

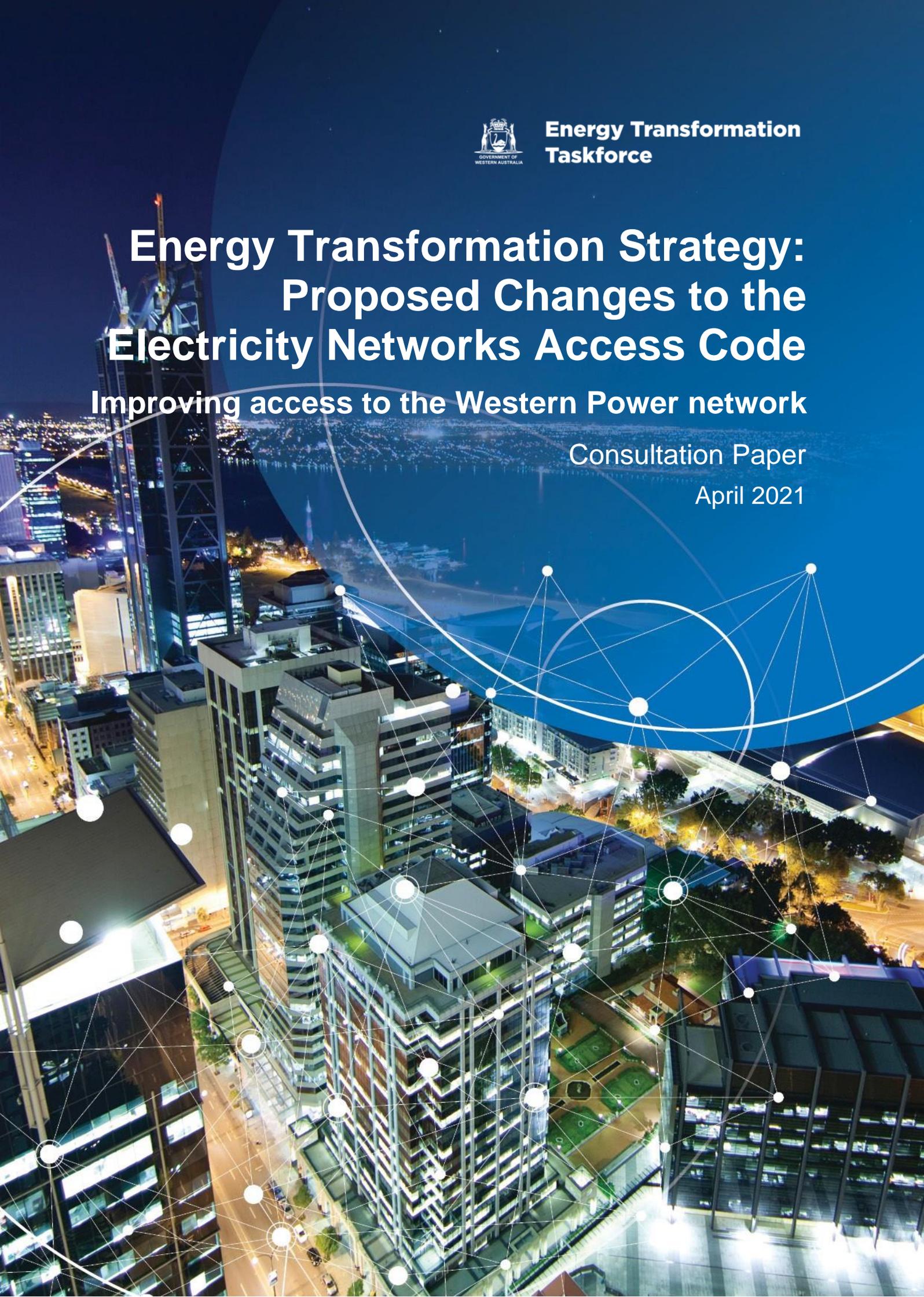


**Energy Transformation
Taskforce**

Energy Transformation Strategy: Proposed Changes to the Electricity Networks Access Code

Improving access to the Western Power network

Consultation Paper
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Energy Transformation Taskforce

Level 1, 66 St Georges Terrace

Perth WA 6000

Locked Bag 11 Cloisters Square WA 6850

Main Switchboard: 08 6551 4600

www.energy.wa.gov.au

Enquiries about this report should be directed to:

Noel Ryan

Telephone: +61 8 6551 4668

Email: noel.ryan@energy.wa.gov.au

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Disclaimer

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The information, representations and statements contained in this consultation paper have been prepared by the Energy Transformation Implementation Unit.

It is provided to assist in understanding the approach being taken to develop changes to the Electricity Networks Access Code 2004.

Any views expressed in this consultation paper are not necessarily the views of the State of Western Australia, the Western Australian Government (including the Minister for Energy), or the Energy Transformation Taskforce, nor do they reflect any interim, firm or final position adopted by the Government in connection with the Electricity Networks Access Code 2004.

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Abbreviations

The following table provides a list of abbreviations and acronyms used throughout this document. Defined terms are identified in this document by capitals.

Term	Definition
Access Code	Electricity Networks Access Code 2004
AA4	Western Power's Fourth Access Arrangement
AA5	Western Power's Fifth Access Arrangement
AEMO	Australian Energy Market Operator
AQP	Applications and Queuing Policy
ERA	Economic Regulation Authority
ETAC	Electricity Transfer Access Contract
ETIU	Energy Transformation Implementation Unit
ETS	Energy Transformation Strategy
GIA	Generator Interim Access
MVA	Mega-volt ampere
NFIT	New Facilities Investment Test
SCED	Security Constrained Economic Dispatch
WEM	Wholesale Electricity Market

1. Introduction

1.1 Overview

On 18 September 2020, a major package of changes to the Electricity Networks Access Code 2004 (Access Code) was published in the *Government Gazette*¹. The changes support the delivery of the Energy Transformation Strategy (ETS) and seek to increase opportunities for new technologies, maximise network utilisation, and improve the Access Arrangement process².

A further tranche of changes to the Access Code are proposed and detailed in this Consultation Paper. Section 2 of this paper discusses required amendments to the Electricity Transfer Access Contract (ETAC), the Applications and Queuing Policy (AQP), and the Contributions Policy to clarify their operation in the context of a constrained network access regime. Section 2 also discusses changes to the Access Code to align the requirements for generator performance standards with the Wholesale Electricity Market (WEM) Rules.

Section 3 of the Consultation Paper discusses changes to the recovery of previously deferred revenue. Section 4 discusses other minor amendments to the Access Code that have been identified subsequent to the previous tranche of Access Code changes.

Marked up copies of the amendments are provided as attachments to this document.

1.2 Purpose of this paper

Section 108 of the *Electricity Industry Act 2004* requires that formal public consultation be undertaken by the Minister for Energy on proposed amendments to the Access Code. This requirement is addressed through the release of this Consultation Paper, which articulates the policy rationale for and proposed amendments to the Access Code, and subsequent evaluation of stakeholder feedback.

