perthenergy

26 June 2020

Kate Ryan
Executive Director
Energy Policy Western Australia
Locked Bag 11, Cloisters Square
Perth WA 6850

Sent to: energytransformation@energy.wa.gov.au

Dear Ms Ryan

Energy Transformation Strategy: Proposed Changes to the Electricity Networks Access Code

Perth Energy makes this submission in response to the Energy Transformation Taskforce consultation paper *Proposed Changes to the Electricity Networks Access Code* published on 14 May 2020.

Perth Energy broadly supports the Taskforce's proposed amendments to the Access Code. We support the objectives the Code changes are trying to achieve, namely increasing opportunity for new technologies, maximising network utilisation and providing regulatory certainty. We expect these objectives will lead to overall lower costs to electricity consumers over the long term.

We have commented on most of the proposed Access Code changes, and we are happy to participate in further discussion on any or all of the issues raised in this submission.

High level discussion of our key recommendations is provided below.

Access Code changes must be accompanied by greater transparency and consultation

Perth Energy's overarching view is that the proposed drafting is reasonable, and the amendments will go some way to achieving the objectives stated above. We would, however, like to recommend that the drafting includes additional provisions for Western Power to consult on areas outside its areas of expertise, and in particular should include a requirements for the Economic Regulation Authority (ERA) to provide more transparency in its decision making process.

For example, the proposed Access Code changes require consideration of benefits accrued in the Wholesale Electricity Market (WEM) in the net benefits test under the New Facilities Investment Test (NFIT). We welcome making this requirement explicit, however, we would like to highlight that inclusion of WEM benefits has always been implicit in the NFIT. It's just that Western Power has not sought to estimate these costs and include them in its NFIT justifications before now.

One of the reasons we suggest Western Power has not sought to estimate the WEM benefits is due to the fact modelling them is extremely complex. The WEM is also not necessarily Western Power's area of expertise. We therefore suggest that any new provision in the Access Code to conduct a WEM benefits test must be accompanied by a requirement for Western Power and/or the ERA to conduct a consultation process whereby informed parties or affected stakeholders can provide inputs to the modelling (for example Western Power should consult with AEMO in relation to WEM price and dispatch modelling outcomes) and decision-making process. This will help reduce the degree of assumption used in the test and also relieve some of the complexity for Western Power, and therefore reduce risk and cost for end-use customers.

With regard to transparency in the ERA's decision-making process, Perth Energy has observed in recent access arrangement determinations that the rationale behind many of the ERA's conclusions is not always clearly explained. While Western Power consistently provides detailed information (to the extent it can) in support of its various investments and provisions in its access arrangement proposals, it seems the threshold for information provision by the ERA in its published determinations appears substantially lower. This makes it difficult for third parties to understand how the ERA has reached its conclusions, respond to them and learn from them.

With this in mind, we suggest the proposed change to section 6.56 of the Access Code, which is a requirement for the ERA to make and publish guidelines setting out the factors to be considered in making an NFIT determination, should be expanded. The new section 6.56 should include a requirement for the ERA to publish its reasoning for its decisions in detail in its access arrangement determinations. The ERA should also map its reasoning against these new NFIT guidelines. This would help improve the transparency and predictability of the access arrangement process.

Ideally, the ERA would hold interactive workshops whereby it can walk through its thinking with affected stakeholders and interested third parties and explain the rationale for its decisions. Such an approach would go a long way to uplifting the maturity of the regulatory process and the quality of ideas/proposals put forward. Clearer direction on the application of section 4.28 would also be beneficial, making it a requirement on both the ERA and Western Power to validate its decisions/proposals.

The proposed 'framework and approach' process under the Access Code is a positive step. Genuine two-way engagement and collaboration between Western Power and the ERA at the outset, as well as engagement with customers (particularly those with contractual relationships with Western Power), is vital for a sufficiently informed regulatory process. We trust the framework and approach step will accommodate this.

Link the Demand Management Innovation Allowance to the Whole of System Plan

Perth Energy supports the proposed the Demand Management Innovation Allowance (DMIA). However, we recommend that to increase the likelihood it is utilised[1], it should be accompanied by a structured change management program whereby Western Power and other key stakeholders (the AEMO for example) come together to identify demand management opportunities and make a firm commitment to pursuing them, and/or helping third parties deliver efficient non-network solutions. This would be particularly useful in determining the overall net benefit (including in the WEM). We also recommend any projects to be funded under the DMIA are identified in the Taskforce's Whole of System Plan's list of Priority Projects.

Adequate ringfencing is necessary to ensure competitive neutrality

The ongoing Energy Transformation Strategy, and in particular the Distributed Energy Resources (DER) Roadmap, is resulting in Western Power's role and influence in the Western Australian energy sector growing. The DER Roadmap advocates Western Power acting as a DER provider, the distribution system operator (DSO), as well as being the network owner and operator. We are concerned by this expansion of Western Power's responsibilities, particularly as it appears to provide Western Power the opportunity to undertake competitive (non-monopolistic) services. Western Power is already a natural monopoly business, and we question the prudence of placing Western Power in a position where it is able to (whether deliberately or unintentionally) gain a competitive advantage due to its position as network owner and operator.

