

Re: Application for review of the decision by the Economic Regulation Authority for:

- (a) amendment to the Technical Rules submitted in April 2016 and titled "Normal Cyclic Rating (NCR) Criterion", and;
- (b) exemption from compliance with the Technical Rules clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion dated 15 May 2015.

Application by:

STEPHEN DAVIDSON

Applicant

APPLICATION FOR REVIEW

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Filed on behalf of The Applicant

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Pursuant to Chapter 10 of the *Electricity Networks Access Code 2004 (the Code)* the Applicant applies for review of the decision (**Decision 1**) made in November 2016 by the Economic Regulation Authority (**Authority**) and placed on the public register kept by the Code Registrar under the Code on or about 9 November 2016 whereby the Authority approved the proposed revised wording of the Normal Cyclic Rating (**NCR**) criterion submitted by Western Power Corporation on 1 April 2016 under section 12.50 of the Code – changing the wording of the Normal Cycling Rating criterion which outlines the permissible level of power loss following the unplanned loss of a supply transformer at a substation, and (related);

Pursuant to Chapter 10 of the *Electricity Networks Access Code 2004 (the Code)* the Applicant applies for review of the decision (**Decision 2**) made in July 2015 by the Economic Regulation Authority (**Authority**) and placed on the public register kept by the Code Registrar under the Code on or about 20 July 2015 whereby the Authority approved the exemption from compliance with the Technical Rules clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion submitted by Western Power Corporation on 15 May 2015 under section 12.40 of the Code – approving for Western Power to be exempt from compliance with clause 2.5.4(b) of the Technical Rules at the Meadow Springs Zone Substation.

The application seeks the following final orders: -

1. The Decision 1 and Decision 2 (**Decisions**) of the Authority be set aside or varied to give effect to the matters asserted in the grounds for this application.
2. Further or alternatively the Electricity Review Board to draft and approve the original wording of the Technical Rules clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion to give effect to the matters asserted in this application.
3. Further or alternatively, the Electricity Review Board to establish the total amount and timing of the Capital Expenditures (**CAPEX**) Western Power spent since the commencement of the first Access Arrangement, on zone substations by not applying the original wording of the Technical Rules clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion. This includes expenditures on Meadow Springs and, if applicable, Mandurah zone substations mentioned in Decision 2, the aggregate cost of which was estimated to be \$37M (10+27).
4. Further or alternatively, the Electricity Review Board to remove from the Regulated Asset Base (**RAB**) the CAPEX amount(s) of Item 3 here to give effect to the matters asserted in the grounds for this application.
5. Further or alternatively, the Electricity Review Board to make the adjustments consequential to any order under Item 4 here, for Western Power to effectively pay back for any returns it received from inclusion of the CAPEX of Item 3 into the RAB to give effect to the matters asserted in the grounds for this application.
6. Further or alternatively, the Electricity Review Board to investigate whether the actions of Western Power and the Authority asserted in the grounds for this application amount to just a coincidence, cooperation or collusion, as well as what was the motive and intent.
7. Such further or other orders as may be appropriate.

The grounds for this application are annexed.

Applicant



GROUNDS

The two Decisions are interrelated as Decision 1 was largely made by relying on Decision 2. Both Decisions comprise one whole, as is described below.

Background

Technical

The fundamental engineering problem of concern in Technical Rules clause 2.5.4(b) is how much load is permissible to be lost (following the unplanned outage of a single transformer), before a decision is made to install a new transformer in the zone substation.

Financial

The cost of installing a new transformer in the zone substation varies between \$10M and \$27M. There are about one hundred zone substations in the Perth metropolitan area, each of which typically have two or three transformers. This illustrates the multi billion dollars significance of clause 2.5.4(b) in terms of CAPEX allocation; it articulates the rationale for having just two spare transformers for the Perth metropolitan area rather than one hundred spare transformers (one in each zone substation).

Societal

The issue raised here is important and urgent. It is important because it adversely affects Western Australian industrial competitiveness and consumer welfare, which is job and living standards. It is urgent because the current Access Arrangement expires on 30 June 2017 and the regulatory financial adjustments are made effective on that day.