1.3 Making a submission

The Taskforce welcomes feedback on the proposed Access Code changes outlined in this paper. Feedback can be submitted in any of the following ways:

1. Email your written submission to energytransformation@energy.wa.gov.au.
2. Contact energytransformation@energy.wa.gov.au to arrange a one-on-one discussion.
3. Post your written submission to Energy Policy WA at Locked Bag 11, Cloisters Square, WA 6850.

Consultation on these proposed Access Code changes closes on **5.00pm (AWST), 28 May 2021**. Late submissions may not be considered.

¹ Access Code available at: <https://www.wa.gov.au/sites/default/files/2020-09/Electricity%20Networks%20Access%20Code%20-%20Unofficial%20Consolidated%20Version%20-%202018%20September%202020.pdf>

² Details of the Energy Transformation Strategy Access Code changes are available at: <https://www.wa.gov.au/government/energy-transformation-strategy-proposed-changes-the-electricity-networks-access-code>

In the interests of transparency and to promote informed decision, submissions will be made publicly available on www.energy.wa.gov.au unless requested otherwise. Accordingly, stakeholders should clearly specify if the information they provide is confidential and, where possible, should separate confidential information from non-confidential information.

Persons making any claim for confidentiality should familiarise themselves with the provisions of the *Freedom of Information Act 1992* (Western Australia), which imposes obligations on Energy Policy WA in respect to the release of documents.

2. Improving access to the Western Power network

2.1 Background

The ETS is the Government's work program to embrace new technologies to ensure the ongoing delivery of secure, reliable, sustainable and affordable electricity to Western Australians. The ETS is responding to the energy transformation through fundamental changes to the way the power system operates and by developing a plan for the future.

An imperative element of the ETS is the adoption of a constrained model of network access and market dispatch whereby generator access to the network and the Wholesale Electricity Market (WEM) is subject to network constraints. This reform will facilitate the entry of new generation capacity and technologies that will ultimately benefit electricity consumers through cheaper and cleaner energy.

Changes to the Access Code were made in September 2020 to provide for the introduction of the new constrained network access regime. One of the main amendments is a prohibition on Western Power from entering into access contracts that do not permit a user to be curtailed in circumstances where constraints on the network are caused by other users, or where curtailment is required in connection with the operation of security constrained economic dispatch (SCED). This prohibition does not affect any access agreements entered into before 18 September 2020.

Changes to the WEM Rules were also made in December 2020 to provide for a security-constrained market design to commence from 1 October 2022, and to ensure the Reserve Capacity Mechanism continues to support investment in capacity resources to deliver a reliable power system under the new constrained access regime.

Several additional amendments to the Access Code are now required in order to complete the implementation of the constrained network access regime, in addition to consequential changes to the following key documents that govern connection and access to the Western Power network:

- **Electricity Transfer Access Contract (ETAC)**, which is the standard access contract used by Western Power for the provision of reference services to customers. The ETAC outlines the terms and conditions in relation to services, tariffs, invoicing and payment, a customer's provision of financial security, technical compliance, and liability.
- **Applications and Queuing Policy (AQP)**, which details the processes, procedures and requirements for customers seeking and obtaining access to the Western Power Network. The AQP helps Western Power manage customer access applications in an orderly, transparent and fair manner, especially where network capacity is scarce.
- **Contributions Policy**, which details how Western Power charges customers seeking to establish a new, or upgrade an existing, connection to the network.

Each of these documents has a 'model' version contained within the Access Code which informs the Economic Regulation Authority (ERA) decision on the actual form of the ETAC, AQP and Contributions Policy. The versions of these documents approved by the ERA under an Access Arrangement are used as a basis for negotiation with customers.

Changes to the ETAC, AQP, and Contributions Policy are required to clarify their operation under a constrained network access regime. The proposed changes outlined in this Consultation Paper will apply to access agreements entered into from the date that the changes are published in the Government Gazette (anticipated to be in late-June 2021) up until 1 July 2023 when Western Power's fifth Access Arrangement commences. This will allow parties seeking access during this transitional period to gain access to the network on a basis that is consistent with a constrained network access regime.

Further amendments to the ETAC, AQP, and Contributions Policy may be put forward by Western Power during the consultation period for its fifth Access Arrangement and approved by the ERA, which will then apply to access agreements for Western Power's fifth Access Arrangement.

Access agreements entered into with Western Power prior to the gazettal of the changes will remain unchanged. For the avoidance of doubt, security constrained economic dispatch will apply to all facilities in the WEM from 1 October 2022 including facilities on agreements that may grant or be perceived to grant access to the Western Power network on an unconstrained basis, as well as facilities under Western Power's Generator Interim Access (GIA) solution.

2.2 General approach

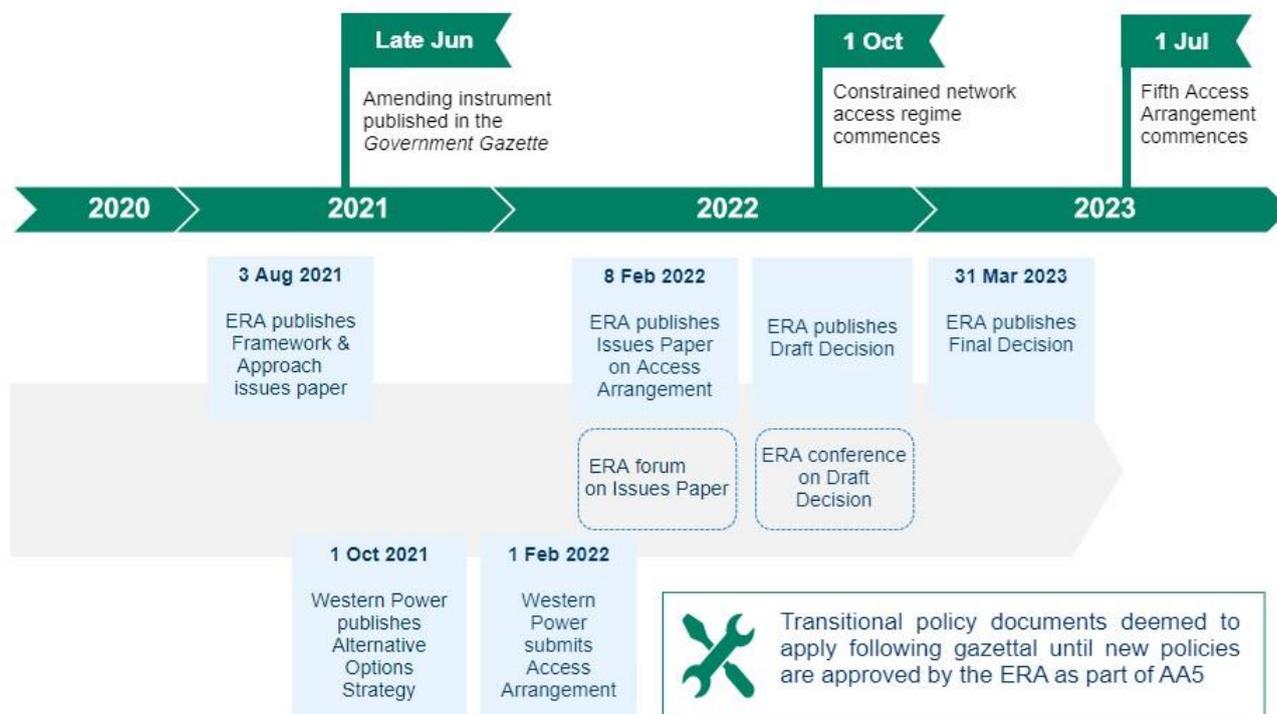
The timing mismatch between the gazettal of the first tranche of Access Code changes on 18 September 2020 and the commencement of Western Power's fifth Access Arrangement on 1 July 2023 creates a transitional period during which the model and ERA-approved versions of the ETAC, AQP, and Contributions Policy will be inconsistent with a constrained network access regime.

