



Government of Western Australia
Department of Mines, Industry Regulation and Safety
Energy Policy WA

Proposed Changes to the Electricity Networks Access Code – Priority Projects

Consultation Paper
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Working together for a **brighter** energy future.

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Glossary

Term	Definition
Access Code	Electricity Networks Access Code 2004
EPWA	Energy Policy WA
ERA	Economic Regulation Authority
NFIT	New facilities investment test
SWIS	South West Interconnected System
WEM	Wholesale Electricity Market
WOSP	Whole of System Plan

1. Introduction

1.1 Background

The energy transformation is continuing at a rapid pace, driven by ongoing installation of small-scale and utility-scale renewable technology, as well as efforts by industry to decarbonise and the State Government's ambitions to achieve net zero greenhouse gas emissions by 2050.

The pace of change is significant – in the previous 12 months, the outlook for electricity demand and supply in the South West Interconnected System (SWIS) has changed materially in light of public commitments from industry, and announcements from the State Government regarding emissions reduction targets, the retirement of the State-owned coal-fired generation fleet and new generation and storage investments.

In this context, a Department of Treasury-led Taskforce has undertaken a [SWIS Demand Assessment](#) in order to assess the future energy needs of the SWIS. In its findings, the SWIS Demand Assessment identifies significant and urgent network infrastructure investments required to support the reliability and security of the power system and meet future low-emissions electricity demand.

The *Electricity Networks Access Code 2004* (Access Code) sets-out the requirements for the regulation of covered networks in Western Australia, which includes the Western Power network underpinning the SWIS.

Changes to the Access Code are now required to ensure that the regulation of Western Power can facilitate critical, priority transmission investments in a timely manner, which will support the connection of new renewable generators and storage, and maintain power system security and reliability at the lowest overall cost to electricity users.

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.

The publication of this paper, with the drafted amendments provided at **Appendix A**, addresses this consultation requirement. This paper outlines the rationale and intent of the proposed Access Code amendments, and seeks submissions from industry participants and members of the public.

1.3 Making a submission

Energy Policy WA (EPWA), on behalf of the Minister for Energy, is seeking feedback from interested parties on the proposed Access Code amendments by **5:00pm (AWST) on Friday, 4 August 2023**.

Submissions can be submitted to EPWA-Submissions@dmirs.wa.gov.au or posted to Energy Policy WA at Locked Bag 11, Cloisters Square, WA 6850.

In order to promote transparency, submissions will be made publicly available on the wa.gov.au website. Stakeholders should clearly specify if the information they provide is confidential, and where possible, 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 EPWA in respect to the release of documents.

2. Current arrangements

Western Power (as well as any other ‘covered network’¹) is regulated under the Access Code with the purpose of meeting the Access Code objective² – to promote efficient investment in, and operation and use of, network services for the long-term interests of consumers.

The Access Code outlines the range of requirements that covered networks must meet, and steps out the process and assessments through which the Economic Regulation Authority (ERA) must regulate those networks.

2.1 The regulatory test

A key element of the regulation of covered networks relates to the ‘regulatory test’ for network investments.³ The test is an assessment made by the ERA to determine whether a proposed major network augmentation maximises the net benefits to those who generate, transport and consume electricity on the network.

This test helps to ensure that any major network investments are needed, of an appropriate size, and made at the appropriate time to meet the needs of network users.

The ERA is also permitted to waive the regulatory test under certain conditions.⁴

Once a project is determined to meet the regulatory test requirements, the costs associated with the project are subject to review under the ‘new facilities investment test’ (NFIT).⁵ The NFIT is applied by the regulator to ensure the cost of making the investment does not exceed that which would have been made by a service provider efficiently minimising its costs. Expenditure that meets the NFIT may be added to the network’s capital base and the related costs can be recovered from network users.