If the Taskforce believes Western Power is in the best position to provide DER provider and DSO services, we strongly recommend new, explicit, ringfencing arrangements be provided in the Access Code. Adequate ringfencing arrangements must be put in place to:

- ensure Western Power is able to make a commercial return on DER services, and separately fulfil its roles as the impartial DSO;
- ensure Western Power does not unduly prefer internal delivery of DER services over third party provision due to commercial incentives to expand its regulated asset base;
- ensure Western Power provides standard and negotiated contract terms and conditions that provide a competitively neutral playing-field; and
- ensure Western Power does not use regulated assets for unregulated purposes, thereby cross-subsidising its service in competitive sectors.

We suggest the ringfencing arrangements should be at least commensurate with the financial, decision-making and information sharing ringfencing arrangements in place between:

- System Management and Western Power prior to the transition to AEMO;
- the ERA and Rule Change Panel;
- Synergy's generation and retail business units (as the ERA has considered should be amended to be effective in their various transfer pricing scheme reviews and WEM effectiveness reviews); and

[1] We note the D-Factor, which is similarly designed to promote pursuit of demand management and non-network activities, has been available to Western Power since 2009 but has not resulted in Western Power proposing any demand management initiatives to date.

- monopoly energy businesses' regulated services and unregulated services, as well as between monopoly businesses and related parties providing services in competitive markets[2].

We would also expect to see information sharing protocols commensurate with the recently approved Rule Change Proposal: ERA access to market information and SRMC investigation process (RC_2018_05)[3]. This will ensure robust governance is in place in relation to information disclosure and adequate procedural fairness when Western Power uses information and makes decisions.

The removal of the provision of services to generators must be reflected in the Access Code

The move to a constrained network access regime has the effect of changing the objectives in the provision of network services. The access model is being changed from one where the objective is to provide contracted firm access for generators to use the network to export electricity to meet demand, to a model where the objective seems to only be designed around the need to deliver electricity to meet demand (and no capacity services per se).

The move to constrained network access therefore has the effect of the network operator no longer providing unrestricted (network capacity) services to generators. Accordingly, if we are to apply a 'user/beneficiary pays' philosophy – which we note is a core objective of the Energy Transformation Strategy – the associated transmission use of system charges paid by generators to Western Power must also be removed.

We note changes to section 7 of the Access Code imply tariffs will be charged to end-use customers rather than generators. However, this has not been made explicit, and could easily be overlooked by Western Power or the ERA in the fifth access arrangement (AA5) review process. We reiterate the transmission use of system charges are removed altogether for generators to reflect the removal of services (and the obligation to provide those services) under the constrained network access regime.

AA5 must be implemented at the same time as the new Wholesale Electricity Market arrangements

The proposed changes to the Access Code appear reasonable in principle. However, it is not clear how they will be implemented and integrated into the access arrangement and its associated policies and contracts through the forthcoming AA5 review process. Moreover, as highlighted in our submission in response to EPWA's consultation Fact Sheet on deferral of the review process, it is vital that the above Access Code changes and resulting amendments to the access arrangement be implement prior to the commencement of the reformed WEM, which is scheduled for October 2022.

A deferral of the AA5 review process is being contemplated to allow time for Western Power to accommodate these Access Code changes. While we appreciate the rationale for delaying the AA5 review, we do not think it is necessary to delay the AA5 review to as late as February 2022 (as is currently being proposed). Delaying the AA5 review to February 2022 will mean the access arrangement will not be amended by October 2022. As a result, the access arrangement will not reflect the new market arrangements, leading to a high risk of inefficiencies come market start.

[2] https://www.aer.gov.au/networks-pipelines/ring-fencing
[3] https://www.erawa.com.au/rule-change-panel/market-rule-changes/rule-change-rc_2018_05

We maintain our view that the access arrangement must be consulted on earlier than proposed, and implemented at the same time as the new WEM arrangements. Therefore, the commencement of the AA5 review process (i.e. Western Power's initial AA5 submission) can still be delayed, but our recommended last possible date that would ensure co-ordinated implementation is 28 May 2021. Commencing the AA5 review process by May 2021 will allow sufficient time for these Access Code changes to be reflected in the access arrangement, while also allowing the process to be completed by October 2022. This will ensure the terms, conditions, and prices for accessing the electricity network when the new market commences adequately reflect the new market arrangements.

Commentary on the broader suite of Access Code changes is provided in Appendix A to this letter.

To reiterate, Perth Energy supports the principles behind the proposed changes to the Access Code and welcomes the opportunity to provide feedback. We trust our recommendations provide useful context to help the Taskforce further refine the proposed Access Code amendments.

Should you have any questions in relation to this submission please contact [redacted]

Regards,

[redacted]

[redacted]

Appendix A: Comments on proposed changes to the Access Code

Transparency in investment in new technologies: Changes to NFIT

Section 3.1.1 of the Consultation Paper

Changes to section 6.52

The proposed changes to the New Facilities Investment Test (NFIT) in section 6.52 of the Access Code to include assessment of alternative options for all capital investments are unnecessary. Though the principle behind the change has merit (Perth Energy (PE) agrees that non-network solutions should be contemplated as a matter of course), evidence in Western Power's recent access arrangement proposals indicates that alternative options are already considered as part of Western Power's business case process.