Decision 1 - Amendment to change the wording of Technical Rules clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion

1. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving amendment to the Technical Rules dated 31 March 2016, submitted to the Authority on 1 April 2016 and titled "Normal cyclic rating (NCR) amendment" by substantially relying on the inappropriate, for the purpose of changing the Technical Rules, assertion by Western Power that the existing wording of clause 2.5.4(b) was ambiguous whereas the (original)

wording of clause 2.5.4(b) was unambiguous and did not allow the room for different interpretations.

For completeness, the whole (original) clause 2.5.4 Zone Substations is quoted next, inclusive of the explanatory box¹:

2.5.4 Zone Substations

2.5.4(a) The 1% Risk Criterion

The 1% risk criterion permits the loss of a supply to that portion of a substation's peak load that is demanded up to 1% time in a year (87 hours) following the unplanned outage of a supply transformer in that substation.

2.5.4(b) Normal Cyclic Rating (NCR) Criterion

- (1) *The NCR risk criterion permits the loss of a portion of power transfer capacity at a substation following the unplanned loss of a supply transformer within that substation.*
- (2) *The portion of the power transfer capacity that may be lost is the lesser of:*
 - (A) *75% of the power transfer capacity of the smallest supply transformer within the substation; and*
 - (B) *90% of the power transfer capacity of the rapid response spare supply transformer."*

"Relationship between 1% Risk criterion and NCR criterion is explained below:

1. *Zone substations require special consideration as they form the boundary between the transmission system and the distribution system. The 1% Risk Criterion and NCR Criterion permit higher supply transformer utilisation than that permitted by the N-1 criterion, but lower than that permitted by the N-0 criterion.*
2. *The 1% Risk and NCR criteria are based on sharing a common spare supply transformer among a population of supply transformers across a number of zone substations within a geographically confined area. A trade off is the risk of limited load shedding for as long as it takes to deploy and install a spare supply transformer. The acceptance of this risk determines the application of these two criteria."*

¹ Western Power, "Technical Rules", Approved by Economic Regulation Authority, effective from 23 December 2011, p.27, explanatory box, end clause 2.5.4.

The regulatory precision of clause 2.5.4 Zone Substations is noted, sharp and clear thoughts and words focused on substance. For example, the explanatory box complements the wording of the clause, by outlining its rationale and puts it into the perspective of the other two planning criteria (“N-0” and “N-1”). For these reasons, the actual wording of clause 2.5.4 and the explanatory box comprise one whole and must be interpreted as a whole, which the Authority failed to do (Western Power too).

2. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving amendment to the Technical Rules dated 31 March 2016, submitted to the Authority on 1 April 2016 and titled “Normal cyclic rating (NCR) amendment” by substantially relying on the inappropriate, for the purpose of changing the Technical Rules, assertion by Western Power that the purpose of the amendment was (only) to:

“Modify the clause to remove ambiguity in the interpretation of the normal cyclic rating (NCR) planning criteria².”

whereas the following amended wording of clause 2.5.4(b), as published by the Authority³ substantially changed its content and substance:

“2.5.4 Zone Substations

2.5.4(a) The 1% Risk Criterion

The 1% risk criterion permits the loss of a supply to that portion of a substation’s peak load that is demanded up to 1% time in a year (87 hours) following the unplanned outage of a supply transformer in that substation.

2.5.4(b) Normal Cyclic Rating (NCR) Criterion

(1) *The NCR risk criterion permits the loss of a portion of power transfer capacity at a substation following the unplanned loss of a supply transformer within that substation.*

(2) *The maximum power transfer at an NCR substation is 75% of the power transfer capacity of the substation, except that the total power transfer capacity lost shall not exceed 90% of the power transfer capacity of the rapid response spare capacity transformer.*”

² Western Power, “Submission to the Economic Regulation Authority for amendments to the Technical Rules, 2016 Part B”, Submission for Economic Regulation Authority, 31 March 2016, p.5, Table 1.

³ Economic Regulation Authority, “Western Power’s Proposed Amendments to the Technical Rules Submitted April 2016”, Final Decision, November 2016, p.7, Table 1, right column.

in a manner that considerably reduced the power transfer capacity of the NCR substations, by effectively permitting lower utilisation of power supply transformers than that permitted by the N-1 criterion. This reduction of the power transfer capacity has a significant adverse economic effect on Western Australia, of the order of hundreds of millions of dollars. For example, see Item 12 here.

3. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving amendment to the Technical Rules dated 31 March 2016, submitted to the Authority on 1 April 2016 and titled "Normal cyclic rating (NCR) amendment" by not considering neither the (original) wording of clause 2.5.4(b) (see Item 1 here) nor the following extract from the explanatory box at the end of clause 2.5.4 (see Item 1 here) of the Technical Rules which could be interpreted as explaining the intent of clause 2.5.4, including that of clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion:

"The 1% Risk Criterion and NCR Criterion permit higher *supply transformer* utilisation than that permitted by the N-1 criterion, but lower than that permitted by the N-0 criterion."

In the Applicant's opinion, this quote explains the essence of clause 2.5.4, including that of clause 2.5.4(b).

4. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving amendment to the Technical Rules dated 31 March 2016, submitted to the Authority on 1 April 2016 and titled "Normal cyclic rating (NCR) amendment" by substantially relying on the inappropriate, for the purpose of changing the Technical Rules, whereas the Authority's Decision 1, quoted in Item 2 here created an inconsistency between the wording of (amended) clause 2.5.4(b) and the (unamended) wording of the explanatory box at the end of clause 2.5.4, in particular with respect the quote in Item 3 here.
5. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving amendment to the Technical Rules dated 31 March 2016, submitted to the Authority on 1 April 2016 and titled "Normal cyclic rating (NCR) amendment" by substantially relying on the inappropriate, for the purpose of changing the Technical Rules, assertion by Western Power that the existing wording had been critically reviewed earlier:

“The preparation of the recent submission for a Technical Rules exemption for Meadow Springs [Zone Substation] works led to closer scrutiny of the NCR criterion clause in the Rules.”⁴

Reference to section on Decision 2 below shows that no scrutiny was applied neither by Western Power nor the Authority.

6. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving amendment to the Technical Rules dated 31 March 2016, submitted to the Authority on 1 April 2016 and titled “Normal cyclic rating (NCR) amendment” by substantially relying on the inappropriate, for the purpose of changing the Technical Rules, assertion by Western Power that the existing wording had been critically reviewed earlier by the Authority:

“On the basis of the ... feedback from the Authority’s technical consultant a more practicable wording for this Rule is being proposed.”⁵

In other words, Western Power’s substantial argument for changing the rule was the Authority’s advise (by the Authority’s technical consultant) to do so. This could be interpreted as the circular argument.

7. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving amendment to the Technical Rules dated 31 March 2016, submitted to the Authority on 1 April 2016 and titled “Normal cyclic rating (NCR) amendment” by substantially relying, without own independent verification, incorrect assertion by Western Power describing the benefit of the proposed amendment as:

“Defer investment by increasing the loading [SD: of transformers in zone substations].”⁶

That is explicitly stated in the Authority’s Issues Paper⁷:

⁴ Western Power, “Submission to the Economic Regulation Authority for amendments to the Technical Rules, 2016, Part B”, Submission for Economic Regulation Authority, 31 March 2016, p.7, Table 3.1.

⁵ Western Power, “Submission to the Economic Regulation Authority for amendments to the Technical Rules, 2016, Part B”, Submission for Economic Regulation Authority, 31 March 2016, p.7, Table 3.1, row labeled 2.

⁶ Western Power, “Submission to the Economic Regulation Authority for amendments to the Technical Rules, 2016, Part B”, Submission for Economic Regulation Authority, 31 March 2016, p.8, Table 3.1 (continued from p.7), row labeled 4.

“Western Power considers that its proposed amendment will deliver economic benefits to users because it will allow for the deferral of investment that would otherwise have been made in order to ensure compliance with limits which can be safely breached with the employment of efficient risk mitigation methods. Western Power proposes to employ the use of Rapid Response Spare Supply Transformers to mitigate the risks associated with amending the NCR risk criterion. Western Power points to the Authority’s determination on the Meadow Springs Substation exemption proposal, which was approved by the Authority ...”

8. Further, the proposed amendment to amend clause 2.5.4(b) Normal Cyclic Raring (NCR) Clause submitted by Western Power in April 2016 was not in good faith and was misleading because the full sentence of the Western Power’s argument of Item 7 here reads:

“Defer investment by increasing the loading against otherwise deterministic compliance limits, but limiting risk in cases where those limits are breached for short periods of time by deploying more efficient mitigation methods”.

whereas, no comparison (technical nor economic) was made between the allowable zone substation loading under the (original) clause 2.5.4(b) and (then proposed, amended) clause 2.5.4(b) to support the purported benefit.