Specifically, the prohibition on Western Power entering into access contracts that do not permit curtailment (either as a result of constraints caused by other users or in connection with the operation of security constrained economic dispatch) requires consequential changes to the ETAC, AQP, and Contributions Policy to allow new users to gain access to Western Power's network on a basis that is consistent with the constrained access regime.

The proposed approach is to insert amended versions of the ETAC, AQP, and Contributions Policy as transitional documents to apply for the remainder of Western Power's Fourth Access Arrangement (AA4). Changes to these documents have been kept to the minimum necessary to ensure they are fit for purpose for the new constrained network access regime. The transitional policy documents would be deemed to apply at the gazettal date as the actual approved ETAC, AQP and Contributions Policy, and cover the period up until new documents are approved by the ERA. Western Power will submit new versions of the ETAC, AQP, and Contributions Policy as part of the AA5 process to the ERA for approval. The revised documents would likely come into force on 1 July 2023.

The approach is summarised below in Figure 1.

Figure 1. Timeframes for Western Power's fifth Access Arrangement



Three approaches under consideration are:

1. **Amend the model documents in the Access Code.** The main issue with this approach is that the consequential changes required for constrained access are relatively minor and piecemeal in nature. It would be preferable to undertake a more holistic review of the connection and access framework as part of a fulsome consultation process to identify best practice improvements that could be incorporated into the existing framework. Without such a review, amending the model documents could cause difficulties if they need to be changed in future Access Arrangements (resulting from stakeholder consultation and/or changes in the energy environment) and Western Power does not propose the change itself.
2. **Leaving the policy documents unchanged and Western Power reopening the Access Arrangement and submitting revised policies for approval by the ERA.** The main issue with this approach is the uncertainty with the approval process. As the revised policies will need to address various new issues, the approval process would therefore likely be time consuming and potentially complex. This raises the risk of missing the commencement of the ETS reforms on 1 October 2022 and delaying making access offers for the connection of new generation under constrained network access.
3. **ETIU drafting a new ETAC, AQP and Contributions Policy to apply for the remainder of AA4 and AA5 (Recommended Option).** This approach would remove the timing risk outlined in approach 2 above but would limit the opportunity of stakeholders to contribute to the development of the policies.

The third approach balances the competing priorities of providing stakeholders with sufficient opportunity to provide input to the ETAC, AQP, and Contributions Policy whilst providing certainty that access to the network will be granted on a basis that is consistent with the new constrained access regime.

As the third approach does not amend the model documents that are included in Appendices 2 to 4 of the Access Code, these model documents will (for the time being) continue to inform the ERA's assessment of Western Power's policy documents to be submitted as part of the AA5 process and future Access Arrangement revision processes. However, given the increasingly outdated nature of the model policy documents in Appendices 2 to 4 (which, as described further in Sections 2.4 to 2.6 below, do not contemplate constrained access), they may be the subject of future amendments to the Access Code.

All of the proposed changes to the Access Code, ETAC, AQP, and Contributions Policy that are outlined in this paper are subject to consultation. However, they have been described as changes that will be made, as opposed to proposed changes, to assist with the readability of this document.

2.3 Access Code main body

This section describes the additional changes to the Access Code to improve access to the Western Power network and to align with the requirements for generator performance standards in the WEM Rules. The changes proposed are outlined in Table 1 and are summarised below.

2.3.1 Constrained network access

Constrained network access for entry services (generators) will apply from 1 October 2022. Any Access Arrangement and any documents approved under it must be consistent with this form of network access. As such, the Access Code was amended on 18 September 2020 to expressly provide that entry services can only be provided on a constrained basis.

In this tranche of amendments, three additional changes are:

- A new section 5.38, which will allow the ERA to approve versions of the ETAC, AQP, and Contributions Policy as part of an access arrangement process where these versions depart from the model documents in the Access Code, so long as the departures are required for consistency with the new constrained network access regime and the operation of SCED.
- The concept of bidirectional services (services where users can transfer electricity into and out of the network) has been introduced to make it clear that the entry component is subject to constrained network access.
- The requirement for Western Power to maintain a register of spare capacity in the transmission system has been amended. Western Power will no longer be required to provide this information to generators as the concept of spare capacity (for entry services) has limited relevance under a constrained network access regime.³ However, Western Power will be required to notify users of any additional capacity enabled by augmentations that are funded by that user (to the extent this is reasonably capable of being determined).

³ Note that new requirements have been placed on the Australian Energy Market Operator and Western Power to publish information that will enable prospective connection applicants to understand the patterns and market impacts of network congestion and make their own assessment of the availability of capacity throughout Western Power's Network as part of new WEM Rules to implement a security constrained market design. This information includes the Congestion Information Resource that will include a library of constraint equations and a congestion report that will include an analysis of the duration and frequency of constraints.

2.3.2 Generator performance standards

New generator performance standards commenced in February 2021. The Access Code will be amended to make clear that an access offer for a transmission-connected generating system is not required to be made until registered generator performance standards for that generator have been determined in accordance with the WEM Rules.

The Access Code will also be amended to make clear an arbitrator in an access dispute cannot determine the registered generator performance standards for a transmission connected generating system. This is because the WEM Rules will now set out the process for determining those standards (which includes approval by the Australian Energy Market Operator (AEMO)) and it would be contradictory for an arbitrator to make a determination on the performance standards for a transmission connected generating system.