In its review of Western Power's fourth access arrangement proposal (AA4), GHD Advisory highlighted that the lack of alternative options was identified as an issue in the third access arrangement (AA3) review process, but that:

> *Examination of alternatives is a vital part of business case preparation as looking in depth at options provides a measure of contestability to expected solutions. Although we are relying on the business case documentation it would appear that innovative ideas where considered and in a couple of cases selected that enabled far lower cost solutions to be identified and recommended than originally envisaged.*[4]

Therefore, PE suggests that the proposed drafting changes under 6.52 alone may not have the desired effect. What would be more impactful is that if Western Power is required to publish the business cases (and/or the Alternative Options Strategy) so that the efficiency and prudence of these alternative options can be scrutinised and challenged fully by the ERA and third parties.

PE is aware Western Power is already actively pursuing these new and innovative solutions including community batteries, and financially compensating end-users to increase network utilisation in low demand periods. While business cases are provided as part of the ex-ante and ex-post expenditure review undertaken by the ERA (or its engineering consultants) as part of the access arrangement review process, the business cases themselves are not made public. The review also does not appear to include any form of market testing in relation to cost efficiency. For example, does Western Power or the ERA consider whether a third-party provider could install a network connected battery or provide load services at a lower cost than they might be able to negotiate even through a third party provider.

While new solutions are expected under various aspects of the Energy Transformation Strategy, the combination of Western Power's traditional monopoly service provider role and roles in which they

4 Page 36, GHD Advisory, GHD Report for Economic Regulation Authority - Technical Review of Western Power Proposed AA4 Access Arrangement for 2017/18-2021/22, 26 April 2018

compete with private sector investors and participants in competitive market structures (either actively or passively) presents a conflict of interest.

PE recommends the type and price of non-monopolistic services offered by Western Power are scrutinised by the ERA. Each of those services that can be competitively delivered should:

1. be competitively tendered to ensure that the service provider is delivering the services for the most efficient price;
2. not be cross subsidised by the network service provider's regulated service; and
3. be ringfenced, or preferably, be delivered by separate entities (as is required under other regimes and for all other network service providers in Australia[5]).

The regulatory framework includes several incentive regimes which, when viewed as a package, work to ensure Western Power is financially neutral as to whether to resolve a network issue with a capital or operating expenditure solution. Irrespective of this, the general principle of favouring capital expenditure over operating expenditure seems to be favoured by all regulated utility network businesses. This coupled with a drive to maintain control of the network and the associated assets makes it difficult to undertake an unbiased comparison of a capital and operating expenditure solution, as well the different perceived risks associated with an in-house or third party provided solution. Consequently, there is always an element of bias in the application of the NFIT in practice.

Changes to section 6A.6

PE notes the proposed amendments to section 6A.6 of the Access Code include consideration of the benefits accrued in the Wholesale Electricity Market (WEM) in the net benefits test under the NFIT. While the explicit requirement to include WEM benefits is helpful, again it is unnecessary. The current definition of the net benefits test already includes benefits to generators, retailers as well as customers and therefore implicitly includes WEM benefits. This is another example of the faults with the current Access Code lying in the interpretation of the Code rather than any issues with the wording itself.

PE suggests the reason Western Power has not sought to estimate these benefits to date is because of the complexity in modelling the outcomes. The proposed Access Code amendments do not address this issue, rather they defer to a guideline yet to be developed by the ERA. As with many of the other proposed Access Code amendments, while it appears to be a positive change, it is difficult to anticipate what might be included in this guideline, and how the ERA and Western Power might calculate market benefits in practice. This will be a contentious and difficult guideline to develop and agree, and as such PE recommends that the principles of such a benefits assessment should be included in the Access Code.

[5] We expect this would be at least commensurate with the financial, decision-making and information sharing ringfencing arrangements in place between:

- System Management and Western Power prior to the transition to AEMO;
- the ERA and Rule Change Panel;
- Synergy's generation and retail business units (as the ERA has considered should be amended to be effective in their various transfer pricing scheme reviews and WEM effectiveness reviews); and
- monopoly energy businesses' regulated services and unregulated services, as well as between monopoly businesses and related parties providing services in competitive markets as implemented by the Australian Energy regulator for all other network service providers (https://www.aer.gov.au/networks-pipelines/ring-fencing).

Any calculation that relies on assumptions or estimated cost variables is likely to be inaccurate. PE recommends any requirement to conduct the WEM benefits test must be accompanied by a consultation process by which informed parties or affected stakeholders can provide inputs (for example Western Power should consult with AEMO in relation to WEM modelling outcomes). This will help reduce the degree of assumption used in the test and also relieve some of the complexity for Western Power.

NFIT guideline

A proposed change to section 6.56 of the Access Code is a requirement for the ERA to make and publish guidelines setting out the factors to be considered in making an NFIT determination. This appears to be driven by a desire to increase transparency and certainty for Western Power. However, due to the impracticality of considering all possible outcomes of all potential capital investments, any guideline will need to be general in nature, and as such is unlikely to deliver material benefits on its own.

PE recommends the proposed change to section 6.56 of the Access Code should be expanded to include a requirement for the ERA to publish its reasoning for its decisions in detail in its access arrangement determinations, mapped against these new NFIT guidelines. Ideally, the ERA could hold interactive workshops whereby it can walk through its thinking with affected stakeholders and interested third parties and explain the rationale for its decisions. Such an approach would go a long way to uplifting the maturity of the regulatory process and the quality of ideas/proposals put forward.

PE recommends the Access Code be amended to be clearer on the requirements for publishing justification of decisions (as well as proposals) by the regulator and the network service provider. For example, clearer direction on the application of section 4.28 would be beneficial, making it a requirement on both the ERA and Western Power to validate its decisions/proposals.

