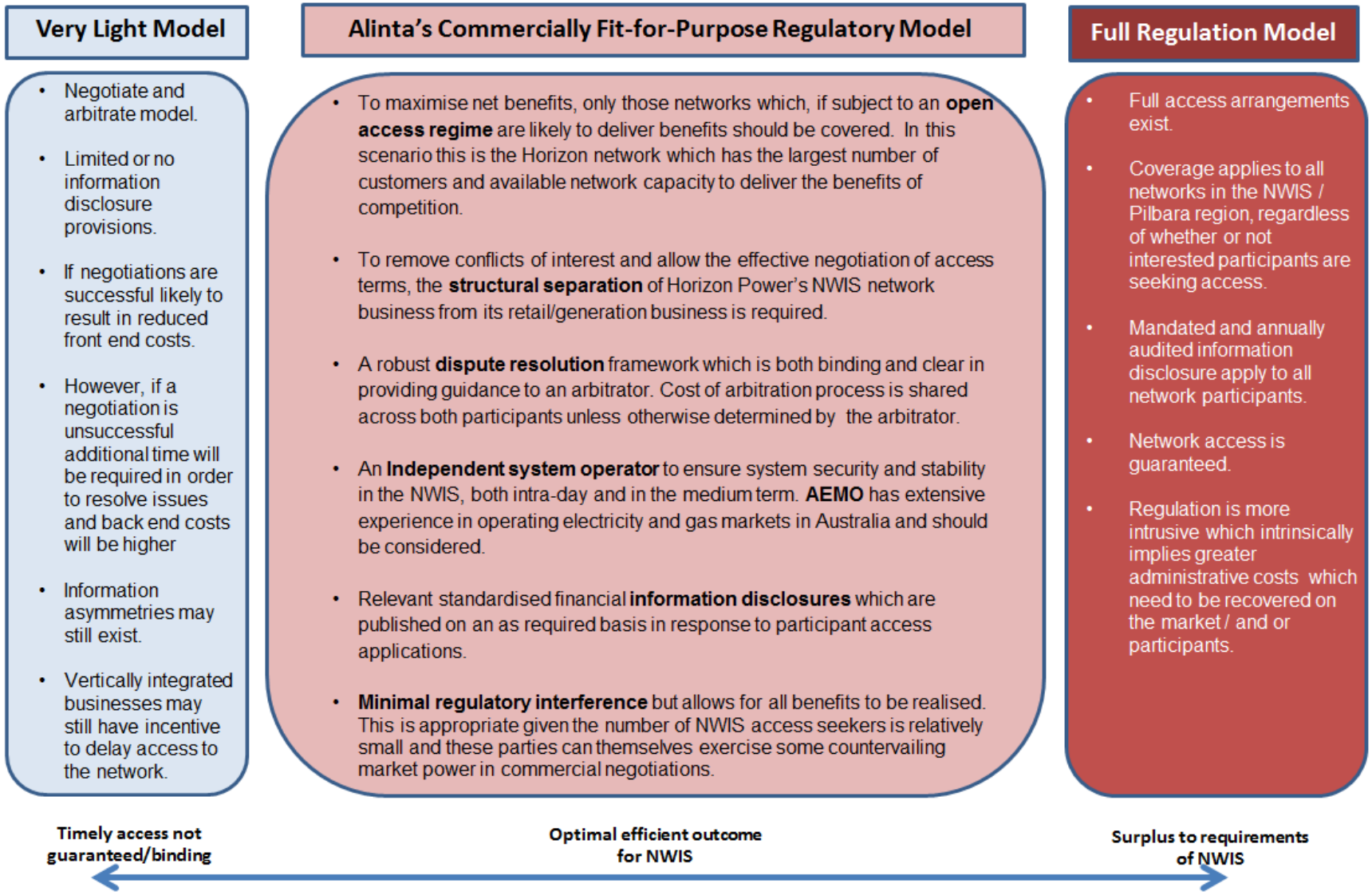
Alinta supports the PUO's overarching policy objective that the NWIS regulatory framework must deliver efficiencies in all aspects of the market.

Using the efficiency objective as an overarching guide, endeavours should be made to produce a commercially fit for purpose regulatory model that meets the NWIS's needs while making the best use of resources and ensuring low costs for all stakeholders. This implies, broadly leveraging off the well-established bilateral arrangements already in place to avoid the unnecessary duplication of existing infrastructure and processes.

Achieving this policy objective helps deliver long term benefits to customers and the broader NWIS economy.

3 Alinta's Commercially Fit-for-Purpose Regulatory Model

Alinta's commercially fit-for-purpose model outlines a regulatory framework which recognises the unique characteristics of the NWIS including the size, composition and maturity while providing sufficient regulatory oversight, which will in turn lead to an optimal and efficient outcome for the NWIS.


Very Light Model
Negotiate and arbitrate model.
Limited or no information disclosure provisions.
If negotiations are successful likely to result in reduced front end costs.
However, if a negotiation is unsuccessful additional time will be required in order to resolve issues and back end costs will be higher
Information asymmetries may still exist.
Vertically integrated businesses may still have incentive to delay access to the network.
Alinta's Commercially Fit-for-Purpose Regulatory Model
To maximise net benefits, only those networks which, if subject to an open access regime are likely to deliver benefits should be covered. In this scenario this is the Horizon network which has the largest number of customers and available network capacity to deliver the benefits of competition.
To remove conflicts of interest and allow the effective negotiation of access terms, the structural separation of Horizon Power's NWIS network business from its retail/generation business is required.
A robust dispute resolution framework which is both binding and clear in providing guidance to an arbitrator. Cost of arbitration process is shared across both participants unless otherwise determined by the arbitrator.
An Independent system operator to ensure system security and stability in the NWIS, both intra-day and in the medium term. AEMO has extensive experience in operating electricity and gas markets in Australia and should be considered.
Relevant standardised financial information disclosures which are published on an as required basis in response to participant access applications.
Minimal regulatory interference but allows for all benefits to be realised. This is appropriate given the number of NWIS access seekers is relatively small and these parties can themselves exercise some countervailing market power in commercial negotiations.
Full Regulation Model
Full access arrangements exist.
Coverage applies to all networks in the NWIS / Pilbara region, regardless of whether or not interested participants are seeking access.
Mandated and annually audited information disclosure apply to all network participants.
Network access is guaranteed.
Regulation is more intrusive which intrinsically implies greater administrative costs which need to be recovered on the market / and or participants.
Timely access not guaranteed/binding
Optimal efficient outcome for NWIS
Surplus to requirements of NWIS

4 Industry Structure

4.1 The Retail Sector

The retail electricity market of the NWIS is technically open to full retail contestability (**FRC**) since the introduction of the integrated regional licence regime under the *Electricity Industry Act 2004* on 31 December 2004.

