

Top Up And Spill – New Regime in Place

The new Top Up and Spill arrangements (TUAS) became effective from 25 June 2004. This long awaited implementation of the new Top Up and Spill regime represents another milestone in the reform implementation process.

The last edition of *Electricity Reform News* announced that the new TUAS arrangements would be implemented in May.

To ensure industry was provided sufficient time to input into the proposed arrangements, prior to implementation of the TUAS Code, this timeframe was extended.

TUAS plays an important role in improving arrangements for balancing generation and customer demand for Independent Power Producers (IPP). The previous balancing arrangements were widely criticised for being cumbersome, expensive and unnecessarily strict.

Renewable energy generators, which typically require greater use of balancing, have been particularly adversely affected by the current arrangements.

The new TUAS regime will provide an important step towards the wholesale electricity market. It has been designed to have as much similarity as possible with future balancing arrangements by, amongst other things, having a balancing and trading component. TUAS will also be important in ensuring that the potential benefits of the reduced contestability level from January 2005 can be realised by IPPs and smaller customers.

Energy Minister Eric Ripper said the new rules – a key part of the Gallop Government's electricity industry reforms – would open up more opportunities for renewable energy to be sold into the State electricity grid.

"The State Government wants to see more renewable energy projects in WA using wind and solar resources as well as waste material and we want to tear down the structural barriers in their way," said Minister Ripper.

"We have taken every step possible to boost the renewable energy industry within the constraint of Western Power remaining a vertically integrated monopoly."

Mr Ripper continued to say that there would be even more opportunities for green energy producers if the Government could win Legislative Council support for the rest of its electricity market reforms, blocked by the Greens and Liberals.

A copy of the TUAS rules are available on the Office of Energy's Electricity Reform Implementation Unit's website www.eriu.energy.wa.gov.au



Electricity Legislation Amendment Bill

As reported in an earlier issue of *Electricity Reform News*, The *Electricity Legislation (Amendments and Transitional Provisions Bill) 2003* was one of three Bills introduced by the Government in November 2003 to restructure the Western Australian electricity industry.

The first Bill, the *Electricity Industry Bill* was passed as an Act of Parliament in April 2004. The second Bill, the *Electricity Corporations Bill 2003* has been suspended following the opposition by the Coalition and the Greens to the restructure of Western Power.

The third Bill, the *Electricity Legislation (Amendments and Transitional Provisions Bill) 2003* is currently before the Legislative Council. This bill provides for a number of transitional provisions and amendments to several Acts as a result of the previously proposed restructure of Western Power and the new market arrangements provided for under the *Electricity Industry Act 2004*.

Given that the restructure of Western Power will not proceed at the present time, the *Electricity Legislation (Amendments and Transitional Provisions Bill) 2003* needs to be amended to remove those provisions relating to the restructure.

Amendments to the *Electricity Legislation (Amendments and Transitional Provisions Bill) 2003* are to be introduced into the Legislative Council this month. These amendments will remove the former provisions relating to the restructure of Western Power and provide for a number of new provisions, which allow for greater governance of the Corporation by the State Government. A number of provisions which previously recognised the new market arrangements under the *Electricity Industry Act 2004* remain unchanged.

The *Electricity Legislation (Amendments and Transitional Provisions Bill) 2003* has now been retitled the *Electricity Legislation Amendment Bill 2004* (ELAB).

ELAB, amongst other matters, provides for:

- the transition of the new license regime contained within the *Electricity Industry Act 2004*;
- the transition of access arrangements under the *Electricity Corporation Act 1994* to the new access code access arrangements under the *Electricity Industry Act 2004*;
- the Minister for Energy to repeal Western Power's procurement of new generation obligations under Schedule 7 of the *Electricity Corporation Act 1994* provided the Minister is satisfied that Western Power's current procurement process has been completed or a wholesale electricity market has been established; and
- the State Ombudsman to undertake the role of Electricity Ombudsman.

In view of the restructure of Western Power being suspended, the Government proposes to introduce amendments to the *Electricity Corporation Act 1994* to provide for greater Government control of the Corporation. These new amendments provide for the:

- ministerial powers of direction by the Minister for Energy;
- making of regulations to provide for greater ring-fencing of arrangements between the various operations of the Corporation; and
- current annual reporting requirements to reflect the current operational structure.

Customer Choice

From January 2005, small businesses such as a small corner shop, will be able to choose their electricity supplier.

The term *Contestable* is used to describe a customer who can choose to obtain their power from any retailer.

This contestability threshold will fall to 5.7kWh on 1 January 2005. This means customers with an electricity bill of between \$8,000 and \$25,000 will be able to choose their retailer.

There are approximately 10,000 contestable customers in this category.

The Government is committed to the establishment of a competitive electricity industry in Western Australia. Providing customers with the right to choose their retailer is one of the significant changes being introduced by Government.

Currently, only large customers with power consumption above 300MWh per annum can choose their supplier.