Table 1: Summary of changes to the main body of the Access Code

Item	Section	Description of change
Definitions of “bidirectional point”, “bidirectional service”, “exit service component” and “entry service component”	1.3	The current definitions of exit service/point and entry service/point do not fully capture the concept of a bidirectional service/point. The change is necessary to ensure that constrained network access is applied to the entry component of bidirectional services.
Generator performance standards	1.3 2.8A 2.8B	Definitions for “registered generator performance standard”, “proposed generator performance standard” and “transmission connected generating system” have been inserted. These provisions confirm that registered generator performance standards for a transmission connected generating system will be determined in accordance with the WEM Rules, and that an arbitrator may not determine registered generator performance standards. The reason for this is the WEM Rules will now set out the process for determining those standards (which process includes AEMO approval) and it would be contradictory for an arbitrator to make a determination on registered generator performance standards.
Transitional AQP, ETAC and Contributions Policy	4.83-4.85	Clarifies that the revised transitional ETAC, AQP and Contributions Policy will apply as the approved ETAC, AQP and Contributions Policy from the gazettal date for the remainder of AA4 (further detail provided in sections 2.3-2.5).
Assessment of Model Documents	5.5 5.11 5.17 5.38	The ERA may approve, as part of an Access Arrangement, versions of the ETAC, AQP, and Contributions Policy that depart from the model documents so long as these departures are required for consistency with constrained access and the operation of SCED.
References to spare capacity	14.3	Under the revised requirement, Western Power will only be required to notify users of any additional capacity that would be provided by an augmentation to be funded by that user (to the extent it is reasonably capable of being determined).

2.4 Transitional AQP

A Transitional AQP will be inserted as Appendix 2A, to apply for the remainder of AA4. Specific differences to the existing ERA approved AQP are outlined in Table 2.

The major changes are discussed below.

2.4.1 Confidential information and publication of information relating to projects

New confidential information provisions in the Transitional AQP will provide more visibility of generation projects, and in particular, information relating to the applicant's proposed/upgraded connection point. The rationale for the change is to facilitate transparency and increase investment confidence.

As a result, where a connection application is related to generation (including connecting a new facility, modifying an existing facility, or amending the contracted capacity) the following information will be made available to all generation applicants:

- the requested (and, if applicable, existing) contracted capacity (as appropriate);
- the location, voltage and arrangement of the proposed/upgraded connection point;
- the fuel type; and
- the priority date of the application.

It should be noted that this approach does not go as far as the National Electricity Market, where the identity of the applicant is revealed in addition to the above information.

In addition, the Transitional AQP will be amended to allow Western Power to share information with AEMO where a connection application is related to generation or large loads (including connecting a new facility, modifying an existing facility, or amending the contracted capacity). This can occur during the connection process and would commence once a connection application is submitted.

Under these provisions:

- the details above for generation applications would be provided to AEMO along with the applicant's identity and forecast in service date;
- technical information required for AEMO to undertake its system management function would be provided to AEMO; and
- Western Power may advise AEMO when an access contract has been executed and when it becomes unconditional (this information would not be made public).

2.4.2 Capacity related concepts

The concept of spare network capacity has limited relevance to generators and entry services in a constrained access regime. Accordingly, the reference to spare capacity in clauses 18.2A, 19.3 and 23 will apply only to applications for an exit service. Similarly, clause 18.2A(a)(iii), which refers to constraints on the ability to provide capacity, is no longer relevant as constraints will always exist for entry services. Clause 18.2A(a)(iii) should only apply to exit services.

Instead of assessing spare capacity Western Power may, as part of a Preliminary Assessment under clause 19.3, assess the potential asset configurations (and their cost) to provide the contracted capacity requested by a generator (i.e. the maximum capacity in the absence of constraints) and the contracted capacity (if any) available in the absence of such works. Typically, this would relate to the physical network connection and compliance with technical obligations.

References to constraints and spare capacity in clauses 24.1, 24.6(c) and 24.8 will only be relevant to exit services. Clause 24.6(c) provides for where there is a competing applications group, Western Power will make offers of spare capacity in the order of the priority dates for the competing applications. In respect of entry services, this should be replaced by a reference to making access offers in priority date order to the extent Western Power is able having regard to the issue that resulted in applications being deemed competing in the first place. For entry services, the concept of competing applications will have minimal ongoing relevance and to the extent that the issue does arise (due to physical or technical limits other than network capacity) it should usually be able to be overcome by appropriate works (for example to construct the requisite physical assets to enable multiple connections).

Consistent with the above principles, clause 24.9 will be modified as it applies to entry services so Western Power provides information relevant to the circumstances which lead to entry service connection applications being classified as competing applications.

2.4.3 Competing application groups

The concept of competing application groups will be retained but modified for constrained network access. The concept is required to accommodate circumstances where one connection application may impede the ability to provide services sought in a second connection application. The concept may still be relevant to exit services (since constrained access concepts will not be applicable to exit points) and it may be that certain aspects of two generation connection applications means one application adversely affects the other. For example, if two connection applications are competing for access to a substation which has only one spare connection bay, and augmentation is required to accommodate additional connections.

2.4.4 Applicant specific solutions

Clause 20.3 currently provides for existing users and competing applicants (with an earlier priority date) to object to applicant-specific solutions on the grounds that the applicant-specific solution would impede Western Power's ability to provide covered services to that existing user or competing applicant compared to what the position would be if the applicant-specific solution were not implemented.

This clause will be amended so that an objection cannot be made on the basis that the applicant-specific solution would increase constraints on the network. That is, existing users or applicants would need to point to some impedance other than just greater constraints.

Without such a provision, existing users could seek to prevent new users connecting under an applicant-specific solution on the basis that constraints will be increased by the new user connecting, which is contrary to constrained access.

2.4.5 Technical Rules

The definition of the Technical Rules will be expanded to include the registered generator performance standards which a transmission connected generator is required to comply with under the WEM Rules.

The WEM Rules are not specific as to the time at which an applicant should nominate whether it intends to meet the Ideal Generator Performance Standards or requests to negotiate standards. Clause 3.7 of the AQP (Information Required with Connection Application) has been amended to require this information be provided with the Connection Application.

A new provision has been added (clause 26(b)) that makes clear that for a generator proposing to connect to the transmission system Western Power is not obliged to make an access offer until the registered generator performance standards have been determined in accordance with the WEM Rules.

2.4.6 Other changes

The appendices to the AQP have been deleted. These appendices are confusing and largely repeat what is already in the body of the AQP itself. In addition, their removal will avoid the need to further update the appendices as part of giving effect to the constrained access amendments made to the remainder of the AQP.

Clause 5.5 (Connection Application Ceases to Exist After Signing) has been amended so that if the user fails to satisfy a condition precedent in the access contract, the application in relation to which the access contract was entered ceases to exist. This will add further clarity to the application process.

Table 2: Summary of changes to the AQP

Item	Section	Description of change
References to Appendices	1.1	The appendices to the AQP are being deleted. Therefore, the references to the Appendices in clause 1.1 should be deleted. The appendices were of minimal value to the rest of the document.
Definitions – general	2.1	Various amendments have been made to ensure consistency between the AQP and Access Code. For example, “covered service” is defined as having the same meaning as in the Access Code, but also including a bidirectional service. However, the definition of “covered service” in the Access Code is being updated to include bidirectional services. Therefore, it is no longer necessary for the AQP to expressly state that “covered service” includes a bidirectional service.
Capacity allocation swap decrease / increase service	2.1	The concepts of capacity allocation swap decrease services and capacity allocation swap increase services (whereby the contracted capacity at a connection point is temporarily decreased / increased in return for a corresponding increase / decrease at another connection point) are being removed. These services are not considered appropriate as capacity at one connection point on the network cannot necessarily be made available at another point in the manner these services contemplate. The capacity allocation same connection point decrease service and increase service are being retained.
Definition of “constraint”	2.1	Definition aligned with Transitional ETAC (refer Section 2.4 of Consultation Paper).
Definitions of “exit service component” and “entry service component”	2.1	As per changes to the Access Code.