Horizon is a vertically integrated, State Government owned business providing electricity to about 15,800 retail accounts within the NWIS[2]. These represent the majority of customers by number in the region.

Alinta has limited access to the Horizon Network under an existing agreement to supply a single large user. Alinta also supplies another large user connected to the NWIS, however this supply is directly from Alinta Energy's owned and operated network (**Alinta Network**).

Rio Tinto retails electricity to about 4,000 small use customers in towns connected to its network under the terms of various State Agreements.

While not connected to the NWIS, BHP supplies around 2400 residential and commercial customers under a State Agreement. There are also a number of other large enterprise consumers (largely mining or port facilities) who are near to but not connected to the NWIS.

4.1.1 The NWIS has the prerequisites for a competitive retail market

Under current regulation, FRC exists in the NWIS, including in respect of customers supplied using the Horizon Network. Thus there is no regulatory prohibition on an outside retailer entering the market to supply retail loads of any size.

In addition, a range of regulatory instruments are also already in place to facilitate the retailing of electricity, including the:

- Electricity Industry Customer Transfer Code 2004; and
- Electricity Industry (Metering) Code 2012.

In such a regulatory environment, there are three key requirements a retailer must meet prior to competing for customers, these are:

- the ability for a retailer to generate electricity (or buy it wholesale);
- transport the energy through the network via an access agreement; and
- hold a retail licence.

Despite the existence of a regulatory environment[3] that allows for FRC there has never been effective competition in this market due to:

[2] Pg 8, PUO Issues Paper

[3] Since the commencement of Part 2 the *Electricity Industry Act 2004* (WA), a person could apply for an integrated regional licence to (among other things) retail electricity outside the SWIS. Unlike the SWIS, there is no restriction on Horizon from

- Horizon's control and operation of its network assets, in conjunction with its effective monopoly in the retail supply of those customers connected to the Horizon Network; and

- The difficulties faced by prospective new entrant retailers in entering into an access arrangement with Horizon.

To date no new competing retailer has been able to negotiate access to the Horizon Network with Horizon. Access to the Horizon Network is the only impediment to Alinta's entry to the market.[4]

4.1.2 PUO questions for stakeholders

1. Would customers outside Horizon Power's network benefit from competition?

There are few (if any) customers in the region which are not on the Horizon Network.

Customers currently connected to the Alinta and Rio Tinto networks are already able to access competitively priced electricity because they have significant buying power due to the volume and term of their energy contracts – being large mining companies. Because of their size they have the choice of obtaining electricity supply from existing generation or building their own generation which enables them to create significant competitive tension and efficient pricing and terms result.

Alinta believes any new regulations should have a net benefit to customers. At this stage only Horizon's NWIS customers will benefit from a light handed access regime which results in competition.

However, as new users (both generators and customers) seek to connect to other existing networks then there may be a case to expand the light handed regime to include such networks. When this occurs, and as these customers are identified, consideration should be given to expanding the NWIS regulatory framework.

2. Does the lack of a coordinated approach to electricity infrastructure in the NWIS present a barrier to entry for junior miners and renewable energy projects?

Currently there is no transparency about how new users connect to the Horizon Network, as either a generator or a customer. This includes the fact there are no published terms and conditions, including price. While in theory new users can negotiate the connection to the Horizon Network with Horizon, to date only very large users (being large miners) have successfully done so.

supplying distribution services for the purposes of allowing the licensee to retail to any prescribed class of customers. The restriction to retailing to customers who consume less than 50 MWh in the SWIS is effected by the *Electricity Corporations (Prescribed Customers) Order 2007*, made under section 54 of the *Electricity Corporations Act 2005* (WA). This, in effect, only applies to the Western Power Network. Alinta notes that this order may need to be amended if the Horizon Network is covered because, as the order is currently framed, the restriction applies to all covered networks.

[4] Note that Alinta's Retail Licence (EIRL8) permits it to retail electricity to customers with loads of 160 MWh per annum or greater.

By creating regulatory certainty, reducing costs, enhancing transparency and improving security of supply, barriers to entry for all new users will be reduced.

3. *Is there economic benefit to a consolidated approach to coordinating development of electricity assets in the NWIS? Provide examples where possible*

Currently the NWIS ensures it has enough power generation through customers contracting directly with generators. However, in the past this has resulted in more generation being built than would be required to meet peak load. An example of this is the TransAlta owned and operated South Hedland power station, which was underwritten by Horizon at a time when there was in fact enough generation capacity sources in the NWIS (within which adequate uncontracted capacity also available). Alinta contends that if better coordination and planning was performed prior to this final investment decision, the significant long term cost to the State of the generation plant may have been avoided entirely or optimised materially.

Alinta believes better planning by an independent system operator of the NWIS network will help identify where and when future investment is required. Private investment will be incentivised to invest in those areas in a timely manner and clearer signals will be present as to when (and what type of) capacity is required.

5 The Current Situation and Issues

5.1 Network Access

None of the networks that form the NWIS are currently covered under the Access Code. This means that there is no requirement for network owners to provide access to loads, generators or retailers[5].

While Horizon has stated that it offers connection at 66kV and above in the NWIS to all generators, retailers and users on an open access basis with contracts determined by commercial negotiation, Alinta has been unable to gain access to the Horizon Network in its various attempts to do so since April 2014.

5.1.1 PUO Questions for stakeholders:

4. What process should be used to determine which networks and related assets should initially be subject to the arrangements?

The Government should focus on the areas where the most net benefits will result from implementation of a light handed regime. Currently this is in Port Hedland and Karratha (the Horizon Network) which has the largest load by customer numbers and volume and where the savings from competition will drive the largest economic benefits.

[5] The exception to this is Horizon Power which has a regulatory obligation to connect premises where the customer consumes 160MWh of electricity per annum or less, and the connection would not require the distribution network to be extended by more than 100 metres.

