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Energy Transformation Taskforce
Energy Policy WA

Submitted by email to: energytransformation@energy.wa.gov.au

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Energy Transformation Strategy: Proposed Changes to the Electricity Networks Access Code, Consultation Paper, May 2020

AGL Energy (**AGL**) welcomes the opportunity to provide feedback on the Energy Transformation Taskforce's Energy Transformation Strategy: Proposed Changes to the Electricity Networks Access Code (**Access Code**), Consultation Paper, May 2020 (**Consultation Paper**).

AGL is one of Australia's largest integrated energy companies and the largest ASX listed owner, operator, and developer of renewable generation. AGL is also a significant retailer of energy, providing energy solutions to around 3.72 million customers throughout eastern Australia and around 59,000 gas customers in WA. In 2019, AGL acquired Perth Energy, supplying power to more than 1,500 business connections across WA. AGL is a market leader in trials and projects that draw upon customers' distributed energy resources (**DER**). Our current DER product and service offerings include our Virtual Power Plant¹, our retail offer for electric vehicle owners² and our Peak Energy Rewards Managed for You program.³

Our feedback on the Access Code and proposed changes is based on our experience and learnings from these and other behind-the-meter (**BTM**) products and services we offer. We specifically focus on how best to ensure consumers can share in the value of the various network and wholesale services that BTM products and services can support. We believe it is critical that consumers are appropriately rewarded for these services to ensure positive customer engagement. It is also an important aspect of the transformation that the energy system is currently undergoing, as we move towards cleaner generation sources and realise the efficiency and service advantages that arise from digitisation.

Strategic direction

AGL is broadly supportive of the policy intent to align the Access Code with WA's Energy Transformation Strategy and its three underpinning workstreams. The proposed changes to the Access Code will have a positive impact in opening opportunities for new technologies.

¹ For further information regarding AGL's Virtual Power Plant, currently available to customers in New South Wales, Queensland, South Australia and Victoria please refer to https://www.agl.com.au/solar-renewables/solar-energy/bring-your-own-battery?cide=sem-r&gclid=EAlalQobChMlicjKmKuP5wIVvjUrCh2eXwvVEAAYASAAEgLRPD_BwE&gclid=aw.ds.

² See further, AGL EV Plan, available at <https://www.agl.com.au/electric-vehicles>.

³ See further, AGL Peak Energy Rewards Managed for You, available to existing AGL homeowners in New South Wales with a digital smart meter, available at <https://www.agl.com.au/solar-renewables/projects/peak-energy-rewards-managed-for-you>.



However, we consider that further reform is required:

- to promote greater innovation and efficiency in the delivery of non-network solutions for the benefit of all consumers; and
- to ensure that the foundational regulatory framework remains fit-for-purpose in supporting Western's Power's operations into the future, including with respect to articulating the Access Code objective.

With new services potentially being offered by Western Power through the Access Code changes, there may also be a need for a broader review of the risk framework underpinning customers' connection agreements to ensure that customers can easily participate in innovative energy services such as orchestration into the future. We would therefore encourage Energy Policy WA to review the linear electricity supply relationship that currently underpins WA supply arrangements and obligations, to ensure that it remains fits-for-purpose and does not present any unintended negative impacts on customers.

Key recommendations

AGL recommends the following key amendments be considered further:

1. The provision of contestable network services delivers the best outcomes for consumers when monopoly businesses use completely separated entities to participate in contestable markets on a fair and non-discriminatory basis. AGL recommends establishing a complementary ring-fencing regulatory framework to ensure the separation of Western Power's regulated monopoly business activities, costs and revenues from those associated with providing services in contestable markets. We would also recommend clarifying that stand-alone systems and distribution connected storage investments can only be delivered through a ring-fenced entity through competitive processes and not directly by Western Power.
2. We consider that mandating a requirement for the Economic Regulation Authority (**ERA**) to produce a multi-function asset guideline, as was done under the National Electricity Rules (**NER**), would provide greater protection for consumers and should therefore be the preferred approach.
3. AGL supports positive environmental outcomes.⁴ We consider that environmental regulation is best governed through national and jurisdictional environmental regimes rather than the Access Code which is otherwise a purely economic and operational framework. An economy wide environmental regulatory framework will ensure consistent outcomes whilst reducing duplication and additional cost and complexity. Accordingly, we would recommend against inclusion of the *environmental consequences* objective in the Access Code.
4. While we support the proposal to allow for cost recovery for AMI, we would recommend establishing appropriate incentives to ensure customers also benefit from innovation in AMI services, through an open access regime for meter data that allows other market participants to innovate around real time data services.
5. We would recommend the adoption of a staged access arrangement consultation process, to ensure greater engagement in public consultations, ensuring the resolution of any issues that may otherwise result in unintended consequences for consumers.