Spare capacity	2.1 18.2 19.3 24.6 24.9	<p>The concept of “spare capacity” has been limited to exit services / exit service components, and entry service applications are assessed based on other factors that might affect access being granted or applications being competing.</p> <p>This is on the basis that there will no longer be a concept of “spare capacity” for entry services (or an obligation to contribute to works to increase capacity to allow for an entry service application to be accepted), but there may still in some circumstances be factors that would result in entry service applications requiring works or being classified as competing.</p>
Definition of “technical rules”	2.1	The definition of technical rules now also captures registered generator performance standards for transmission connected generating systems.
Incorporation of Generator Performance Standards	2.1, 3.7(e) 16.3 17(d) 26(b)	A number of changes have been made to reflect the concept of generator performance standards. For example, a connection application must provide information about the performance standards that are proposed to apply.
Nature of capacity available for transferring electricity into the network	2.7	A new clause that describes constrained access and how it operates.
When connection applications cease to exist	5.5	<p>This clause has been updated to clarify that a connection application ceases to exist if the access contract is terminated before the user satisfies its conditions precedent in that contract.</p> <p>The change is being made to provide clarity.</p>
Disclosure of confidential information	6.2(h) 6.2(i) 6.3 16.6	<p>New clauses that clarify Western Power can:</p> <ul style="list-style-type: none"> disclose certain information to AEMO (including any information required by AEMO to undertake its system management functions); and make information about connection applications available to other applicants. <p>The rationale for the AEMO disclosure amendment is to make it clear that Western Power can provide information to AEMO where the information is required for AEMO to perform its functions.</p> <p>The rationale for disclosing information to other connection applicants is to facilitate transparency in decision making on future investments in capacity.</p>
Increase in contracted capacity	10.2(d) 10.2(e)	<p>The amendment clarifies that an application to increase a user’s contracted capacity for an entry service can only be accepted by Western Power if the user agrees to their ETAC being amended so that all of the user’s contracted capacity (i.e. its original amount and the increase) is on a constrained basis.</p> <p>The change is required to ensure all new and modified connections are on a constrained basis consistent with the policy underpinning the Access Code.</p>

<p>Enquiry stage – obligation to notify of constraints</p>	<p>18.2A 19.3</p>	<p>At the enquiry stage, Western Power is only obliged to notify the applicant of constraints relating to exit services.</p> <p>The rationale for this change is that the identification of constraints in a constrained access regime will be more difficult, and that under the WEM Rules AEMO will be required to publish a Congestion Information Resource which will include information about network constraints.</p> <p>At the preliminary assessment stage Western Power will provide advice on the contracted capacity (i.e. maximum capacity in the absence of constraints) which is available at the requested point of connection, and the works required to provide the requested contracted capacity (as applicable).</p>
<p>Objections to applicant-specific solutions</p>	<p>20.3</p>	<p>This clause provides if an applicant wants to pursue an applicant-specific solution, existing users and competing applicants with an earlier priority date may object to the applicant-specific solution on the grounds that the applicant-specific solution would impede Western Power’s ability to provide covered services to that existing user/competing applicant compared to what the position would be if the applicant-specific solution were not implemented.</p> <p>The provision provides that an objection cannot be made solely on the basis that the applicant-specific solution would increase constraints on the network (i.e. existing users / applicants can’t object where Western Power’s ability to provide covered services is only impeded by the fact that constraints would be increased – they would need to point to some other impedance than just greater constraints).</p> <p>Without such a provision, existing users could seek to prevent new users connecting under an applicant-specific solution on the basis that constraints will be increased by the new user connecting, which is contrary to constrained access.</p>
<p>Transfer and Relocation Policy</p>	<p>2.1 2.2(e) 27 28</p>	<p>As per changes released for public consultation on 14 May 2020, the Transfer and Relocation Policy will be absorbed into the AQP and the amendments to clauses 2.2 and 2.2(e) are made to reflect this.</p> <p>Clauses 27 and 28, which set out the new Transfer and Relocation Policy, now provide that a person can novate their ETAC with Western Power’s consent and Western Power must not unreasonably withhold or delay consent. The ability for a user to undertake a ‘bare transfer’ no longer forms part of the Transfer and Relocation Policy.</p>

2.5 Transitional ETAC

A new Transitional ETAC will be inserted as Appendix 3A. Specific differences to the existing ETAC approved by the ERA are outlined in Table 3.

The major changes are outlined below.

2.5.1 Constrained network access

Constrained network access will be implemented primarily by the application of SCED in the WEM, with generation dispatched to minimise the total cost of wholesale energy and essential system services while explicitly accounting for network constraints and security requirements of the power system. A generator's ability to access available network capacity and export electricity into the network is determined by market dispatch outcomes.

A number of elements are required to give effect to constrained network access. These elements are progressively being introduced across the suite of regulatory instruments pertaining to the SWIS, including the WEM Rules and the Access Code.

It is proposed to incorporate a number of amendments within the Transitional ETAC to provide increased certainty to enable Western Power and AEMO to perform their functions under a constrained network access regime, to align the operation of the WEM Rules and the Access Code, and provide clarity for the user. These amendments include:

- Clause 3.1 of the ETAC will be amended to make it clear that entry services are provided on a constrained basis.
- Western Power providing information to AEMO on constraints in order for AEMO to perform its functions (clause 16.1).
- AEMO being able issue directions to users and Western Power in order to perform its functions (clause 16.2).
- Western Power being able to issue directions to users in order to preserve Power System Reliability (as defined in the WEM Rules) and the supply of electricity to customers, which will require the management of emerging network stability issues that will not be managed by SCED, including voltage and system strength (clauses 16.3 and 25).
- Limitations of Western Power's liability for the curtailment of users, either by Western Power or by AEMO acting on advice or information from Western Power, except to the extent Western Power has not acted in good faith (clause 16.4(a)).
- Limitations of Western Power's liability in circumstances where Western Power's assessments, analysis, or any other work was used in connection with the determination of users' Capacity Credit entitlements (and other entitlements under the WEM Rules) (clause 16.4(b)).

2.5.2 Generator performance standards

The ETAC contains provisions requiring each party to comply with the Technical Rules. As the technical obligations of a user who is a transmission connected generator will now extend to complying with its registered generator performance standards and associated GPS monitoring plan, these ETAC provisions should now refer to the Technical Rules, registered generator performance standards and associated GPS monitoring plan. It does not make sense for the ETAC to refer to a generator complying with only a part of its technical obligations.

The ETAC will be amended to include a new schedule where any Negotiated Generator Performance Standards can be listed.