5. Under what circumstances should other networks in the NWIS become subject to the regulatory arrangements at a later date? Should this be on a voluntary (i.e. 'opt-in') or mandated (i.e. 'deemed') basis?

It is important to note there is a contractual and licensing framework already in place in the NWIS which maintains the integrity and security of the network. Horizon, Alinta and Rio Tinto are part of these arrangements which include appropriate technical rules and provision of ancillary services.

Alinta believes that in order to maximise net benefits of any new arrangements, only those networks which, if subject to an open access regime are likely to deliver benefits should be covered. This is clearly the case for the Horizon Network which has the largest number of customers and available network capacity to deliver the benefits of competition.

Therefore, the focus of reform, at least in the initial stages, should be on the Horizon Network. However, once the regulatory regime has been established, other networks could be encouraged to opt-in to realise the benefits that would inevitably flow in terms of security of supply and cost of energy.

5.2 Barriers to Competition

Horizon's position as a vertically integrated business, with retail, network and generation responsibilities creates a conflict of interest because Horizon is incentivised to operate its network business in a manner that is to the advantage of its retail business and to the disadvantage of potential retail competitors. This is a significant barrier to competition.

To that end, Alinta agrees with the PUO's comments in the Issues Paper that "*implementing a third party access regime on any section of the NWIS where a network owner also acts as a retailer, such as Horizon Power's network, will require a functional segregation…to ensure there is no conflict of interest or misuse of market power (real or perceived) on their network section".*

5.2.1 PUO questions for stakeholders

6. What barriers do you see to increased competition in the NWIS?

There are a number of barriers preventing the entry of retail competitors and new generators in the NWIS. These are:

- There is no open access regime governing the connection of new retailers and generators to the Horizon network;
- Horizon is a vertically integrated monopoly and therefore has an inherent conflict of interest as both the network operator and the retailer/generator of electricity;
- There are no regulatory protections for the network or system operator which can lead to considered and inefficient decision making; and
- There is no agreed industry ancillary services regime governing the NWIS.

7. Do stakeholders consider information asymmetry to be an issue in negotiating access? If yes, what additional information is required?

Horizon, through its structure as a vertically integrated monopoly State owned business does operate in an environment where new entrant small to medium sized access seekers face significant information asymmetries before and during negotiations, which ultimately may serve to act as a barrier to entry.

Some larger new entrant access seekers in the NWIS possess a level of countervailing market power by virtue of being commercially large enough to dedicate significant resources to the negotiation and information procurement process. But nonetheless, information asymmetries for these participants, albeit not as profound still exist, ultimately resulting in inefficiencies and sub-optimal NWIS outcomes overall.

In order for competition to develop in the NWIS, Alinta is of the view that a certain base level of information should be provided as a defined standard to reduce information asymmetries, and allow potential access seekers to make an informed decision about whether or not to progress their access applications.

In this regard, Alinta considers the following standardised information could be provided:

Standardised Information Required when Considering to Seek NWIS Access[6]

a) Information on the range of network and related services offered by Horizon on the Horizon Network.

b) Information on the availability of the services offered by Horizon on the Horizon Network.

c) The standing offers for the services that can be provided by Horizon using the existing capacity on the Horizon Network, which includes information on:

    (i) the price and non-price terms and conditions on which Horizon will offer to provide the services;

    (ii) the methodology used by Horizon to calculate the price of each of the services listed in (a); and

    (iii) any other policies Horizon employs that may affect a new entrants access to the Horizon Network.

d) Information on the technical characteristics of the Horizon Network that may affect a new entrant's access or use of the Horizon Network, or the price payable for Horizon's services.

[6] This information is broadly derived from the Gas Market Reform Group's information and arbitration framework work stream, which whilst developed with gas pipelines in mind, provides a suitable framework which could be applied in the NWIS environment. Please refer to: *Gas Market Reform Group, Gas Pipeline Information Disclosure and Arbitration Framework, **Implementation Options Paper**, March 2017, Pg 28.*

e) The negotiation framework that will apply if the new entrant is to request access, which, should set out the process a new entrant access seeker is to follow if it wants to request access, indicative timeframes for the negotiations and the ability of the parties to have recourse to the commercial arbitration framework.

Consideration should also be given to requiring the publication of relevant standardised financial information, released on an annual or as required basis, and potentially some aspects of customer information for use by access seekers assessing the reasonableness of offered prices.

In Alinta's view the information provided above, should already be readily available within Horizon, or be able to be easily produced at low cost either on a standardised annual basis, or in response to a direct information request from a potential access seeker.

Nonetheless, through the official process of seeking access and subsequent information disclosures, it may become apparent that the new entrant's requirements may not align perfectly with the standardised services provided by Horizon. In such instances, there is likely to be a requirement for additional negotiation on more tailored elements and conditions of access, which may ultimately require the Horizon Network to be augmented or modified to meet the specific requirement of the access seeker. In this scenario, some costs may be incurred in providing information disclosures. Nonetheless, in Alinta's view such costs are likely to be immaterial in comparison with the size of the potential benefits increased competition in the NWIS will deliver.

In Alinta's view the standardised information disclosure as outlined above, will act to reduce information asymmetries which presently exist, allowing negotiations to proceed on an even standing.

8. What 'ring fencing' arrangements should be required of networks subject to the new regulatory framework to ensure access seekers are treated on an equitable basis? How should compliance with ring fencing arrangements be enforced?

Horizon is a vertically integrated, State Government owned business. Vertical integration creates a conflict of interest because Horizon is incentivised to operate its network business in a manner that is to the advantage of its retail business and to the disadvantage of potential retail competitors. Horizon has no incentive to enter into transmission and distribution access arrangements with any third party since, to do so would enable new entrants to supply electricity to its retail customers, undermining Horizon's monopoly position as the retailer of electricity to all customers in the NWIS region other than the large load customers that Alinta currently supplies[7]. Prospective new entrant retailers have generally not been able to access the Horizon Network and Horizon remains the electricity retailer to almost all customers in the NWIS.