⁴ See further AGL's approach to the environment, including AGL's Greenhouse Gas Policy and Health, Safety and Environment Policy, available at <https://www.agl.com.au/about-agl/sustainability/our-approach-to-the-environment>.



We elaborate on this feedback in the **Attachment**.

Should you have any questions in relation to this submission, please contact Kurt Winter, Regulatory Strategy Manager, on 03 8633 7204 or KWinter@agl.com.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'K. Winter', with a long horizontal flourish extending to the right.

Con Hristodoulidis

Senior Manager Regulatory Strategy



ATTACHMENT

1. Opportunities for new technologies

Transparency in investment in new technologies

AGL is generally supportive of the proposed changes to the Access Code intended to increase opportunities for new technologies, including:

- Amendment to the New Facilities Investment Test (**NFIT**) to include assessment of alternative options for all capital investments;
- Requirements on the ERA to make and publish guidelines for valuing the net benefits of expenditure by a service provider, and the factors to be considered in making a NFIT determination;
- Obligations on Western Power to publish a Network Opportunity Map, develop an alternative options strategy and model Alternative Option Service contract; and
- Establishing a Demand Management Innovation Allowance (**DMIA**).

We consider that these amendments will increase transparency in Western Power's investment decisions while also facilitating greater use of alternative options such as DER where it is cost efficient to do so.

Establishing a ring-fencing regulatory framework

In order to promote greater innovation and efficiency in the delivery of non-network solutions for the benefit of all consumers, we would also recommend establishing a complementary ring-fencing regulatory framework to ensure the separation of Western Power's regulated monopoly business activities, costs and revenues from those associated with providing services in contestable markets.⁵

At the early stages in WA's transition towards a more decentralised power system, we believe it is of even greater importance to establish an effective ring-fencing framework to ensure a level playing field in the evolving market so that new participants and business models can fairly compete in delivering cost effective solutions. As the Australian Energy Regulator (**AER**) has observed, "ring-fencing promotes good consumer outcomes by creating better conditions for contestable markets to emerge and develop, to deliver new services to customers".⁶ Ring-fencing is therefore vitally important as advances in technology and regulatory changes in the WA market enable customers to source more services from contestable markets rather than from their electricity distributor.

⁵ Section 62 of the *Electricity Corporations Act 2005 (WA)* establishes a head of power for the Minister to regulate the separation of functions within electricity corporations. We also note that a regulatory scheme requiring certain ring-fencing arrangements was established through the Electricity Generation and Retail Corporation Regulatory Scheme to mitigate potentially adverse effects on competition in the merger of Synergy's generation and retail operations, effectively ring-fencing the wholesale business unit.

⁶ AER, Annual Compliance Report on the Electricity Distribution Ring-fencing Guideline (2017-18), Available at <https://www.aer.gov.au/system/files/Annual%20Report%20Final.pdf> (page 2). The Australian Energy Market Commission (AEMC) has similarly observed that ring-fencing can be instrumental as an economic regulatory tool to promote competitive neutrality, preventing the harm to competition that would likely result from cross-subsidising an affiliate's services in the contestable market, providing an affiliate with access to commercially sensitive information acquired through the provision of regulated services; and/or restricting the access other participants in the contestable market have to the infrastructure services provided by the regulated entity, or providing access on less favourable terms than its affiliate. See further AEMC, National Electricity Amendment (Expanding competition in metering and related services) Rule 2015, December 2015, p. 399, Available at <https://www.aemc.gov.au/sites/default/files/content/ed88c96e-da1f-42c7-9f2a-51a411e83574/Final-rule-determination-for-publication.pdf>.