In addition, the ETAC should permit Western Power to immediately suspend a user if breaches of its registered generator performance standards or the ETAC by the user threaten Power System Reliability or the supply of electricity – but only at the point where Western Power considers this suspension necessary to avoid these impacts. So rather than wait the five business days referred to in clause 27.2(c) Western Power should, in the interests of all users, have a right to suspend services from the point it considers (in good faith) is required to preserve the integrity of the network. Western Power has good faith obligations to lift the suspension and / or allow the user an opportunity to cure the breach before suspending services.

2.5.3 Bare transfers and assignment

The changes to the Access Code gazetted on 18 September 2020 removed the concept of bare transfers. For consistency the concept needs to be removed from the ETAC (clauses 31.1-31.3).

In substitution for bare transfers:

- for assignments by a user, the provisions of the Transfer and Relocation Policy (part of the Transitional AQP – see Table 2 above) will apply, which will allow a user to assign the ETAC with Western Power’s consent, not to be unreasonably withheld or delayed; and
- for assignments by Western Power, an assignment clause typical of commercial contracts has been added, which will allow Western Power to transfer rights and obligations under the contract with the consent of the user (which is not to be unreasonably withheld or delayed).

Table 3: Summary of changes to the ETAC

Item	Section	Description of change
Constrained access provisions	3.1	A number of paragraphs have been added to clause 3.1 to clarify the basis on which entry services are provided – that is, on a constrained basis and that constraints may prevent a user from being able to utilise the full Contracted Capacity.
Use of “Price List”	7.1 8.8	The ETAC makes a number of references to the Price List under an Access Arrangement Access Arrangement. In the changes released for public consultation on 14 May 2020, the concept of an “Approved Price List” was added. The ETAC has therefore been updated to refer to the Approved Price List.
Generator Performance Standards	12.1(b) 12.1(c) 12.2(a) 13 Sch 1 Sch 9	Provisions have been inserted requiring the user to ensure that Generating Plant complies with the relevant Registered Generator Performance Standards and GPS Monitoring Plan and to provide that the user must bear its own costs in relation to compliance with the Registered Generator Performance Standards and GPS Monitoring Plan. The changes also provide for Negotiated Generator Performance Standards to be recorded in the ETAC.
System Operator directions	14.2	This is not a new provision. It was previously in clause 16 and has been moved to clause 14.2 where it seems more logical.

Determining impact of constraints	16.1	<p>This clause provides that:</p> <ul style="list-style-type: none"> Western Power may give advice and information to AEMO to assist AEMO act and give directions to preserve Power System Reliability and address constraints; and Western Power will (to the extent provided for in the WEM Rules) determine / assist AEMO in determining which Generators will have their ability to transfer electricity into the Network curtailed or interrupted due to constraints.
AEMO directions	16.2	<p>This provision requires a user to reduce / cease export of electricity if directed by AEMO, and allows Western Power to take such action as it considers is required give effect to any direction issued by AEMO relating to a reduction or cessation in the transfer of electricity into the network.</p>
Western Power directions	16.3 25.2 – 25.4	<p>Clause 16.3 provides a right for Western Power to curtail services to a user where Western Power considers that the curtailment is necessary because of constraints (regardless of whether AEMO has issued a direction or not) to preserve Power System Reliability and the supply of electricity to Customers. Consequential changes have been made to clauses 25.2 – 25.4.</p>
Limitation of liability, indemnities	16.4 16.5 Sch 1	<p>New provision that limits Western Power's liability for:</p> <ul style="list-style-type: none"> curtailments that are made on the basis of advice or information provided by Western Power; and impacts on users' Capacity Credit entitlements (and other entitlements under the WEM Rules) as a result of determinations, assessments etc. made by Western Power in connection with the allocation of Capacity Credits. <p>In discharging these functions, Western Power is not providing services but is acting to assist in preserving the integrity of the electricity system. It is therefore considered appropriate Western Power is not liable unless it has failed to act in good faith/engaged in wilful default.</p> <p>New clause 16.5 requires a user to ensure any person registered in the market as its intermediary acts consistently with the requirements of clause 16.</p>
Reference to “Institute of Arbitrators”	19.5(d)	<p>The original clause 19.5(d) refers to an expert being appointed by the Institute of Arbitrators (WA Chapter).</p> <p>There is no current “Institute of Arbitrators” and the reference has been changed to the “Resolution Institute”.</p>
Curtailement rights	25.1(e)	<p>Western Power will have a right to curtail services “if Western Power considers it necessary to do so, to preserve Power System Reliability”.</p>
Immediate suspension	27.3	<p>This provision clarifies that Western Power will have the right to suspend provision of services if a user breaches registered generator performance standards or otherwise commits a breach of the ETAC and such breaches have the impacts outlined in the clause.</p>

Assignment	31 Sch 1	This provision clarifies the rights of a user to assign their ETAC. Users may request Western Power’s consent to an assignment of the ETAC in accordance with the Transfer and Relocation Policy (within the AQP). Assignments by Western Power are only to be made with the user’s consent and are not to be unreasonably withheld or delayed (except where clause 32 applies). A party seeking consent to an assignment must bear the other party’s costs.
Confidentiality	33.4(a)(v)	Clause 33.4 has been amended to provide that confidential information may be disclosed to an intermediary appointed by the user under the WEM Rules.
Definition of “constraint”	Sch 1	As per the definition in the Access Code.
Definitions of “exit service component” and “entry service component”	Sch 1	As per the changes to the Access Code.

2.6 Transitional Contributions Policy

A new Transitional Contributions Policy will be inserted as Appendix 4A. The changes from the existing ERA approved Contributions Policy are relatively minor.

One small change is required to reflect the generator performance standards. Clause 7.4(b) which refers to an applicant bearing its own costs of compliance with the Technical Rules will be amended to also refer to the registered generator performance standards for an applicant’s facilities and equipment.

The only other amendments relate to aligning definitions to ensure consistency with the Access Code.

Table 4: Summary of changes to the Contributions Policy

Item	Section	Description of change
Definitions – general	1.1	Various amendments to ensure consistency between the Transitional Contributions Policy and Access Code.
Compliance with technical rules and WEM rules	7.4(b)	The amended clause provides that applicants must pay their own costs of ensuring that their facilities and equipment comply with the WEM Rules (including any Registered Generator Performance Standards). The provision previously only referred to compliance with the Technical Rules.

3. Other amendments

Changes to deferred revenue and other minor amendments that have recently been identified will be made in this Tranche of Access Code changes. Further detail is provided below.

3.1 Deferred revenue

In Western Power’s second Access Arrangement (AA2), the regulatory treatment of capital contributions was changed. The change in treatment would have given rise to a significant step change in revenue and prices in the AA2 process. To mitigate this impact, Western Power initially proposed deferring some of the additional revenue to future periods. The ERA ultimately decided to defer the full impact of the change. This initial deferral of revenue was valued at \$550 million, in 2009 dollars.