Under section 62 of the *Electricity Corporations Act 2005* (WA), regulations may be made that provide for 'segregation arrangements', the effect of which is to segregate the network segment from the other functions and operations of Horizon. No such regulations have been

[7] These concerns are underlined by the fact that Horizon is statutorily required to act in a commercial manner (*Electricity Corporations Act 2005*, section 61).

made, and so Horizon continues to operate as a fully vertically integrated business. This stands in contrast to the strict regulatory segregation requirements on Synergy, imposed after the re-integration of Synergy and Verve Energy,[8] and its structural separation from Western Power (which operates the vast majority of transmission and distribution network in the South West Interconnected System (**SWIS**)).

The importance of structural separation was highlighted in the development of Australia's National Competition Policy which recommended that all Australian Governments adopt a set of principles aimed at ensuring that, as part of reforms to introduce competition to a market traditionally dominated by a public monopoly, the public monopoly be subject to appropriate restructuring. The principles deal with:

- the separation of regulatory and commercial functions of public monopolies;
- the separation of natural monopoly and potentially competitive activities; and
- the separation of potentially competitive activities into a number of smaller, independent business units.

Alinta believes that such structural separation of Horizon is essential for an open access regime in the NWIS to work effectively.

Given the West Australian Government is in a unique position as the policy maker and owner of Horizon, structural separation should be mandated.

Alinta supports a model which ensures the separation of network staff from retail/generation staff and for separate accounts to be established. In addition, all contracts between related entities should be published and open to tender.

9. What implications arise from the Uniform Tariff Policy with respect to any new regulatory framework in the NWIS?

The Uniform Tariff Policy (**UTP**) was introduced by the West Australian Government to ensure customers pay the same price for electricity across the state, regardless of whether they live in a rural or urban region. Alinta believes the introduction of a light handed access regime in the NWIS will have a minimal impact on the functioning of the UTP.

One potential positive outcome for the UTP from the introduction of a light handed regulatory regime will be the significant efficiency gains that competition will deliver to the region, that being; lower prices, greater choice, innovative product offerings and the avoided duplication of infrastructure assets.

Collectively these efficiency gains are likely to lower the cost of delivered energy for all end use residential customers and thus the cost to serve difference between city and regional customers may lessen.

Nonetheless, Alinta believes that UTP is ultimately a government policy decision and should be treated as a separate issue to that of the introduction of competition in the NWIS.

[8] Refer to *Electricity Corporations (Electricity Generation and Retail Corporation) Regulations 2013*

5.3 System and Market Operation

At present, there is no central system operator for the NWIS. Alinta believes there are benefits in having an independent system operator to ensure system security and stability in the NWIS, both intra-day and in the medium term.

The system operator should manage and/or oversee:

- ancillary services;
- the centralised development and maintenance of a whole-of-system model for use by network operators;
- technical rules and technical rules development in consultation with network operators; and
- the independent investigation of system critical events.

In terms of the governance of the system operator, Alinta supports it being independent and low cost. In the first instance Alinta urges the PUO to consider using the Australian Energy Market Operator (**AEMO**), which is independent and has extensive experience in operating electricity and gas markets in Australia.

5.3.1 PUO questions for stakeholders

10. What barriers do you see to the introduction of an independent system operator in the NWIS?

The main barrier to the establishment of an independent system operator is the cost. However, Alinta contends that the costs should be weighed against the significant and long term economic benefits associated with the introduction of competition in the Horizon Network.

Another risk to the establishment of an independent system operator is the cooperation of all network owners under the new arrangements. Alinta believes this risk can be avoided if all network operators participate and agree on the role and function of the system operator and that the operator be independent. Given the experience to date, whereby network operators currently work together to ensure the stability and security of the NWIS is maintained, Alinta believes the risk of no cooperation by existing network operators is low.

11. What operational and financial inefficiencies result from the current NWIS system operation model and could be addressed by introducing an independent system operator?

Currently each network operator manages their own network. This is most problematic for Horizon which has the largest network with a variety of different customers.

It is Alinta's view that an independent system operator would improve the operation and coordination of the NWIS, particularly in regards to efficiently procuring and scheduling ancillary services.

Alinta's considers that one of the roles of an independent system operator will be for the centralised development and maintenance of a whole-of-system model for use by network

operators. An accurate, up-to-date and complete whole-of-system model will be invaluable for network operators to use when undertaking planning and development activities.

12. Are there significant foregone opportunities for providing more efficient dispatch of available generation resources in the NWIS, or for the integration of currently non interconnected loads and generators in the region? What are the barriers?

The light handed regulatory regime will create an environment where new entrant retailers and generators connecting to the NWIS will be incentivised to contract with the lowest cost and reliable generation sources in order to sell energy at lowest possible retail cost. In this manner, new entrant retailers will be able to attract and entice new customers to leave their current providers, and gain market share. In addition, as retailers lose customers they will sell their excess power to others to ensure they achieve the best possible return.

This will have the subsequent benefit of driving economic efficiencies through the generation market, as generation plant will have a strengthened incentive to produce the lowest cost energy possible to remain commercially relevant. This could be attained through driving efficiencies in plant operating strategy, alternative fuel sources, or through alternative maintenance schedules.

Collectively these efficiencies will lower the cost of electricity as a potential investment hurdle for new or expanding industry operations in the region, boosting economic growth overall.

5.4 Technical Rules

Technical rules generally consist of the standards, procedures and planning criteria governing the construction and operation of an electricity network. They also set out performance and technical specifications for user equipment connected to the network.

In the early 2000s the NWIS Forum was convened to, among other things, establish protocols and processes for the operation of the NWIS power system. At the time a set of common technical rules was developed for the NWIS[9]. However, since this time, the technical rules for some networks, for example, the Horizon Network, have been amended independently. As a consequence there is currently no single set of technical rules that apply consistently across the NWIS. Noting this, Alinta understands that the various technical rules are common across the NWIS in all critical areas, for example power quality parameters and under frequency load shedding. PUO questions for stakeholders

13. What aspects of technical rules currently applied in the NWIS cause significant issues to loads/generators?

As noted above, each Network Operator has its own technical rules for its own network. Noting this, the technical rules which currently apply are common across the NWIS in all critical areas, for example power quality parameters and under frequency load shedding. As such, they are appropriate to ensure a stable and secure NWIS.

[9] Alinta's Technical Rules are the version that was established at this point.

However, Alinta sees value in the future for an independent system operator to manage and oversee any necessary changes and enhancements to the technical rules in consultation with network operators.