We would recommend that the ring-fencing framework require that all *excluded services* provided by means of a *covered network* under the Access Code be ring-fenced to appropriately protect the emerging contestable markets in WA and enable the most cost-effective solutions to emerge.

Stand-alone systems and distribution connected storage

We also note the proposed changes to the Access Code to ensure that the cost of stand-alone power systems (SPS) and distribution connected storage can be recovered through regulated tariffs. We appreciate that this change is intended to reflect the *Electricity Industry Amendment Act 2020 (Amendment Act)* that enables Western Power to invest in and earn regulated returns in relation to these technologies.

Nevertheless, we would recommend further amendment to the Access Code to clarify that these investments can only be delivered through a ring-fenced entity and not directly by Western Power. In our view, this would serve to support a more competitive market for these investments and would align with the policy intent underpinning the Amendment Act, as elaborated in the Explanatory Memorandum:

The [Access Code] is intended to set clear boundaries around when Western Power may provide SPS and provide regulated network services using distribution connected storage devices. The intention is to enable Western Power to operate its existing business efficiently and with a view to providing least cost network services. The intention is not to create new lines of business for Western Power to compete with private sector SPS and storage providers.⁷

Introducing a multi-function asset guideline

We note the proposed change to the Access Code to enable the sharing of profits arising from multi-function assets and the proposed approach that Western Power develop a multi-function asset policy as part of its access arrangement.

We propose a requirement that the ERA produce a multi-function asset guideline, as was done under the National Electricity Rules (NER). We believe this would provide greater protection for consumers and should therefore be preferred over the proposed approach. In our view, the multi-function asset guideline should also provide for the removal of a portion of the value of assets from the capital base where they are used to provide unregulated services. This would ensure that consumers also benefit from circumstances where Western Power may use regulated assets to provide unregulated services.

Streamlining the regulatory approach to Whole of System Plan (WOSP) priority projects

AGL supports the development and delivery of the WOSP, and the central planning benefits it will provide to the SWIS more broadly associated with functionality, performance and future expansion.

However, we also consider that the WOSP planning process should not be undertaken expeditiously, and due consideration should be provided to identified network and non-network options (referred to as Alternative Options in the Access Code) as part of the assessment of priority projects. In addition, the ERA should hold suitable regulatory oversight to assess and/or intervene (as necessary) in the priority project identification process if it believes that necessary evidence to support the investment and/or a holistic Cost and Benefits Assessment⁸ identifying positive results for consumers has not resulted.

⁷ *Electricity Industry Amendment Bill 2019 Explanatory Memorandum*, page 21.

⁸ i.e. merit must be wider than just economic benefits. It should also include environmental, social and system benefits.



While AGL understands that proposed priority projects are likely to include network options identified by Western Power, the WOSP development process should not automatically assume these projects will deliver best value (in the long-term interests) to consumers or the network.

Technical Rules changes

We support the proposed changes to the Access Code to enable any interested person to submit to the ERA a proposal to amend the Technical Rules.

We believe this change will enable a broader range of stakeholders to contribute towards development and revision of the Technical Rules to ensure they remain fit-for-purpose as the WA market evolves. As WA transitions towards a more decentralised power system, the impact of Technical Rules on DER asset owners will become an increasingly important consideration to balance against system security considerations.

2. Maximising network utilisation

Changing the Access Code objective

We note the proposal change to the Access Code objective as follows:

The objective of this Code (“Code objective”) is to promote efficient investment in, and efficient operation and use of services of networks in Western Australia for the long-term interests of consumers in relation to:

(a) price, quality, safety, reliability and security of supply of electricity;

(b) the safety, reliability and security of covered networks; and

(c) the environmental consequences of energy supply and consumption, including reducing carbon pollution, considering land use and biodiversity impacts, and encouraging energy efficiency and demand management

AGL supports positive environmental outcomes, as evidenced by our Greenhouse Gas Policy and Health, Safety and Environment Policy. We consider that environmental regulation is best governed through national and jurisdictional environmental regimes rather than the Access Code. Given that the Access Code is otherwise a purely economic and operational framework, the *environmental consequences* component contained in subsection c) may create substantial regulatory complexity, uncertainty and administrative burden in assessing network operations. Accordingly, we would recommend against inclusion of this objective. Regulating environmental consequences through an economy wide framework will ensure consistent outcomes whilst reducing duplication and additional cost and complexity.