9. In addition, the proposed amendment to amend clause 2.5.4(b) Normal Cyclic Raring (NCR) Clause submitted by Western Power in April 2016 was not in good faith and was misleading because the argument of Item 7 and Item 8 here was inconsistent with the other arguments presented by Western Power, and endorsed by the Authority, to the effect of, that the rule 2.5.4(b) was not being changed, just clarified. For example, see Issue 2 here.
10. In addition, the proposed amendment to amend clause 2.5.4(b) Normal Cyclic Raring (NCR) Clause submitted by Western Power in April 2016 was not in good faith and was misleading as the argument⁸:

⁷ Economic Regulation Authority, *“Proposed Amendments to the Technical Rules Submitted by Western Power (April 2016)”*, Issues Paper, 2 May 2016, p.5, text under Table 1.

⁸ Western Power, *“Submission to the Economic Regulation Authority for amendments to the Technical Rules, 2016, Part B”*, Submission for Economic Regulation Authority, 31 March 2016, p.8, Table 3.1 (continued from p.7), row labeled 5.

“There is no equivalent clause in the NER because rapid response spare supply transformers are not used in the same way outside of Western Australia”.

was inconsistent with past Technical Rules presentations by Western Power: emphasized that the network service providers own planning criteria are part of the Technical Rules, but not part of the NER. For example, at the System Restart Forum in Perth on 25 February 2015, titled “Technical Rules”.

11. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving for amendment to the Technical Rules dated 31 March 2016 and titled “Normal cyclic rating (NCR) amendment” when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the Authority uncritically accepted the claims of Items 1 to 10 here as a fait accompli without verifying them.
12. One public submission investigated Western Power’s claim of Item 7 here. The comparison of the wording (original and of the proposed amendment) demonstrated that the opposite is true – the proposed amendment had detrimental effect on the investment by unreasonably reducing the permitted supply transformer loading in zone substations and its implementation leads to premature, unnecessary and economically inefficient investments.⁹ The reduction in permitted transformer loading was so excessive that the quote of Item 3 here no longer applies, because the resulting utilisation fell below that permitted under the “N-1” criterion. The “N-1” criterion requires one spare transformer in each zone substation. In laymen’s terms and referring to the 2nd sentence of the Financial Background section here, Decision 1 effectively requires (the ultimate long term effect of), not two, but, at least, ‘one hundred and two’ spare transformers in the Perth metropolitan area. The latter would be very inefficient use of the capital, relative to the former, hence this Application to the Electricity Review Board.
13. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving for amendment to the Technical Rules dated 31 March 2016 and titled “Normal cyclic rating (NCR) amendment” when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the

⁹ James Davidson, “*Proposed Amendments to Western Power’s Technical Rules submitted April 2016*”, Submission for Economic Regulation Authority, 3 June 2016.

Authority failed to consider the content of the public submission referred to in Item 12 here, as is explained in Items 14 to 17 here.

14. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving for amendment to the Technical Rules dated 31 March 2016 and titled “Normal cyclic rating (NCR) amendment” when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the Authority uncritically accepted the opinion of the Authority’s technical consultant Geoff Brown and Associates (**GBA**)¹⁰ that:

“We have not analysed Mr Davidson’s submission in this report and do not agree with his interpretation of the “NCR now”. The intent of the proposed change is to clarify the existing requirement, rather than to change it as suggested by Mr Davidson.”

The Applicant respectfully requests that the public submission referred to in Item 12 here, by James Davidson, be analysed on its merit.

15. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving for amendment to the Technical Rules dated 31 March 2016 and titled “Normal cyclic rating (NCR) amendment” when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the Authority uncritically accepted the opinion of the Authority’s technical consultant GBA of Item 14 here whereas the argument was intrinsically flawed in respect of what is the starting point, as explained in Item 16 here.

16. Namely, the flaw in the Authority’s (GBA’s) argument is its assumption that the Western Power’s proposal is the starting point, not the wording of the Technical Rules. This is in contrast to the Applicant’s understanding that the starting point in any regulation and legislation is its current wording and the onus of proof lies with the party wanting to change it.