14. What obligations to comply with a proposed new set of NWIS Technical Rules should be introduced?

Alinta believes the existing technical rules applied by network operators are adequate and ensure a stable and secure NWIS. Noting this, any changes to existing technical rules to ensure consistency across each network should be consulted upon with the industry by the independent system operator.

Where the costs of changing existing rules for participants are not outweighed by the benefits to the NWIS, then grandfathering of existing arrangements and consideration of existing derogations should be favourably considered.

5.5 Ancillary Services, Reliability and Security of Supply

5.5.1 PUO Questions for stakeholders

15. What barriers to cooperation and or the efficient provision of ancillary services are caused by the low number of large and diverse/competitive interests in the NWIS and under what circumstances?

While an efficient ancillary services market can be challenging to achieve in an isolated and relatively small market such as the NWIS, it is not an insurmountable task. In Alinta's view the existing bilateral arrangements and associated operational procedures currently in place have served the market well with limited frequency of occurrences of market wide failure, and as such should be utilised in the first instance for the provision of ancillary services. Modifications away from existing operational practise should only be progressed on an as required basis.

Alinta believes that an independent system operator will be well placed to procure efficiently priced ancillary services from the existing multiple independent generators connected to the NWIS. Where existing bilateral arrangements exist such as generators electing to supply spinning reserve for their own portfolios or, alternatively, seeking to contract bilaterally to optimise the provision of spinning reserve across the networks / multiple portfolios, these arrangements should continue. How this takes place should continue to be a market led outcome driven by participants who are incentivised to achieve lower costs and optimise their own operations.

To be clear, Alinta does not believe that the introduction of an independent system operator or light landed regulatory framework will require each NWIS participant to be forced to procure their own additional ancillary service and reserve capacity. On the contrary, in Alinta's view any duplication of ancillary services is unnecessary and will likely decrease and become more efficient overall under a light handed regulatory regime.

6 Network Access

6.1 A fit-for-purpose access regime

The PUO's Issues Paper has quite rightly recognised that the form of economic regulation that is available under the *Electricity Networks Access Code 2005* (the **Access Code**) would be unnecessarily burdensome for the size, composition and maturity of the NWIS. In place of the 'heavy-handed' form of regulation currently under the Access Code, a commercially fit-for-purpose 'light-handed' regulatory regime can balance the need for facilitating non-discriminatory open access to the NWIS while minimising the regulatory burden and costs imposed on market participants.

As outlined earlier in this submission, Alinta considers that the key features required for a light handed regulatory regime to achieve the objective in the NWIS would need to include the following key elements:

- To maximise net benefits, only those networks which, if subject to an **open access regime** are likely to deliver benefits should be covered. In this scenario this is the Horizon Network which has the largest number of customers and available network capacity to deliver the benefits of competition.
- The **structural separation** of Horizon's NWIS network business from its retail/generation business is required, to remove conflicts of interest and allow the effective negotiation of access terms on a level footing.
- A robust **dispute resolution** framework which is both binding and clear in providing guidance to an arbitrator.
- **An Independent system operator** to ensure system security and stability in the NWIS. **AEMO** has extensive experience in operating electricity and gas markets in Australia and should be considered.
- Consideration of an appropriate **information disclosure regime** to provide prospective access seekers with sufficient information in an effort to reduce the imbalance in bargaining power they can face when negotiating with service providers. This could include relevant standardised financial information, released on an annual or as required basis, for use in assessing the reasonableness of offered prices.
- **Minimal regulatory interference** allowing for all benefits to be realised. This is appropriate given the number of NWIS access seekers is relatively small and some of these parties can themselves exercise some countervailing market power in commercial negotiations.
- A reduction or elimination of any statutory barriers to entry.

6.1.1 PUO questions for stakeholders

16. Are the National Competition Council guidelines for designing a fit-for-purpose access regime for the NWIS sufficient? Should additional guidelines or criteria be considered based on the specific circumstances of the NWIS?

At a high level, Alinta is broadly supportive of the National Competition Council's guidelines in helping design a commercially fit-for-purpose access regime for the NWIS. In Alinta's view these guidelines are sufficiently broad enough that they can be moulded to a commercially suitable fit-for-purpose NWIS access regime. Additionally, these guidelines should be viewed through the lens of the Issues Paper's overarching efficiency policy objective as stated in the Issues Paper's introduction section.

The NWIS regulatory framework should produce results that meet the NWIS's needs while making the best use of resources and ensuring low costs for all stakeholders. In practise this implies: pragmatic investment decisions are undertaken which avoid the unnecessary duplication of existing infrastructure, processes are not overly burdensome and produce unnecessary costs, and that the well-established bilateral arrangements already in place should continue as the default arrangements which have largely served the NWIS well in many respects.

Additionally, Alinta suggests the Issues Paper could also refer to the access provisions of the NGL[10] and Part IIIA of the *Competition and Consumer Act* which share many similar objectives to the NCC guidelines, in promoting the economically efficient operation of, use of and investment in infrastructure which subsequently promotes effective competition in upstream and downstream markets.

17. How should the costs and benefits of potentially moving to a new regulatory framework be assessed in developing the new framework?

All costs and benefits incurred by the market should be forecast and a net benefit assessment be undertaken.

Alinta believes this work was completed as part of the Minister for Energy's recent consideration of Alinta's coverage application. The PUO is encouraged to refer to the submissions from parties on this matter.

In undertaking such an assessment it's important that the costs and benefits are assessed over a long period of time, for example 20 years, given the nature of the reforms are likely to return benefits over a significant period.

The costs and benefits should include the:

- cost of setting up and managing the regulatory framework for all participants;

[10] Some of the broad principles the which the Issues Paper could refer to under the NGL could be the requirement to produce separate financial accounts, competitive parity rule, obligation to negotiate in good faith, independent arbitration mechanism, etc.

- ongoing cost of the system operator;
- economics benefits to Western Australia of lower energy costs;
- benefits of more efficient investment in generation; and
- benefits from innovation.

18. If you are a generator or electricity retailer, would you be interested in seeking access to the services of the Horizon Power NWIS network, or any other Pilbara network now or in the foreseeable future?

Alinta is seeking to enter the market to supply electricity to customers connected to the Horizon Network, supported by generation from the Port Hedland Power Station and potentially other sources.

A number of customers with significant sized loads connected to the Horizon Network have indicated to Alinta a strong interest in the opportunities that competition delivers: price differentiation, innovative and focussed product offers and enhanced customer service.