Price signals, price objectives and avoiding price shock

We are generally supportive of the proposed changes to the Access Code to ensure appropriate price signals to customers to maximise the utilisation of the network.

In our view, these changes will enable Western Power to develop a range of pricing solutions that better support retail innovation to accommodate the availability and rapidly declining cost of new technologies. These changes will also align the Access Code more closely with the regulatory framework operating in NEM states, thereby reducing the regulatory burden for businesses operating nationally.



Enabling cost recovery for Advanced metering infrastructure

AGL supports the proposed change to the Access Code to allow recovery of AMI expenditure as deferred revenue. We would also recommend establishing further regulatory safeguards to ensure that Western Power facilitates efficient access for third parties to provide behind the meter services through the AMI infrastructure, including with respect to the meter data access.

In other jurisdictions, we have observed that while regulated recovery of AMI expenditure has facilitated a faster, more efficient rollout, consumers have not necessarily realised the benefit. By way of example, the 2015 Victorian Auditor General's report found that by the end of 2015, Victoria's electricity consumers will have paid an estimated \$2.239 billion for metering service however benefits realisation is behind schedule and most benefits are yet to be realised.⁹ On the other hand, we have observed that contestable markets have been better incentivised to develop innovative services associated with AMI that provide additional value to consumers, for example with respect to the timeliness of meter data access.

Improving access to the Western Power network

AGL broadly supports the various proposed changes to access contracts, the arbitration framework and the removal of bare transfers and relocations.

We note that the proposed reforms to the access framework for Western Power's network are intended to enable the new security constrained economic dispatch (**SCED**) market design and other associated market reforms to be implemented in the WEM. We would recommend further clarity be provided on the applicable access arrangements prior to the commencement of these proposed complementary reforms to the Access Code.

In our view, providing the market with appropriate notice and transitional arrangements will create greater investment certainty for generators seeking to access the transmission networks. In addition, consistent with National Electricity Market rules, transmission use of service charges should be removed (i.e. applicably only to loads) to align with changes associated with the removal of services to generators under the constrained network access regime.

AGL also notes that the proposed changes to the Access Code do not include changes to the model documents in the Access Code (The Model AQP, the Model Capital Contributions Policy, and the Model Standard Access Contract). AGL strongly encourages further industry consultation on amendments to these elements of the regulatory framework once they are in a draft form.

Enabling cost recovery for constraint-related functions

We note the proposed changes to the Access Code to enable Western Power to recover costs that it incurs in respect to the Government's reforms to network access, including with respect to the development and provision of network constraints information and the preparation of the initial WOSP. We also note that these changes reflect proposed changes to the WEM Rules to confer constraint-related functions on AEMO, the ERA, and Western Power.

⁹ See further Victorian Auditor-General's Office (2015) Realising the Benefits of Smart Meters, Available at <https://www.audit.vic.gov.au/report/realising-benefits-smart-meters?section=>



In our view, it is critical that the regulatory framework ensures transparency and information sharing on the scale of spending associated with these functions to ensure that the costs remain proportionate. We would encourage the establishment of an appropriate reporting avenue to enable greater accountability to industry and end-use consumers who are ultimately accountable for any additional market costs.

AGL does not support additional cost recovery by Western Power for these two actions. As a prudent network business, Western Power should be undertaking the majority of its planning and forecasting functions associated with network constraints and the WOSP as part of business as usual activities. We therefore do not consider that any additional effort would qualify as a material change to these functions nor appropriate costs to pass through to consumers. Any additional Western Power operational expenditure cost recovery should be a matter for the ERA to determine through a rigorous and transparent Cost and Benefits Assessment under the Access Arrangements framework.

3. Improving the access arrangement process

AGL is generally supportive of the introduction of a Framework and Approach process, that would more closely resemble to the regulatory framework in NEM states. While we see advantages in streamlining the access arrangement process, we consider that a staged approach ensures greater engagement with public consultations, ensuring the resolution of any issues that may otherwise result in unintended consequences for consumers. Accordingly, we would recommend the adoption of staged access arrangement consultation process rather than the proposal to set minimum timeframes for public consultation and only prescribe the date by which the final decision must be made.