Summary of PE's recommendations on changes to NFIT

New Facilities Investment Test

- The proposed changes to the NFIT are largely unnecessary, however, if they are to be adopted they should be expanded to include a requirement for greater consultation and transparency on key inputs to the benefits test and alternative options considered.

ERA scrutiny

- The type and price of non-monopolistic services offered by Western Power must be scrutinised by the ERA, specifically in the areas of:
  - competitive tendering
  - cross-subsidy; and
  - ringfencing.

Benefits assessment

- Proposed guiding principles should be included in the Access Code.

Improved transparency

- The ERA should be required to publish its reasoning for its decisions in detail in its access arrangement determinations, mapped against the new NFIT guidelines.
- The Access Code should be clearer regarding requirements for publishing justification of decisions by the regulator and the network service provider.

Transparency in investment in new technologies: Non-network solution obligations

Section 3.1.2 of the Consultation Paper

PE supports the introduction of the Network Opportunity Map, alternative options strategy[6] and model Alternative Operation Service contract.

Network Opportunity Map

In particular, PE welcomes the Network Opportunity Map. We expect the map will provide critical information for third parties to direct private sector investment in non-network solutions towards alleviating (or at least not worsening) constraints in the network.

PE recommends the map should look at potential locations for new generation plant. This is because much of the existing thermal plant (coal and gas-fired) is approaching the end of its nominal life and is expected

[6] Noting that there is no need for an explicit requirement to include alternative options in the NFIT, the development of an alternative options strategy would be a useful exercise provided it is made available for public consultation.

to be replaced over the coming 10-15 years. The replacement of this plant is likely to see investment in quite different technologies at different locations largely driven by the availability of the fuel source. This will profoundly change load flows on the transmission network. Only Western Power currently has, or is likely to have, a sufficiently detailed understanding of these changes and how best to address them in order to maximise achievement of the objectives of the Access Code (price, quality, reliability, security etc). PE sees this as complementing the Whole of System Plan.

Need for adequate ringfencing arrangements

PE reiterates its concerns raised in response to the DER Roadmap Implementation Industry Consultation Paper in relation to Western Power fulfilling a role as the network operator, DER provider and Distribution System Operator. Adequate ringfencing arrangements must be put in place to:

- ensure Western Power is able to make a commercial return on DER services, and separately fulfil its roles as the impartial Distribution System Operator;
- ensure Western Power does not unduly prefer internal delivery of DER services over third party provision due to commercial incentives to expand its regulated asset base;
- ensure Western Power provides standard and negotiated contract terms and conditions that provide a competitively neutral playing-field; and
- ensure Western Power does not use regulated assets for unregulated purposes, thereby cross-subsidising its service in competitive sectors.

PE expects this would be at least commensurate with the financial, decision-making and information sharing ringfencing arrangements in place between:

- System Management and Western Power prior to the transition to AEMO;
- the ERA and Rule Change Panel;
- Synergy's generation and retail business units (as the ERA has considered should be amended to be effective in their various transfer pricing scheme reviews and WEM effectiveness reviews); and
- monopoly energy businesses' regulated services and unregulated services, as well as between monopoly businesses and related parties providing services in competitive markets[7].

PE also expects to see information sharing protocols commensurate with the recently approved Rule Change Proposal: ERA access to market information and SRMC investigation process (RC_2018_05)[8]. This will ensure robust governance is in place in relation to information disclosure and adequate procedural fairness when using information and making decisions.

Demand Management Innovation Allowance

PE supports the concept of the proposed the Demand Management Innovation Allowance, however, history has shown that including additional guidance or provisions in the Access Code does not in itself improve outcomes of the regulatory process. For example, Western Power's D-Factor scheme, which was introduced in Western Power's second access arrangement in 2009, is designed (amongst other things) to

[7] https://www.aer.gov.au/networks-pipelines/ring-fencing
[8] https://www.erawa.com.au/rule-change-panel/market-rule-changes/rule-change-rc_2018_05

ensure Western Power is financially neutral as a result of any non-capital cost incurred in relation to demand management initiatives. The existence of this mechanism however, has not resulted in Western Power proposing any demand management initiatives to date.

PE therefore recommends that in order for introduction of to be a success, it should be accompanied by a structured change management program whereby Western Power and other key stakeholders (the AEMO for example) come together to identify demand management opportunities and make a firm commitment to pursuing them and/or helping third parties deliver efficient non-network solutions. This would be particularly useful in determining the overall net benefit (including in the WEM). It is in this context, we recommend any projects to be funded under the Demand Management Innovation Allowance are identified in the Taskforce's Whole of System Plan's list of Priority Projects, rather than a 'bucket' or funds being made available for Western Power to spend without adequate oversight.

PE considers that, should Western Power be allocated regulated revenue to pursue demand management initiatives, the scheme must require:

- Western Power to work in collaboration with Market Participants and AEMO to ensure there are no unintended consequences[9];
- well-considered eligibility criteria[10] to be met for projects to be funded, including that it is supported by a business case (rather than just described in a list provided to the ERA);
- the findings and outcomes of projects are made publicly available to ensure Western Power does not have a competitive advantage in providing non-monopolistic services; and
- clear rules in relation to the regulatory financial treatment of projects including but not limited to cost accounting and reporting, how expenditure and revenue will be classified (regulated/unregulated), to whom benefits will accrue, and how any resulting assets will be depreciated.