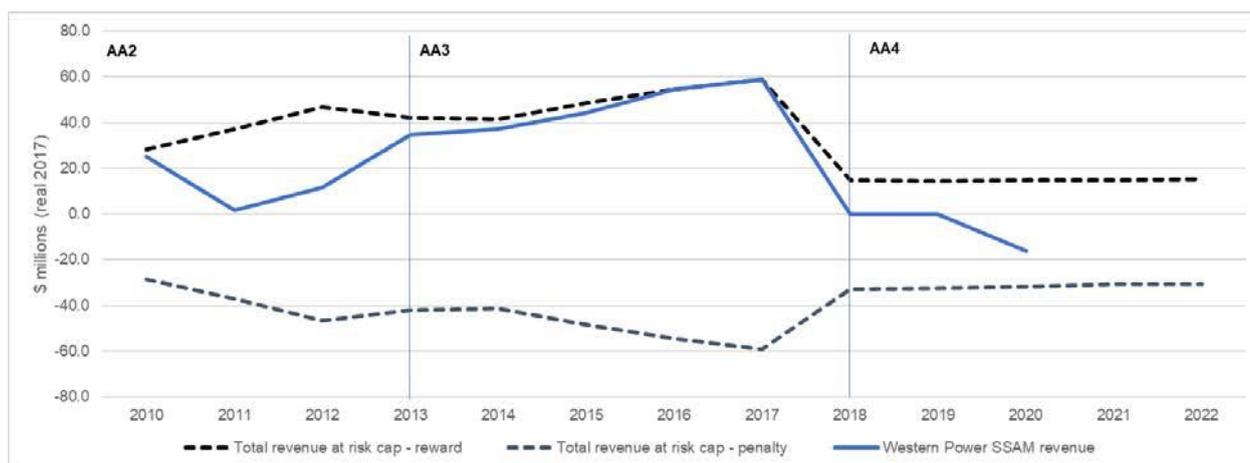
The Access Code was modified for the third Access Arrangement (AA3) to specifically allow for the recovery of the deferred revenue. A time period was not set as part of this change, providing the ERA with discretion as to over how many years the revenue would be recovered. As part of the AA3 determination, the time period for recovery was initially set at 10 years, however during the AA3 period the ERA re-opened the Access Arrangement to deal with an unexpected price rise, and modified the recovery period to 42 years for distribution revenue and 50 years for transmission revenue⁴.

The balance of deferred revenue is escalated annually by the Weighted Average Cost of Capital (WACC). No changes to this recovery were proposed in AA4, as prices were forecast to moderately increase. In the absence of any material changes to financial markets or changes to the Access Code, revenue in the fifth Access Arrangement (AA5) period, and consequently prices, are forecast to significantly decline for two key reasons:

1. Regulatory incentives

Based on current performance it is unlikely Western Power will achieve any significant incentive payments in AA5 (there is a possibility of small penalties). Historically, Western Power has demonstrated high levels of service standard performance against the reward cap (under the Service Standards Adjustment Mechanism, Figure 2), and incentive payments were nearly \$500 million in AA4.

Figure 2. Western Power historical service standard performance



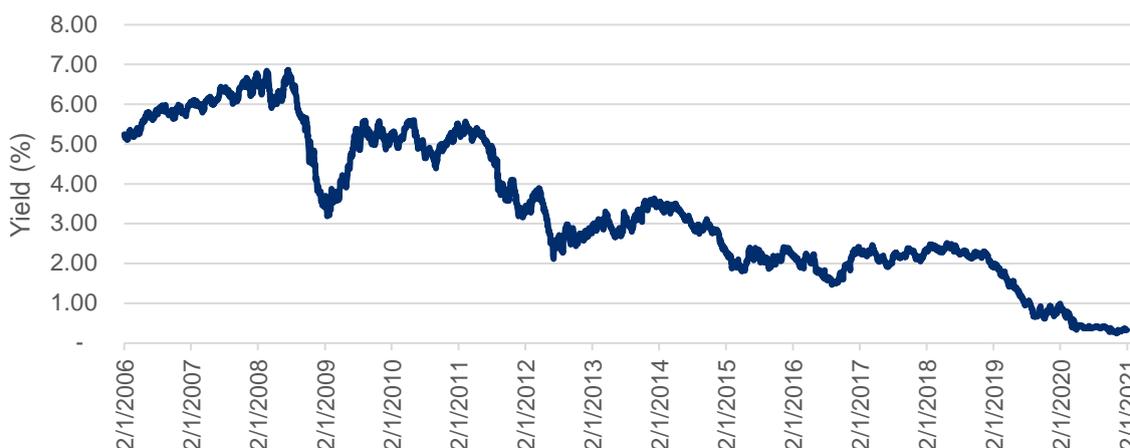
⁴ These time periods represented the average life of distribution and transmission assets.

2. Return on assets

Western Power’s return on assets is expected to be significantly lower in AA5 due to the expected lower rate of return outlook environment (a key driver of the WACC) at the start of the AA5 period. Figure 3 demonstrates the significant decline in the yields of 5 year Commonwealth Government bonds, which is driving a record low WACC for Western Power in AA5.

The impact of this is a reduction in revenue in the order of \$150 million per annum.

Figure 3. Yields on 5 year Commonwealth Government Bonds



This reduction in revenue has the potential to cause significant price fluctuations in future periods as the rate of return outlook improves in AA6.

Ordinarily, decisions around the time frame for recovery of deferred revenue would be made by the ERA as part of the AA determination process. To provide certainty for Western Power and its customers, Western Power will be given scope to bring forward the recovery of deferred revenue, provided there are no increases in any of their tariffs from the last year of AA4.

Table 6: Summary of changes to deferred revenue recovery

Item	Section	Description of change
Determination of deferred revenue amount to be recovered	6.5D	<p>Clause 6.5D provides that the ERA determines how much of the deferred revenue amount can be added to target revenue in a given Access Arrangement period. The amended clause provides that the ERA must accept Western Power’s proposal for the amount to be recovered as long as Western Power can reasonably demonstrate that:</p> <ul style="list-style-type: none"> the amount proposed to be recovered will not result in any individual reference tariff increasing compared to the last year of the previous Access Arrangement period (if there was an equivalent reference tariff in the previous Access Arrangement period); and the overall forecast average annual revenue to be recovered in the new Access Arrangement period (across all tariffs) will not exceed the overall average annual revenue recovered in the preceding period.

4. Minor amendments

Minor amendments related to the general process for public consultation, excess network usage charges and stand-alone power systems are outlined in Table 6 and summarised below.

4.1 Public consultation process

The Access Code changes gazetted on 18 September 2020 included making the development of a number of guidelines required by the Access Code subject to Appendix 7. Appendix 7 outlines the general process for public consultation. The current limits in Appendix 7 are a maximum of 20 days for stakeholder consultation, 2 months to publish a draft decision (after consultation) and 6 weeks to publish a final decision (after consultation).

In previous feedback received on the Access Code, stakeholders have commented they would like more explanation of new facilities investment test (NFIT) decisions. On reflection, it is apparent that the process outlined in Appendix 7 is too rigid to capture the level of consultation and consideration of that feedback for developing guidelines, particularly in relation to potentially complex guidelines (like those required for the NFIT under section 6.52). Some examples where timing issues may arise include:

- stakeholders may require more than 20 business days to be able to make meaningful submissions on issues papers and draft documents;
- the ERA may need more than 2 months to consider the issues raised by stakeholders; and
- the ERA may need more than an issues paper and draft decision to communicate its views and consult.

