ELECTRICITY INDUSTRY ACT 2004

ELECTRICITY NETWORKS ACCESS CODE AMENDMENTS (No. 2) 2007

I, Francis Logan, Minister for Energy for the State of Western Australia, hereby amend the Electricity Networks Access Code 2004 established under section 104(1) of the Electricity Industry Act 2004.

Dated at Perth this 24th day of August 2007.

FRANCIS LOGAN.

Made by the Minister.

1. Citation

These amendments may be cited as the Electricity Networks Access Code Amendments (No. 2) 2007.

2. Commencement

These amendments come into operation on the date on which they are published in the Gazette.

3. The Electricity Networks Access Code amended

These amendments are to the Electricity Networks Access Code 2004*.

[*Published in Gazette 30 November 2004, p. 5517-5700
For amendments to 29 June 2007 see Gazettes—
No 207 of 8 November 2005;
No 59 of 31 March 2006;
No 152 of 1 September 2006;
No 206 of 8 December 2006; and
No 137 of 29 June 2007.]

4. Sections 2.4A and 2.4B inserted

Insert the following new sections after the heading “Freedom to contract” and before section 2.5—

“2.4A Subject to this Code and to—

(a) an applications and queuing policy in an access arrangement; and
(b) the ringfencing objectives and any ringfencing rules approved for a network by the Authority under Chapter 13; and
(c) any applicable technical rules,

a service provider (including Electricity Networks Corporation) and a user or applicant may negotiate regarding, and may make and implement, an access contract for access to any service (including a service which differs from a reference service) on any terms (including terms which differ from a standard access contract).

(Note: This provision confirms the Code’s central emphasis on negotiated outcomes. The express reference to Electricity Networks Corporation confirms that such negotiation and agreement is within its functions under section 41(b) of the Electricity Corporations Act 2005.)
2.4B Section 2.4A does not—
   (a) permit a service provider, user or applicant to do anything which a written law prohibits; or
   (b) by implication limit the rights, powers or obligations of a service provider, user or applicant.

5. New clause A8.20 inserted in Appendix 8
In Appendix 8, insert the following heading and clause after clause A8.19—

"If required augmentation comprises more than just an Appendix 8 augmentation
A8.20 To avoid doubt, if a required augmentation comprises one or more Appendix 8 augmentations and one or more other augmentations, then unless the service provider and the contributing user agree otherwise—
   (a) references in the Code to “required augmentation” are to the Appendix 8 augmentations and the other augmentations collectively; and
   (b) without limiting clause A8.20(a), for the purposes of section 2.9 of the Code the service provider is not required to undertake and fund the required augmentation unless required to do so under both section 2.9(a) for the Appendix 8 augmentations and section 2.9(b) for the other augmentations.
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