[9] An example of this is Western Power working directly with end-use consumers to increase network delivered load as part of the '100 MW challenge'. This has a significant impact on retailers' commercial positions and system security managed by AEMO. We appreciate the intent of the project, however, Western Power should have consulted and collaborated with Market Participants and AEMO before and during the implementation of the initiative.

[10] For example, only genuinely new and innovative projects should be funded. Proven technologies such as community batteries which continue to be called "trials" should not be included.

Summary of PE's recommendations on non-network solution obligations

Network Opportunity Map

- The map should be expanded to include new generation locations.

Adequate ringfencing

- An appropriate financial, decision-making and information sharing ringfencing regime must be implemented to mitigate the potential for significant conflicts of interest.

Demand Management Innovation Allowance

- Should Western Power be allocated regulated revenue to pursue demand management initiatives, the scheme must include sufficent administrative and governance arrangements to ensure:
  - a firm, co-ordinated commitment to the delivery of non-network solutions; and
  - those solutions are incorporated in the WOSP priority projects.

Facilitating the deployment of stand-alone power systems and distribution connected storage

Section 3.2 of the Consultation Paper

PE has no comments on the amendments relating to this section of the Consultation Paper.

Introducing multi-function asset guidelines

Section 3.3 of the Consultation Paper

The proposed amendments to the Access Code include defining a network asset as a multi-function asset as follows:

> *6.84 If an asset is used to provide services other than covered services (a "multi-function asset") …*

PE highlights that the definitions of 'covered service' and the associated 'common service' are inconsistent with the new definition of a 'multi-function asset'. This is because they would result in the services provided by assets such as batteries, which are primarily introduced to support the provision of network services, being determined as covered services.

Network assets such as batteries provide a common service in ensuring the reliability and stability of the network (i.e. ancillary services or Essential System Services (ESS)). This means they are also providing a benefit to the users of the network that cannot be reasonably allocated to specific users and therefore offset specific tariffs – meeting the definition of a common service[11] and thereby a covered service[12]. Therefore by this definition, a battery cannot be a 'multi-function asset'.

This contrasts with the intention of the introduction of multi-function assets to include such assets:

> *…distribution connected storage works would be considered a 'multi-function asset' as the storage works are able to provide both regulated network support services and unregulated (for the purposes of the Access Code) essential system services and/or energy arbitrage services.* [13]

Moreover, PE contends that there are no network reliability and stability services being proposed as ESS for which a battery could earn revenue. The mutually exclusive nature of WEM participation and distribution network stability functions would means that, to participate in ESS, Western Power would need to intervene in the operation of the asset such that it would no longer meet the function for which it was built, funded, and installed under the Access Code.

PE considers the costs associated with energy consumed or discharged by a battery in order to fulfil the requirements of maintaining network stability and reliability should be considered part of the cost of providing covered services. This is after all the manner in which stability is maintained, and would be no different to the costs incurred in the provision of a standard NCS contract by Western Power to a generator or load.

This is treatment is consistent with Western Power's stated driver for installation of batteries, being:

> *…localised areas of the network now using energy, and also provide it. That leads to local characteristics that need to be managed.*
>
> *For example, voltage fluctuations when clouds cover local networks, energy flowing the reverse direction through network equipment.*
>
> *The vision for solving these issues is distributed community batteries, able to smooth out localised fluctuations of energy generation and distribution faster than one or two centralised batteries.*
>
> *Conveniently batteries also support a range of grid functions in today's energy landscape, which is more volatile with solar coming in from everywhere, than the 'old' central generation days.*
>
> *They are deliberately automated to discharge during peak, preventing stress on the network (and generators) and have the potential to defer costly network upgrades by reducing the load.* [14]

PE therefore considers Western Power should include these 'non-network' solution costs, and benefits of assets such as batteries across all customers under the current provisions of the Access Code, as we expect they currently are doing. This, appropriately, would also ensure there is no revenue stream through the

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[11] The Access Code defines 'common service' as "a covered service that is ancillary to the provision of one or more of entry services, exit services and network use of system services that ensures the reliability of a network or otherwise provides benefits to users of the network, the costs of which cannot reasonably be allocated to one or more particular users and so needs to be allocated across all users.

[12] The Access Code defines 'covered service' to include common services under part d of the definition.

[13] Page 21, Consultation Paper

[14] https://westernpower.com.au/community/news-opinion/community-batteries-mutual-attraction/

WEM, as like an NCS contract the settlement is either netted from the notional wholesale meter (a transfer between Western Power and Synergy) or occurs outside all market paradigms.

PE therefore contends that:

1. Any network assets installed by Western Power also providing a common service in ensuring the reliability and stability of the network (including but not limited to batteries and stand-alone power systems) should be defined as providing a covered service, and should be treated as such under the provisions contained in the current Access Code.

2. In the event that these network assets earn additional revenue (i.e. make a windfall gain due to ancillary functions), 100 per cent of that gain should offset the cost of that service to customers, in the same manner that any losses incurred in undertaking that service would be added on to the cost of provision of services to customers.

3. If any network assets are installed for the predominant or sole purpose outside of network services, and/or providing non-monopolistic services (including for example undertaking energy arbitrage services), strict ringfencing would be required (see our comments in relation to section 3.1.1 of the Consultation Paper) and adherence to the relevant legislative instruments including the WEM Rules would be required.

If, however, these proposed multi-function asset guidelines are to be implemented, the Access Code must ensure that adequate measures are in place to ensure any regulated assets can only earn a small amount of revenue from unregulated services, if any.