All of these customers are directly connected to the distribution section of the Horizon Network, supplied using electricity that is transported on both of Horizon's transmission and distribution networks.

Alinta currently has access to only limited services on a specific section of the Horizon Network in the Port Hedland region under an existing agreement with Horizon and is for the sole purpose of supplying a single large use customer. Alinta does not have access to the Horizon Network to enable it to retail electricity to any other customers. Without access to the Horizon Network, Alinta cannot retail electricity to those customers and a competitive market cannot be created.

19. To what extent should access arrangements be based on negotiation between parties and to what extent should they be subject to imposed requirements on both parties?

As discussed, Alinta supports a light handed regime with guiding principles upon which the negotiations can be based. However, an appropriate binding arbitration process is also required for this regime to be ultimately successful.

Alinta supports leveraging off existing regimes to form the basis of a NWIS framework, with variations only where required to be fit for purpose.

20. The National Gas Law and National Gas Rules provide a framework for the regulation of pipeline services. For a lightly regulated service, a more limited access arrangement can be lodged where the pipeline operator determines its own tariffs. The access arrangement provides a starting point for parties to negotiate access on commercial terms. In the event of a dispute, the National Gas Rules contain a dispute resolution mechanism.

a. What features of the framework for the regulation of pipeline services do you consider may be appropriate for the regulation of electricity network services in the NWIS?

Alinta believes that consideration should be given to the gas arrangements in the first instance with further consultation and discussion amongst industry participants on the details of the arrangements to ensure they are effective and fit for purpose.

b. Are there features of the framework for the regulation of pipeline services that may not be appropriate for the NWIS, given its particular circumstances?

It may be appropriate to set more detailed guidelines for the determination of access terms. This should be considered in detail.

21. If agreement on an access-related matter cannot be reached, how should disputes be resolved? What is the appropriate dispute resolution body?

If agreement on an access related matter cannot be reached between parties during commercial negotiations, the matter should be resolved through a binding and independent arbitration/dispute resolution process which has been pre-agreed.

In Alinta's view the new Non-Scheme Pipeline Arbitration mechanism administrated through the Australian Energy Regulator could be used as a model, however a thorough assessment of the appropriateness of this regime for the NWIS context should be undertaken.

Alinta also supports both parties agreeing on an independent arbitrator. If agreement can't be reached, the Energy Disputes Arbitrator of Western Australia which is set up to assess contractual disputes regarding access to regulated gas pipelines and electricity networks in Western Australia could be used in the first instance, or alternatively, the Australian Competition and Consumer Commission could be used.

In addition, the PUO should consider whether the state based energy regulator – the Economic Regulation Authority – has a role to play here given their extensive experience in energy access matters.

The costs of the arbitration process should be shared across both participants unless otherwise determined by the arbitrator.

22. Should guidance relating to the setting of electricity network access prices, such as the build-up of costs (e.g. asset valuation, cost of capital, operating costs) and tariff design (e.g. tariff structures, postage stamp pricing, etc.), be specified in the regulatory framework or should this be addressed solely via commercial negotiation?

Alinta does not believe the regulatory framework requires the prescription of network access pricing. However, there should be detailed pricing principles and methods outlined in the regime to provide sufficient guidance to all parties to ensure efficient network access prices are set to achieve tariffs that reflect the forward-looking efficient costs of providing the services.

Further, the consideration of an appropriate information disclosure regime could include relevant standardised financial information, released on an annual or as required basis, for use in assessing the reasonableness of offered prices.

23. Should any regulatory oversight or monitoring of electricity network access prices on the NWIS be undertaken? If so, how and by whom?

Alinta does not believe the regime requires regulatory oversight of pricing, as long as the regime is set up effectively. This includes clear guiding principles and a robust dispute resolution process with a binding outcome.

24. What is the period that parties are likely to seek to have network access prices locked in? Does this period vary between a framework with negotiated outcomes or one with stronger regulatory oversight?

Access seekers would require price certainty for three to five years. This timeframe is based on the certainty required by retailers so they can invest in marketing retail products to customers who prefer to sign retail contracts with a term of two to three years.

In the case of a regulated price being set, given the regulatory costs of undertaking such a review, prices should be set for five years.

25. How would capital expenditures and upgrades to the networks be addressed in the new regulatory arrangements, particularly with respect to price and service outcomes?

Capital investment will be required to maintain and grow the network. As with any regulatory regime, the costs of such investment should be forecast and included in the future tariff.

Given network operators plan expenditure of this type well in advance; it should not be difficult to factor in such expenditure in the tariff model. Noting this, there should be a mechanism to ensure that only efficient investment, which benefits all users of the network, is recovered through tariffs.

26. How should non-price considerations (such as security and reliability of supply and customer service standards) form part of a light-handed regulatory framework?

The regulatory framework should adopt the SWIS regulations to the extent they are appropriate. This includes the customer transfer and metering codes.

In addition, the independent system operator should play a key role in regards to system security requirements, including the setting of technical rules.

For any terms not specified in any such regulation, the terms should be negotiated and if not agreed be subject to the dispute resolution process.

27. How should capacity constraints be addressed in the new regulatory framework? Should the networks be required to only offer an unconstrained connection (e.g. N-1)? How constraints are managed post connection?

Access should be provided on a constrained network basis to reflect the reality of each network. Network operators may be required to publish information regarding the nature of constraints on their network.

28. What issues do you see as contentious for access seekers or access providers that are unlikely to be resolved through commercial negotiation (e.g. liability and indemnity)? How could these issues be resolved without unreasonably impacting the property rights of participants? Do other parties have a right to object to connections or material changes that might impact them?

There are a number of complex issues in the NWIS, which have made previous negotiations more challenging than they would be if a light handed regime were in place.

In order to address the obstacles to negotiations, Alinta suggests the regime implement the following:

- Removal of conflicts of interests through the structural separation of Horizon;
- Regulatory protections for network and system operators as appropriate;
- A robust dispute resolution process; and
- Clear guiding principles on the basis upon which contract terms can be negotiated and arbitrated.

29. Should periodic reviews of a new regulatory framework be conducted to ensure the framework achieves the targeted objectives?