It is proposed that deadlines can be extended if the ERA has taken all reasonable steps to complete the work on time.

Table 7: Summary of minor amendments

Item	Section	Description of change
Application of Appendix 7 to Technical Rules change management procedure	12.54	<p>Section 12.54 provides that when the ERA consults in respect of amendments to the technical rules, certain provisions of Appendix 7 do not apply. Amendments have been made to clause 12.54(a) to reflect the amendments to Appendix 7:</p> <ul style="list-style-type: none"> • references to A7.9(b) and A7.17(b) have been deleted, as these provisions have been deleted from Appendix 7; and • references to A7.23 and A7.24 (see below) have been added so that they do not apply to the technical rules change management process, in light of section 12.54A only providing a “reasonable endeavours” obligation to make a decision within 150 business days (meaning there is no need for an ability for the ERA to extend this timeframe, given there is not a firm obligation to meet the timeframe).
Maximum timeframe for consultation removed	A7.9(b), A7.17(b)	<p>A7.9(b) and A7.17(b) previously provided that the maximum timeframe that a decision maker could allow for the making of public submissions was 20 business days.</p> <p>This may not be sufficient time for stakeholders to make meaningful submissions, so this maximum has been removed.</p>

Right to undertake additional consultation	A7.22	This clause provides that a decision maker may undertake additional consultation if required (rather than a maximum of two rounds of consultation).
Extension of deadlines	A7.23, A7.24	In some cases a decision maker may need additional time to make a decision than what is provided for in Appendix 7. These provisions allow a decision maker to extend a time limit, but only if the decision maker reasonably determines that a longer period of time is essential, and the decision maker has taken all reasonable steps to fully utilise the times and processes otherwise allowed for in Appendix 7. A decision maker must also publish notice of, and reasons for, its decision to extend a time limit.

4.2 Excess network usage charges

Currently the Access Code requires tariffs to be set by reference to the service provider's costs. While generally a key principle underpinning economic regulation, this principle creates difficulty when designing tariffs to apply where a user exceeds its contractual entitlements.

A user exceeding its contractual entitlements may result in interruptions in supply to customers or curtailments of the output of generators. Often the service provider will incur no additional cost or minimal additional cost if a contractual entitlement is exceeded. The complexity is that sometimes exceeding entitlements may have no system or cost impact and in other circumstances it may have very significant impact.

The purpose of an excess network usage charge is to provide a disincentive to a user engaging in this behaviour and giving rise to negative system-wide impacts. A tariff which is merely cost based may not provide sufficient disincentive.

In competitive markets the use of higher charges to discourage users/customers exceeding their contractual entitlements is common. These charges are not set by reference to cost but by reference to providing an appropriate incentive to encourage compliance with contractual requirements. In the industry most analogous to electricity (being the gas industry) such charges are described as overrun charges.

It is worth noting that for other Australian electricity networks:

- some distribution entities such as Energex and SA Power Networks have specific excess usage charges; and
- for transmission, the Australian Energy Regulator's Pricing Methodology Guidelines allow businesses to impose a penalty where shared network service charges are calculated based on the user's Contract Agreed Maximum Demand (as set out in the contract) and where that Contract Agreed Maximum Demand is exceeded.

Clause 7.3K has been added to the Access Code to make it clear that reference tariffs can include a component that disincentivises customers from exceeding their contractual entitlement. Clause 7.3L limits the application of such a component to customers who consume or use more than 1 MVA.

The effective use of such disincentives is in the interests of all users as it assists in preserving power system reliability and reduces the risk that one user's actions may adversely affect a second user.

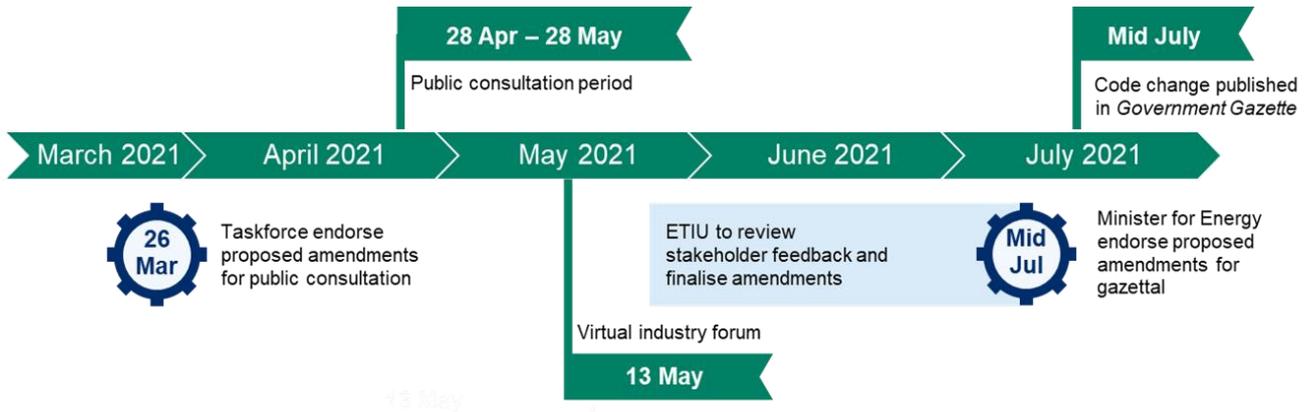
Table 8: Summary of minor amendments

Item	Section	Description of change
<p>Right to set excess network usage charges to be a disincentive</p>	<p>7.3K</p>	<p>This clause confirms that notwithstanding the pricing principles in sections 7.3D to 7.3H, which generally require tariffs to be set by reference to the service provider's costs, excess network usage charges are to be set at a level to act as a disincentive to users exceeding their contractual entitlements to transfer electricity into or out of the network.</p> <p>In doing so, regard must be had to the potential adverse impact on the network, other users and the service provider of the user exceeding its contractual entitlements.</p>
<p>Exception for small end use customers</p>	<p>7.3L</p>	<p>This clause provides that the excess network usage charges determined under clause 7.3K cannot apply to end use customers with a contract maximum demand of 1 MVA or less, or with a solar photovoltaic generator having a capacity of [1] MVA or less.</p>

5. Next steps

Figure 5 outlines the implementation timeframes. As outlined in section 1.3, this consultation period will run for four weeks until 28 May 2021, with feedback able to be provided in one-on-one meetings or via a written submission.

Figure 5. Proposed implementation timeframes



It is anticipated that a stakeholder submissions summary paper will be released prior to the proposed amendments proceeding to the Minister for Energy for approval.

The intent is to have the changes gazetted by the end of June 2021, prior to the start of the AA5 process.

Attachment A – Draft Access Code

Attachment B – Draft Electricity Transfer Access Contract

Attachment C – Draft Applications and Queuing Policy

Attachment D – Draft Contributions Policy