PE recommends the ERA should assess the primary purpose and operation of all network assets installed by Western Power also providing a common service in ensuring the reliability and stability of the network to determine whether they should be a regulated or unregulated asset. The classification of these assets should be considered at the time of connection and as part of each access arrangement review process.

If the ERA the determines the primary purpose and/or operation of these network assets to be providing unregulated services, they must then either:

1. be placed into an appropriately ringfenced commercial entity;

2. not be approved to be owned by the network service provider in the initial instance; or

3. be forcibly sold out of the regulated asset base at market value.

Provisions of this type will ensure competitive neutrality and avoid cross-subsidisation.

Summary of PE's recommendations on multi-function asset guidelines

The multi-function asset definition

- The assets described as multi-function assets provide common services which are covered services under the definitions in the Access Code.
- The multi-function asset guidelines are not required.

Perverse incentive structures

- The ability for Western Power to invest in multi-function assets will encourage provision of sevrives with regulated assets that are not afforded oversight under the Access Code.
- There is a clear conflict of interest in enabling regulated assets to earn unregulated income, which must be dealt with by implemeting strict ringfencing of Western Power.

Adequate ringfencing

- If a regulated monopoly is earning unregulated income from regulated assets, it will be incentivised to prefer internal delivery of DER services ahead of any other option. Ultimately this will come at significant impost to the consumer.

Streamline the regulatory approach for Whole of System Plan (WOSP) priority projects

Section 3.4 of the Consultation Paper

PE supports the delivery of a Whole of System Plan for the SWIS. We see significant benefits in providing a centralised view of the performance of the system as a whole, and the publication of information that will support, at a high level, appropriate levels of private sector investment in areas of the network that will deliver optimal outcomes. However, the proposed WOSP ignores two significant drivers:

1. Private investors will be guided by whatever economic incentives are provided but, in the end, they will make their investment decisions on whatever they see as maximising their economic returns.

2. The major owner of power plant in the state is the Government, and it too will make closure and investment decisions on a much broader range of drivers than economics. This means unless Government plans are being made transparent as part of the WOSP, it is unlikely to provide an accurate view.

PE supports a list of priority projects in the WOSP, and as previously mentioned, we recommend the WOSP is also used as the vehicle for developing, considering overall industry benefits and consulting on non-network and alternative options such as those expected to be undertaken as part of the Demand Management Innovation Allowance. We are, however concerned the priority project list will remove any oversight of the prudence of these projects by the ERA.

The justification for the removal of regulatory oversight under what appears to be both the ex-ante and ex-post review process, is one of expedition. PE considers projects that expand the capacity or capability of the network such as those expected to be in the priority projects list should be undertaken with due consideration. They should not be undertaken without evidence and formal documentation supporting the prudence of the investment and certainly should not be progressed in haste.

On 31 March 2020, Western Power submitted a Regulatory Test application for the Picton South staged 132kV conversion - a $38.2 million project. By 16 June, Western Power had decided it no longer needed to complete the project and withdrew the application. If this project had been expedited, Western Power may not have had reason to re-assess the prudence or timing of the projects and could have committed expenditure as a result.

PE is concerned about the perception that the regulatory process is preventing timely investment. The access arrangement process is often mis-interpreted as a framework under which the ERA approves Western Power's projects. It is not. The access arrangement process merely sets the amount of revenue Western Power may recover through regulated network tariffs. This includes an ex-ante review of the prudence and efficiency of Western Power's forecasts, and an ex-post review of past expenditure.

PE understands Western Power develops business cases for all capital expenditure projects prior to them being commenced as part of its internal investment governance process. It then provides a selection of these to the ERA to demonstrate future and past expenditure meets the NFIT as part of the access arrangement. As such, PE doesn't expect there is a significant additional time or resource impost related to developing a business case, and therefore cannot see why an expedited process is required or why the Government would seek to remove independent regulatory oversight of the prudence of these priority projects.

Moreover, we highlight that the NFIT and Regulatory Test under the Access Code are designed for Western Power to demonstrate if there is a need for the project, but also that it conducted a detailed options assessment and cost benefit analysis of each option considered and therefore the selected project is prudent. While the WOSP may demonstrate the need, the process by which options were developed and assessed is not clear and does not appear to be required.

If the priority projects list is designed to pursue projects driven by other factors that may not align with tangible net benefits (e.g. equity or social policy drivers) and therefore may not be able to be justified under NFIT, we recommend this intent be made clear. However, if this is the case, we note the regulatory framework in the Access Code already adequately addresses such projects. Where a project is proposed in the forecasts and is determined by the ERA as not meeting the NFIT, it is excluded from the revenue requirement. This does not prevent Western Power from undertaking the project, it must fund it through means other than regulated revenue. Similarly, on an ex-post basis, if a project is deemed not to meet the NFIT a return cannot be earnt through regulated revenue. This has the effect of the shareholder (i.e. the Minister for Energy) funding the project rather than network customers. We recommend this model is retained to ensure those who benefit from the project pay for it.

PE recommends, should the list of priority projects continue to be progressed through a process void of regulatory scrutiny, a formal business case, meeting the standards of the Government, should be required to accompany the WOSP to demonstrate the prudence of the project.