Alinta supports the Government undertaking a review of the NWIS framework within five years of its implementation to ensure it is operating effectively and as intended; or earlier if the Government is requested to undertake a review by multiple access seekers who believe the NWIS regime is not realising the forecast benefits due to problems with the operation or implementation of the regime.

30. What information requirements should be placed on participants to ensure any new regulatory framework for the NWIS is operating as intended?

Alinta supports information requirements being placed on new participants as such data will prove useful in future benchmarking exercises. Alinta believes the network operator should publish:

- The number of access requests.
- The number of access contracts signed.
- Data on customer churn numbers.
- Data on the amount of customer complaints received (and their corresponding materiality threshold).
- Data on the number of customer disconnections throughout the year.

7 System Operation

7.1 Formalising system operation and management

At present, there is no central system operator for the NWIS. Individual network operators manage their own networks, with limited visibility of what happens on other networks. Noting this, there are agreed technical and performance standards for all the points of interconnection between network owners.

As noted above, Alinta believes there are benefits in having an independent system operator to ensure system security and stability in the NWIS, both intra-day and in the medium term. Given this, Alinta is broadly comfortable with the summary of design elements contained in the Issues Paper for consideration for the independent system operator arrangements for the NWIS.

With regards to the ownership structure design element, Alinta notes that the Issues Paper suggests that the two most likely options are:

- the establishment of the independent system operator that is separate to the network business and could be fulfilled by the AEMO; or
- the establishment of an independent system operator as ring fenced entity within an existing network operator.

In terms of the governance of the system operator, Alinta supports it being independent and low cost. In the first instance Alinta urges the PUO to consider using the AEMO, which is independent and has extensive experience in operating electricity and gas markets in Australia.

7.1.1 PUO questions for stakeholders

31. What should the guiding objectives for the independent system operator be? Are the National Electricity Objectives appropriate for the NWIS?

Broadly, Alinta is comfortable with the guiding objectives as set out in the Issues Paper, as well as the overarching National Electricity Objective applying to the NWIS, that being:

> *promote efficient investment in, and efficient operation and use of, electricity services for the long-term interests of consumers of electricity with respect to price, quality, safety, reliability, and security of supply of electricity; and the reliability, safety and security of the national electricity system.*

Additionally, Alinta would be supportive of the PUO referring to the following guiding objectives below for the establishment of an independent system operator.

- **Reliability** – The independent system operator's responsibilities should efficiently coordinate the short-term operations to ensure the overall reliability of the NWIS.
- **Independence** – The governance structure and incentives of the independent system operator should be designed to ensure that no one subset of the NWIS are able to control the criteria or operating procedures.
- **Non-Discrimination –** Access to and pricing of services should be applied to all market participants without distinction as to customer identity or affiliation**.**
- **Efficiency** – Operating procedures and pricing of services should be undertaken at least cost. Where joint costs are accrued they should be allocated fairly with minimal impact on efficient incentives.

32. Should the proposed independent system operator be granted statutory immunity that excludes, or caps, liability for damages claims from third parties? Should there be any exclusion from immunity?

Alinta believes it essential that the independent system operator functions are held by a separate entity that is not an existing network operator. If this is accepted, then Alinta believes that the independent system operator should have the same statutory immunities as provided to AEMO in the SWIS.

33. Is there a preference for the independent System Operator functions to be held by a separate entity or ring-fenced within an existing network operator? Similarly, is there a preference for how the costs of an independent system operator should be recovered?

Alinta believes there are benefits in having an independent system operator to ensure system security and stability in the NWIS.

The system operator should manage and/or oversee:

- ancillary services;
- the centralised development and maintenance of a whole-of-system model for use by network operators;
- the technical rules and technical rules development and reforms in consultation with network operators; and
- the independent investigation of system critical events.

Alinta believes it essential the independent system operator functions are held by a separate entity that is not an existing network operator.

The costs of an independent system operator should be recovered from all beneficiaries of competition in the NWIS on the basis of a $/MWh charge.

34. What level of governance should be applied to the proposed independent system operator? What should the key features of the governance framework be?

Alinta believes it essential the system operator is fully independent from existing network operators and is low cost.

In Alinta's view it is not a requirement that all participants in the Pilbara directly participate in the governance model, for example as board members. It is far more important that the operator be capable, independent and subject to a strong governance model.

In the first instance Alinta urges the PUO to consider using the AEMO, which is independent and has extensive experience in operating electricity and gas markets in Australia capably. Currently, AEMO, is part industry owned and has a 40% board representation from industry

35. How much visibility of the NWIS power system will an independent system operator require? How far should the visibility (and real-time data requirements) extend into generation facilities and the distribution network?

The role of the system operator should be limited to the functions listed above to ensure it remains cost effective.

Only information that is essential to the performance of its functions should be required and should be kept confidential if the information is commercially sensitive.

36. Will a more formalised approach to managing outages (planned and unplanned) benefit electricity users on the NWIS?

Currently if a generator has a planned or unplanned outage which impacts another network, the network operators will communicate to ensure system reliability and stability remains.

However, to the extent the independent system operator requires the information to perform its functions, for example in relation ancillary services, then this information should be provided on a confidential basis.

37. Should an independent system operator for the NWIS have powers to manage and investigate system critical events similar to that of SWIS system management? What dispute resolution mechanism is preferred?

In the SWIS AEMO must investigate any incidents in the operation of equipment comprising the SWIS that:

- endangers Power System Security or Power System reliability to a significant extent;
- causes significant disruption to the operation of the dispatch processes set out in the Wholesale Electricity Market Rules; or
- which AEMO considers have had, or had potential to have had, a significant impact on the effectiveness of the market.

Should a significant system critical event occur, a review would need to be undertaken to assess the incident and to outline any mitigating actions needed to prevent that event from reoccurring. Given the nature of the NWIS arrangements any such review would be more appropriately undertaken by an independent body.

As such, Alinta considers that there may be merit for an independent system operator in the NWIS to have powers to manage and investigate system critical events similar to the arrangements in the SWIS. As in the case of AEMO, if the system operator is independent, then a dispute resolution process regarding the investigation of system critical events should not be required.

38. Is there a reason why a system of economic dispatch of generation and constrained network access should not be introduced to the NWIS?

It is unlikely the costs of a system wide economic dispatch model would be outweighed by the benefits. At this point in time, Alinta does not support pursuing such a model.