Contestable customers will be able to seek alternative and more attractive terms and conditions from retailers competing to supply power.

Competition between retailers means a consumer will be able to choose the price and service package that best suits his/her needs.

For example, if a consumer is interested in "green" or environmentally friendly power, or want to consider purchasing both gas and electricity from the same retailer, then contestability will enable the consumer to shop around for retailers who provide those packages.

Western Power and the Office of Energy have commenced preparation for the reduced contestability threshold. Work includes developing customer transfer rules, management of customer information and consumer protections.

Further information will become available for all contestable consumers.

Small customers below the 5.7 kWh threshold will remain a franchise customer of Western Power. A decision by the Government on full retail contestability is some years off pending establishment of the wholesale market for the South West Interconnected System.

Public Consultation on Access Code yields Valuable Input from Industry

Public consultation on the draft Western Australian Electricity Networks Access Code 2004 closed on 14 May 2004. The Access Code is planned to become effective in the third quarter of 2004.

The commencement of the Code will be a major milestone in the implementation of the Government's electricity reform agenda. The Code will establish a new framework for the independent regulation of third party access to covered electricity networks within Western Australia. The Code will also support the establishment of a competitive electricity wholesale market for the South West Interconnected System.



Following the public consultation process, the Office of Energy's Electricity Reform Implementation Unit (ERIU) continues to work closely with industry and Government stakeholders to ensure the final Code will deliver a mechanism for the effective and efficient regulation of electricity networks.

Positive results from public consultation

In keeping with its commitment to stakeholder participation, the ERIU recently embarked on a six-week public consultation process that concluded on 14 May 2004. As part of this process, a public forum was held on 4 May 2004.

The results of this public consultation initiative will complement the extensive input already provided by stakeholders through the Access Code Development Committee since the Access Code drafting process commenced back in November 2003.

"We have received some very useful feedback," said Mr Steve Edwell, Electricity Reform Implementation Unit Executive Director. "All the comments will be given thorough consideration in finalising the Access Code."

Stakeholder comments point out key areas of interest

One of the elements of the Access Code that has generated stakeholders' interest is the inclusion of an appendix detailing a Model Access Contract.

This is an innovative aspect of the Access Code. The service provider is required to include a standard access contract in its proposed access arrangement. If the service provider adopts the Model Access Contract, this element of the access arrangement will receive automatic approval by the regulator.

Another feature of the Access Code is the application of the Regulatory Test to proposed network capital investments in excess of \$15 million.

To satisfy the test, and consequently be able to include the proposed network investment in the capital base, the service provider must demonstrate that it has assessed the benefits of the proposed investment against alternative options, such as demand side solutions or generation projects.

Stakeholders have also shown interest in the requirement for operators of covered networks and certain non-covered networks to develop and abide by a set of Technical Rules. The Technical Rules will ensure the safe operation of the networks and the delivery of reference services to the standards required by law.

It is proposed that only Western Power's components of the South West Interconnected System will be covered (that is, regulated) from the outset of the new regulatory framework. However, any person may seek coverage of a network by applying to the Minister for Energy. A clear criteria governs the Minister's assessment of whether coverage is justified.

Next steps: finalisation and certification

The ERIU, through the Access Code Development Committee (ACDC), is considering the submissions received and finalising the Access Code with a view to making the Access Code effective in the third quarter of 2004.

The Western Australian Government intends to seek certification of the Access Code as an effective access regime under Part IIIA of the *Trade Practices Act 1974* from the National Competition Council.

"It is important that we secure certification," said Mr Edwell. "Without it WA electricity networks could be declared as providing an 'essential service', in which case the networks would potentially be subject to regulation by the Australian Competition and Consumer Commission, instead of the Western Australian Economic Regulation Authority."

The ERIU has already held a number of informal discussions on certification with the National Competition Council, which publicly stated its support of the electricity reform process and the development of an access regime in Western Australia at the public forum held on 4 May 2004. The Council, however, will need to undertake its own process on certification.

More information

For more information on the outcomes of the public consultation, visit the ERIU website: www.eri.energy.gov.au



Electricity Reform Implementation Unit Website

Progress reports, newsletters and exposure drafts of legislation, market rules and the access code are regularly published on the website.

Public release of exposure drafts and position papers on aspects of the reform, including the access code and market rules will ensure that all interested parties have the opportunity to provide detailed comments on various parts of the electricity reform process.

In addition to having an opportunity to provide input into exposure drafts and position papers, workshops and forums are held on an ad hoc basis. Details of these events will also be on the ERIU website.

The ERIU website address is www.eriu.energy.wa.gov.au

STAKEHOLDER REGISTER

Interested parties are invited to lodge their expression of interest by contacting the Project Management and Stakeholder Coordinator, Ms Annette Watkins.

When submitting an interest, please provide your details, including:

- company name;
- contact person;
- telephone number;
- facsimile number; and
- email address.

Please advise the topics that are of particular interest to allow the ERIU to target its distribution of information.

To submit an interest, please address it to:

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