It is not reasonable to exempt any argument from (economic) scrutiny, hence the Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving for amendment to the Technical Rules dated 31 March 2016 and titled “Normal cyclic rating (NCR) amendment” when this is inconsistent with

¹⁰ Geoff Brown & Associates: “*Review of Western Power’s Application for Technical Rules Amendments*”, Final Report for Economic Regulation Authority, 31 August 2016, p.12, 3rd last paragraph.

the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the Authority uncritically rejected to scrutinize the proposal to change clause 2.5.4(b) of the Technical Rules (despite the evidence of its flaws).

17. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving for amendment to the Technical Rules dated 31 March 2016 and titled “Normal cyclic rating (NCR) amendment” when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the Authority uncritically accepted the opinion of the Authority’s technical consultant GBA that:

“... there is no change to the existing requirement.”¹¹ ”

“... advice from GBA that there is no actual change to the existing requirements and that all that the change relates purely to a clarification of the NCR requirement in the Technical Rules.”¹²”

18. In addition, both the above statements are inconsistent with the Western Power’s assertion of Item 7 here. Hence the arguments presented in support of the Decision 1, see in Item 7 and Item 17 here, are mutually exclusive.
19. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving the exemption from compliance with Technical Rules clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the Authority uncritically accepted explanation that the purpose of the proposed amendment was to increase the power transfer capacity, without providing neither specific examples nor the aggregate net financial benefit. That was unexpected, given that the Technical Rules largely determine Western Power’s Capital Expenditures (**CAPEX**) and the aggregate financial impact of a single rule change in the Technical Rules can be hundreds of millions of dollars of expenditures. These amounts are well in excess of the Regulatory Test threshold for a single project of \$30M for the transmission system and \$5M for the distribution system.

¹¹ Economic Regulation Authority, “*Western Power’s Proposed Amendments to the Technical Rules Submitted April 2016 – Final Decision*”, November 2016, p.10, Item 37.

¹² Economic Regulation Authority, “*Western Power’s Proposed Amendments to the Technical Rules Submitted April 2016 – Final Decision*”, November 2016, p.11, Item 39.

One would expect at least the same level of the techno-economic scrutiny for proposals to change the Technical Rules as that for the Regulatory Test.

Decision 2 – Meadow Springs Zone Substation Exemption

20. On 15 May 2015, Western Power submitted to the Authority the request for exemption from compliance with the requirements of Technical Rules clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion for Meadow Springs Zone Substation.¹³
21. It shows the cost of installing a new transformer in the zone substation is very high and that it can vary between \$10M and \$27M, respectively for Meadow Springs and Mandurah zone substations.
22. Western Power's own interpretation of the NCR criterion of clause 2.5.4(b) cannot be ascertained from the information publicly available in the request of Item 20, as two documents referred to in the request were not made public.
23. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving the exemption from compliance with Technical Rules clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the Authority uncritically accepted the opinion of the Authority's technical consultant who erred in his understanding of the (original) wording of clause 2.5.4(b) when describing it as:

"The wording of this clause is unfortunate as it does not convey the intended meaning. The intent is to specify the allowable power transfer through the substation under normal operating conditions¹⁴,..."

whereas: a) the claim was inconsistent with wording of clause 2.5.4(b) for the reasons explained in Item 1 here, and b) as no evidence was provided in support of this claim.
24. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving the exemption from compliance with Technical Rules clause

¹³ Western Power, "Exemption Request – Meadow Springs Zone Substation", Submission for Economic Regulation Authority, 15 May 2015.

¹⁴ Geoff Brown & Associates: "Review of Western Power's Application for a Technical Rules Exemption for Meadow Springs Zone Substation", Final Report for Economic Regulation Authority, 20 July 2015, p.6, 2nd last paragraph, first two sentences.

2.5.4(b) Normal Cyclic Rating (NCR) Criterion when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the Authority uncritically accepted the opinion of the Authority's technical consultant who reported to the public Western Power's interpretation of clause 2.5.4(b) (see Item 1 here) as:

"As interpreted by Western Power, this is determined by the total installed power transfer capacity rather than the capacity of the smallest supply transformer¹⁵ ..."

25. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving the exemption from compliance with Technical Rules clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the Authority uncritically accepted the following decision of the Authority's technical consultant:

"For the purpose of this review we have used Western Power's interpretation of the clause [clause 2.5.4(b)]¹⁶,..."

26. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving the exemption from compliance with Technical Rules clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the Authority uncritically accepted the following recommendation of the Authority's technical consultant:

"... but we recommend that the wording be revised in the next revision of the [Technical] Rules so that it actually convey the intended meaning.¹⁷ ..."

27. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving the exemption from compliance with Technical Rules clause

¹⁵ Geoff Brown & Associates: "Review of Western Power's Application for a Technical Rules Exemption for Meadow Springs Zone Substation", Final Report for Economic Regulation Authority, 20 July 2015, 2nd last paragraph, 3rd sentence.

¹⁶ Geoff Brown & Associates: "Review of Western Power's Application for a Technical Rules Exemption for Meadow Springs Zone Substation", Final Report for Economic Regulation Authority, 20 July 2015, 2nd last paragraph, beginning.

¹⁷ Geoff Brown & Associates: "Review of Western Power's Application for a Technical Rules Exemption for Meadow Springs Zone Substation", Final Report for Economic Regulation Authority, 20 July 2015, 2nd last paragraph, beginning.

2.5.4(b) Normal Cyclic Rating (NCR) Criterion when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code in that the Authority uncritically accepted the Western Power's interpretation of clause 2.5.4(b) (see Item 1 here), which the Authority's technical consultant reported to the public as:

“Western Power interprets clause 2.5.4(b) of the Technical Rules as requiring that at all times the power transfer through a substation under normal operating conditions must not exceed 75% of the transformer NCR of all installed transformers.¹⁸ ...”

28. In addition, the request for exemption submitted by Western Power on 15 May 2015 did not appear to have been in good faith nor the appropriate use of the exemption, as explained in one public submission:

“We note that the expected non-compliance is expected to commence in the current financial year ... the inference that Western Power intends to proceed with or without the exemption [to install a new transformer in Meadow Springs zone substation]. If this is the case, we consider that this is not an appropriate use of an exemption and we do not support it.¹⁹ ...”

The Applicant shares the above concern.

29. Further to the concern of Issue 28 here, the request for exemption may also have had other purposes that were not publicly stated and which may not be consistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code, which should be investigated – the motive and intent.

Request to reconsider Decision 2 – Meadow Springs Zone Substation Exemption

30. On 16 December 2016, pursuant to section 12.45 of the Access Code 2004, the Applicant applied to the Authority for its Decision 2 - *“Determination on Application for exemption from certain requirements of the Technical Rules 2011, submitted by Western Power, Meadow Springs Zone Substation*

¹⁸ Geoff Brown & Associates: *“Review of Western Power's Application for a Technical Rules Exemption for Meadow Springs Zone Substation”*, Final Report for Economic Regulation Authority, 20 July 2015, p.3, 1st paragraph, 1st sentence.

¹⁹ Community Electricity: *“Application for exemption from certain requirements of the Technical Rules submitted by Western Power – Meadow Springs substation”*, Submission in Response to ERA Public Consultation, 20 July 2015, p.1, 2nd last paragraph, extract.

Exemption" dated July 2015, that was published on the Authority's web site, in respect of the covered network under section 12.41 to be revoked.²⁰

31. The Authority erred in its finding of facts or the exercise of its discretion was incorrect or was unreasonable having regard to all the circumstances in approving the exemption from compliance with Technical Rules clause 2.5.4(b) Normal Cyclic Rating (NCR) Criterion when this is inconsistent with the objectives and sections 12.1, 12.2 and 12.3 of the Code whereby the Authority have made no decision in respect of the application of Issue 30 here after more than five months have elapsed since the application was made.
32. For these reasons, the Applicant considers that the Authority failed its obligation, under section 12.45 of the Access Code, to advise the Applicant of the Authority's determination in relation to the Application of Item 30 here within a reasonable time.
33. To be fair, there was limited incidental email correspondence with the Authority in respect of the Application of Item 30 here and another related issue (concerning section 12.53 of the Access Code), some of which, in the opinion of the Applicant, may have been placed on the public record.
34. Upon request, the Applicant will provide the email correspondence of Item 33 here, as well as any other documents referred to in this application.

²⁰ Steve Davidson, "*Exemption Request – Meadow Springs Zone Substation*", Submission for Economic Regulation Authority, 16 December 2016.