2.2 Introduction of Priority Projects

In September 2020, changes to the Access Code were introduced by the Minister for Energy to reflect the new whole of system planning approach implemented through the Whole of System Plan (WOSP), implemented as part of the State Government’s Energy Transformation Strategy. The requirement for development of a WOSP is primarily empowered by the Wholesale Electricity Market (WEM) Rules, but is also defined in the Access Code.⁶

The WOSP presents a 20-year system-wide view of the development of the SWIS to maintain power system security and reliability, at the lowest sustainable cost, across multiple demand growth scenarios. The modelling is required to test alternative scenarios and sensitivities, identify investment options to minimise costs to consumers, and “identify optimal network investment options”.⁷

The Coordinator of Energy is required to produce a WOSP by 30 September 2025 and then at least once every five years thereafter. In developing a WOSP, the Coordinator of Energy must also invite interested persons to make submissions on a draft WOSP, prior to final publication.

¹ Section 3.1 of the Access Code

² Section 2.1

³ Section 9.3

⁴ Section 9.23

⁵ Section 6.52

⁶ WEM Rule 4.5A, and section 1.3 of the Access Code

⁷ WEM Rule 4.5A.6(d)

The introduction of a regular, formalised WOSP process (which has specific regard for optimal network investments) presented an opportunity to streamline the regulatory test for new projects found to be of critical whole-of-system importance.

In producing modelling to meet demand at the lowest cost, the WOSP performs a similar function of the regulatory test in identifying network augmentation that maximises net benefits to users. In its consideration of the long-term generation needs of the SWIS, the WOSP is also able to identify network projects that present significant systemic benefits that may not have previously been quantified through the historical application of the regulatory test.

Reflecting this opportunity, the Access Code was amended in 2020 to allow any network investments found to be necessary in a WOSP to be specified a 'Priority Project'.⁸

Given the comprehensive process through which Priority Projects were identified as part of the WOSP, it was not reasonable for the ERA to retest the prudence of undertaking such projects. As such, the Access Code was amended so that a Priority Project network investment would not be subject to the regulatory test. However, in order to ensure that users of the network only incur efficient expenditure relating to these investments, the ERA was still required to assess the efficiency of unit costs relating to Priority Projects for the purposes of the NFIT.

For network investments that are not deemed a Priority Project, the WOSP can still be used to inform the ERA's regulatory test.

As a result, the efficient unit costs of Priority Projects identified in a WOSP can be added to Western Power's regulated asset base and recovered through regulated network tariffs.

3. The case for change

While the next WOSP is required to be completed by 30 September 2025, the State Government identified a pressing need to assess the ability of the power system and network to support a range of new information – including industry announcements regarding decarbonisation targets, the retirement of State-owned coal-fired generation fleet, and the State Government's commitment to achieve net zero greenhouse gas emissions by 2050.

The 2023 [SWIS Demand Assessment](#) is an initial assessment of potential future electricity demand required over the next 20 years to meet industry and Government commitments to reduce greenhouse gas emissions. It was undertaken by a Department of Treasury-led Taskforce and incorporated input from industry stakeholders and various Government entities.

The SWIS Demand Assessment is an extension of the WOSP, applying modelling that builds upon the WOSP framework (which considers demand scenarios based on existing electricity users) to assess the potential growth of large-scale energy needs and infrastructure needed to meet this future demand.

3.1 SWIS Demand Assessment network requirements

The SWIS Demand Assessment findings identified significant and critical network investments, which are needed to:

- support industry ambitions to decarbonise;
- achieve the State's economic development goals and net zero emissions by 2050 target;
- support coal-fired generation retirements; and
- establish emerging green industries, including renewable hydrogen.

⁸ WEM Rule 4.5A.14(g)

For example, the anticipated growth in demand for electricity (supported by the electrification of many industries), and the connection of significant amounts of large-scale renewable generation, will require significant increases in the capacity of the transmission network.

The SWIS Demand Assessment identifies specific transmission network builds in the northern, central, southern, and eastern corridors of the SWIS, to be delivered in stages over the coming decades and as soon as 2027.

3.2 Access Code amendments are required

Transmission network projects take several years to plan, build, and commission.

Western Power has already commenced preparatory planning work, but project investment decisions are required as soon as possible to meet the network needs and timeframes identified in the SWIS Demand Assessment.

The risks of not commencing these transmission projects in a timely manner are significant – they include compromising the security and reliability of the power system, and increasing overall costs for consumers over the medium- and long-term.