39. If introduced, should the independent system operator include oversight of longer term planning and forecasting requirements that inform development of the NWIS?

At this stage such an independent planning role is not required. However, as the NWIS evolves it may be beneficial in the future.

40. Are there additional functions to be included in the independent system operator role and when?

As discussed, Alinta supports the system operator managing ancillary services; the centralised development of a whole-of-system model for use by network operators; and technical rules and technical rules development in consultation with network operators.

41. What are the potential costs of introducing an independent system operator?

Alinta suggests the POU consult with AEMO on this item as they have considerable experience in this area.

8 Guiding Principles for a regulatory framework

The guiding principles of the regulatory framework should endeavour to ensure conflicts of interest do not occur and optimal and efficient market outcomes can be achieved.

8.1.1 PUO questions for stakeholders

42. Are the guiding principles for the design of a regulatory framework in the NWIS complete? Should additional guiding principles be considered?

Alinta considers it vital that market participants have broad confidence in the regulatory framework of the NWIS, and that a well-designed regulatory framework is in the best interests of all involved. Alinta is therefore supportive of the Issues Paper expressly considering guiding principles to establish a durable and commercially fit-for-purpose regulatory framework.

As a starting point in defining a fit-for-purpose regulatory framework, Alinta believes the Issues Paper has done a good job at identifying the key guiding principles as a reference point. Additionally, the overall efficiency objective stated in the Issues Paper's introduction section which focuses on Western Australia's objectives for the efficient and economic utilisation of resources for the NWIS region is appropriate and in Alinta's view should be explicitly restated again as a regulatory framework overarching guiding principle.

Alinta has detailed some additional comments on each guiding principle below and added some additional guiding principles below:

1. **Recognition of existing property rights** – Alinta agrees with the Issues Paper's premise that existing property right holders should have their existing privileges and rights recognised under any new framework. Where any changes or reforms are required in the future which impact upon existing property rights, endeavours should be made to grandfather existing right holders in a transparent and consultative manner.

2. **Safety of the network and security of existing supply arrangements** – Alinta supports this principle and notes that operational and technical requirements necessary for the safe operation of the network and protection of the electricity

system will have priority. However, caution should be exercised to ensure that adequate economic oversight is provided to ensure that gold plating of the network, or unnecessary over spend does not occur.

3. **Open access with light handed regulation** – Alinta is strongly supportive of a light handed regulation approach, and is of the view that this guiding principle should be strengthened to explicitly emphasise the elements of a commercial arbitration model which place a large weighting on the information disclosure requirements to help facilitate commercial negotiation. If access can still not be negotiated on commercial terms, binding arbitration can be utilised by the access seeker, which should be resolved according to pre-defined set time frames.

4. **Cooperative approach to system operation** – Alinta is supportive of efforts to maintain the existing cooperative approach and arrangements to system operation which exist. New technical rules for managing and operating the system should only be developed on an as required basis, tailored to the specific nature of the NWIS and based on extensive consultation with participants. Alinta agrees that any rules and/or protocols need to be implemented through a formal process with accountability and any technical standards to be applied should not present a physical constraint to potential future interconnection.

5. **Contractual and regulatory certainty** – Alinta agrees with the Issues Paper's premise that existing contract holders should have their existing privileges and rights recognised under any new framework. In Alinta's view it is essential that the regulatory legal and procedural frameworks should be fair and enforced impartially; this is especially true when there are commercial outcomes.

6. **Greater transparency of energy demand and forecast requirements of the transmission network** – Alinta is supportive of this principle. The provision of additional information to assist demand forecasting and load will help assist existing stakeholders and potential new entrants to make investment decisions with clarity with reference to an established demand forecast process.

7. **Stakeholder and industry feedback on regulatory design issues** – Alinta is strongly supportive of this principle. In Alinta's view a durable regulatory framework should encourage diverse and meaningful public contributions to allow decision makers to consider different issues, perspectives and options. Independent consultation should ideally be able to mediate between different and competing commercial interests to reach a broad consensus in the best long term interests of the market.

In addition to the guiding principles outlined in the Issues Paper above, Alinta suggests that some other broad high level principles could be included as a useful reference point in designing a fit for purpose regulatory framework for the NWIS. These high-level guiding principles are outlined below, each principle holds equal importance.

8. ***Efficient utilisation of NWIS resources*** – The NWIS regulatory framework should produce results that meet the NWIS's needs while making the best use of resources and ensuring low costs for all stakeholders. In practise this implies: pragmatic

investment decisions undertaken avoid the unnecessary duplication of existing infrastructure, processes are not overly burdensome or produce unnecessary costs, and that the well-established bilateral arrangements already in place should continue as the default arrangements which have largely served the NWIS well.

9. ***The Effective resolution of defined responsibilities*** – The NWIS regulatory framework should have the correct parameters set to enable it to effectively complete its defined tasks, resolve identified issues as they evolve, and be flexible enough to respond to the long term requirements of the NWIS.

10. ***Transparent processes and procedures*** – The NWIS regulatory framework, its processes and descriptive information should be directly accessible to all those concerned and enough information provided for any new participant or interested party to understand the various requirements and obligations if they so wish to participate.

11. ***Responsive and Timely*** – The NWIS regulatory framework should ensure that all its associated processes and procedures seek to serve and resolve stakeholder's demands in a timely fashion according to pre-defined and binding timelines.

12. ***Accountable and Durable*** – The NWIS regulatory framework should be designed to meet the needs of stakeholders. If mistakes or errors in the regulatory framework become apartment in its operation, these anomalies should be admitted and re-designed so that future mistakes can be avoided.

Alinta would encourage the PUO to refer to the principles above when developing a market design framework which is practical, effective and fit for purpose.

9 Conclusion

Alinta welcomes and supports changes to the NWIS regulatory framework to allow the benefits from a non-discriminatory open access regime to be realised by participants and customers of the NWIS as soon as possible.

In this regard Alinta supports the development of a light handed access regime which maximises net benefits. That is, it allows for all benefits to be realised but at the least cost. This approach would lend itself to minimal regulatory interference.

Alinta looks forward to working with the PUO, and other stakeholders, in developing a commercially fit-for-purpose regulatory model which recognises the unique characteristics of the NWIS including the size, composition and maturity while providing sufficient regulatory oversight, which will in turn lead to an optimal and efficient outcome for the NWIS.