However, in order to undertake network investments identified to be of critical importance as soon as possible, Western Power requires regulatory certainty that the efficient costs of these projects can be recovered. Under the existing Access Code requirements, Western Power would be required to submit a proposal ‘major network augmentation’ proposal to the ERA (which would then make an assessment under the regulatory test) **prior** to making a commitment to progress with the project.

In the context of rapid changes to the power system, and the essential role the Western Power network will play in facilitating consumer, industry, and Government priorities, the Access Code requires amendment to be made appropriately flexible and responsive.

A WOSP must be published at least every five years; however, the materiality of the changes to generation and demand outlooks experienced within three years of the inaugural *2020 Whole of System Plan* illustrates a need for greater flexibility in the Access Code in interim periods.

The proposed amendments below are required to ensure critical projects can be commenced and progressed as quickly as possible, under the condition that undertaking the project meets the Access Code objective.

4. Proposed amendments

The proposed amendments to the Access Code are comprised of two parts:

1. Expanding the definition of a Priority Project in section 1.3 to include projects specified in a “priority project determination” made by the Minister for Energy; and
2. Establishing a “priority project determination” in sections 1.3 and 15.1A, and requiring the Minister for Energy to provide reasons for such a determination in section 15.1A.

Definition of a Priority Project

The proposed drafting expands on the definition of a ‘Priority Project’ to include “a project that is specified as a priority project in a ‘priority project determination’”.

The existing use of a ‘Priority Project’ (i.e. “a project specified as a priority project in a whole of system plan”) will be retained.

Table 1 - Priority Project Definition

Section	Proposed amendment
Section 1.3	Expand the definition of 'priority project' to also mean "a project that is specified as a priority project in a 'priority project determination'."
Section 1.3	Add a definition for a 'priority project determination', to mean "a determination made by the Minister for Energy under section 15.1A."

Ministerial Priority Project Determination

The proposed drafting also amends Chapter 15, which outlines the determinations that may be made by the Minister for Energy.

The proposed amendment will permit the Minister for Energy to make a determination that a project is a "priority project". The Minister must publish a determination in the *Government Gazette*.

Importantly, the Minister must also, at the time of making a determination, publish the reasons for the determination.

'Reasons' is a defined term in the Access Code, and involves a requirement to include the following information:

- findings relied on by the decision-maker in reaching the decision;
- reference to the evidence on which these findings are based; and
- identification of the steps in the decision-making process, explanation of the links between findings and the final decision, and a description of the role of policy in making the decision.

For greater transparency, and in order to emphasise the central importance of promoting the long-term interests of consumers, the proposed amendments include additional requirements of the Minister for Energy to outline how a priority project determination meets the Access Code objective.

Table 2 - Priority Project Determination

Section	Proposed amendment
Section 15.1A	Insert a new clause to permit the Minister to make a determination that a project is a 'priority project'.
Section 15.2	Require that a priority project determination is published in the <i>Government Gazette</i> .
Section 15.2A	Require the Minister to, at the time of making a determination, publish the reasons for the determination and how the determination meets the Access Code objective.

The above changes are given effect through the proposed drafting, shown in tracked changes in Appendix A to this document.

Appendices

Appendix A. Proposed amendments to the Access Code

Proposed draft amendments are presented below in tracked changes:

Chapter 1 – Introductory

Definitions

1.3 In this Code, unless the contrary intention appears:

...

“priority project” means:

(a) _____ a project specified as a priority project in a *whole of system plan*; or¹⁰⁸

(b) _____ a project specified as a priority project in a *priority project determination*.

(a) “priority project determination” means a determination made by the Minister under section 15.1A.

Chapter 15 – Transitional

Minister may make determinations

15.1 The Minister may determine, after consultation with affected parties, how any matter in progress immediately before the commencement of Part 8 of the Act is to be treated, after that commencement, for the purposes of the provisions of the *Code*.

15.1A The Minister may determine that a project is a *priority project* for the purposes of the provisions of the *Code*.

15.2 The Minister must *publish* a determination made under section 15.1 or section 15.1A in the Gazette.

15.2A At the time of *publishing a priority project determination* the Minister must also *publish the reasons for the priority project determination, including the basis on which the Minister considers that the priority project determination meets the Code objective.*

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