Summary of PE's recommendations on WOSP priority projects

Expediency vs Oversight

- The use of priority projects cannot be a substitution for an ex-ante review of the prudence and efficiency of Western Power's forecasts, and an ex-post review of past expenditure.
- A formal business case, meeting the standards of the Government, should be required to accompany the WOSP to demonstrate the prudence of the project.

Amending the Technical Rules change management process

Section 3.5 of the Consultation Paper

PE has no comments on the amendments relating to this section of the Consultation Paper.

Limiting the scope of the Technical Rules

Section 3.6 of the Consultation Paper

PE has no comments on the amendments relating to this section of the Consultation Paper.

Changing the Access Code objective

Section 4.1 of the Consultation Paper

PE supports the focus of the Access Code objective to be moved to the long-term interests of consumers as they are the beneficiaries of network services under a constrained network access framework. Our comments on the changes necessary to facilitate this this change in philosophy are presented in our responses to relevant sections of the Consultation Paper, including (in particular) 4.2.1 and 4.4).

PE does not consider the removal of reference to competition in the market is a significant problem. The existence of competition is implied in the requirement to promote efficient services in the long-term interests of consumers. However, if this is not the intention of the drafting, then the requirement to support competition should be re-instated.

PE is of the opinion that the rationale for the proposed three limbs of the Access Code objective is weak.

PE does not consider there to be a need for the separation of the objectives as they apply to 'electricity supplies generally' and 'services of the network'. We contend the Access Code exists to cover the rights and responsibilities of users and the providers of regulated services of a covered network. The Access Code does not apply to electricity supplies more generally than regulated network services, for example:

- the Access Code cannot address the price of electricity supplies beyond regulated network tariffs as it does not affect wholesale or retail prices;
- the Access Code cannot address the quality of electricity supply beyond operating and investing in the transmission and distribution networks as it does not cover the supply of wholesale

electricity, ancillary services (load following, spinning reserve, load rejection reserve or system restart services etc) or non-network behind the meter services;

- the Access Code cannot address safety beyond that of the Western Power owned infrastructure as it does not cover assets owned privately, including those in uncovered networks; and
- the Access Code cannot address the security of supply beyond the availability of the transmission network as it does not provide incentives to connection generation equipment or affect system operations.

PE recommends the first and second limbs should be combined, and only apply to covered networks.

PE also questions the necessity of the third limb of the proposed Access Code objective. The environmental consequences of investment in and operation of the covered network are necessarily considered under the aspects of price, quality, safety, reliability and security of supply, and therefore the third limb of the objective is redundant. Moreover, PE expects that the network access arrangements should be consistent with Government policies more broadly than just the inclusion of the reduction of 'carbon pollution' (see for example our recommendation to establish advanced metering as a policy objective in response to section 4.3 of the Consultation Paper). As such, we recommend the third limb of the objective either be removed or address Government policies more broadly.

On a technical note, PE highlights that any reference to reducing emissions should refer to 'greenhouse gas emissions' to exclude emissions such as methane and sulphur hexafluoride, rather than carbon emissions.

Summary of PE's recommendations on Access Code objective

Clarify the objective

- The first and second limbs should be combined, and only apply to covered networks.

Include Government policies in the objective

- Remove the explcit reference to carbon pollution reduction (which should be greehouse gas emissions).
- Ensure other Givernemnt policies are also considered in the Access Code objectives.

Price signals, price objectives and avoiding price shock: Price signals and objectives

Section 4.2.1 of the Consultation Paper

Pricing principles and constrained access

The goal of economic regulation of monopoly provider organisations should be to seek outcomes consistent with those in competitive markets. This can only be achieved by promoting efficient allocation of costs and setting prices at a level that limits excessive profits but encourages efficiency improvements and appropriate investment.

PE therefore agrees the network pricing objective should ensure the tariffs Western Power charges in respect of its services should reflect the efficient costs of providing those services to the consumer. We also support the proposed amendments to the pricing principles subject to our specific comments below.

PE highlights that a key pricing principle is missing from the Access Code. The pricing principles as amended do not include a 'user/beneficiary pays' principle – a core objective of the Energy Transformation Strategy. PE therefore recommends a new pricing principle is included in chapter 7 of the Access Code that requires tariffs must only be levied on the users benefiting from the relevant network service. This principle ensures there is no contradiction between the allocation of rights and the onus of responsibilities.

Under the current unconstrained network access arrangements, generators had a right to export their energy up to a negotiated limit (traditionally this was the maximum output of the plant). This provided an obligation on Western Power to guarantee the generator access to the network to sell its energy in the WEM, and the network was designed to accommodate this. Generators paid for this service through transmission use of system charges.

The move to a constrained network access framework has removed generators' network services, and the change in the Access Code objective to one around delivering electricity to end-use customers has removed the concept of the provision of services to any user that is not a net load. Under the proposed constrained network access framework and the associated proposed changes to the Access Code, it is clear network investment and associated services will no longer be provided to generators. This is consistent with other constrained access frameworks such as the National Electricity Market, and is explained by the Australian Energy Market Commission (AEMC) as follows:

> *An open access system:*
>
> - *The focus of transmission businesses, including their operation and investment decisions, is to deliver a reliable supply to consumers and to make offers to connect to generators and loads that wish to connect to their network.*
> - *The development of transmission infrastructure to enable the export of energy from generators will only occur to the extent that is necessary to ensure consumers receive a reliable supply of electricity.*
>
> *Under this open access system, a generator has a right to connect to the transmission network but there is no guarantee they will be able to sell their output. A generator's right to use the transmission network, and so earn revenue, is based solely on whether or not it is dispatched by AEMO in the wholesale market. Dispatch of electricity is determined by dispatch offers of generators and the level of network congestion.*
>
> *Therefore, because there is an obligation on transmission businesses to reliably supply their customers, it is customers who fund investments in the transmission network that enable export of energy from generators, and relieve congestion where necessary. The costs of the assets necessary to provide a reliable supply are recovered solely from load (that is, customers).*

> *As generators have no access right to the transmission network, that is, there is no guarantee they will be able to sell their output, they only pay charges relating to the cost of their immediate connection to the shared transmission network, the charging regime for generation can be characterised as a "shallow" connection charging approach.* [15]

While we appreciate this principle could have been inferred as it ultimately should be an outworking of the proposed Tariff Structure Statement process, we consider it must be added as an explicit principle so as to leave no doubt as to who benefits from network services and network investment, and therefore should pay network tariffs – end use customers.

PE is concerned about the significant discretion that may be applied by Western Power and the ERA in determining whether the tariffs included in the Tariff Structure Statement comply with the proposed pricing principles. However, principles must be high-level in nature. PE expects the framework and approach process for the upcoming access arrangement will involve significant debate in relation to the interpretation of various terms, for example 'stand-alone cost' and 'avoidable cost'. As discussed in PE's response to section 5.1 of the Consultation Paper, we a consultative group should be established that is truly representative of the users of the network.

Tariff Structure Statement

PE supports the establishment of a Tariff Structure Statement ("TSS") underpinned by the pricing principles as recommended to be further amended and consultation through a framework and approach process (PE's comments are provided in response to section 5.1 of the Consultation Paper). PE considers de-coupling the design elements of the access arrangement from the price outcomes to be a positive step and will ultimately ensure a more effective regulatory framework and in return more efficient prices.

Discussion on the proposed changes related to tariff variation and price shock are provided in the following section in response to section 4.2.2 of the Consultation Paper.

Summary of PE's recommendations on price signals and objectives

Pricing principles

- A new pricing principle requiring only beneficiaries of network services to pay network tariffs must be introduced.

Levying tariffs

- Network services are only provided to net loads, consistent with the removal of guaranteed network access for generators, and therefore tariffs should only be paid by loads.

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[15] Page 1, Fact sheet: How transmission frameworks work in the NEM, AEMC, 18 July 2017, available at: https://www.aemc.gov.au/sites/default/files/content/4ea65c9e-2995-4164-ab4e-ed2584efd126/Fact-sheet-how-transmission-frameworks-work-in-the-NEM.PDF

Price signals, price objectives and avoiding price shock: Price shock

Section 4.2.2 of the Consultation Paper

PE supports the changes to minimise the variability in tariffs between access arrangement periods, and to require Western Power to set its reference tariffs to minimise distortions to the price signals for efficient usage. However, it is unclear how the two new proposed objectives provide any further clarity than the existing objective of avoiding price shock.

The Consultation Paper explains this as:

> *… usage that results from reference tariffs set on the forward-looking efficient cost of providing the relevant reference service. This should provide Western Power with more discretion to set each reference tariff in a way that reduces the incidence of sudden tariff movements within an access arrangement period.*[16]

PE contends the reference to minimising distortions for efficient use is even more vague and could lead to greater in-period variations should it be deemed "efficient".

Moreover, it is not clear how the proposed changes would have addressed the significant price shock experienced by transmission connected customers in the AA4 period. Both Western Power and the ERA state they considered the impact of price shock on customers, and yet both the proposed and determined transmission prices included annual variances above 10 per cent per annum:

- PE notes the Consultation Paper states that *Western Power has interpreted this pricing objective to mean that each reference tariff cannot increase by more than two per cent more than the average increase in all network prices*[17]. However, through the AA4 process, Western Power states it *went to considerable lengths to avoid price shock for transmission customers. This included changing the timing of transmission and distribution revenue collection such that transmission tariff increases would be capped at 10 per cent per year.*[18] This would appear to show Western Power interprets price shock as anything over 10 per cent per annum.
- In the same review process, the ERA put forward a revenue profile in its draft decision results in price increases of 12.43 per cent per year (in real terms) for transmission connected customers, and ended up with an increase between 2018/19 and 2019/20 of 21.54 per cent, with the following two years also at around 12 per cent.[19]

PE recommends more specific guidance around acceptable price increases (and decreases) are developed and included in pricing guidelines for use in the upcoming access arrangement.

PE also highlights that as a result of the introduction of various new tariffs, and the removal of transmission use of system charges (commensurate with the removal of network services for generators - see PE's response to section 4.4 of the Consultation Paper) would require Western Power to review and potentially

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[16] Page 30, Consultation Paper
[17] Page 30, Consultation Paper
[18]Page 28, Revised proposed access arrangement information, Western Power, available at: https://www.erawa.com.au/cproot/19175/2/WPAA4%20-Revised%20proposed%20access%20arrangement%20information%20for%20AA4.pdf
[19] Ibid.

significantly change the tariff structure and therefore prices of services for the upcoming access arrangement.

PE recommends this is done with a view to minimise price volatility over the long-term, thereby removing the price path issue that currently exists (for not only Western Power but also ATCO Gas Australia).[20]

Price signals, price objectives and avoiding price shock: Enabling better consumer engagement

Section 4.2.3 of the Consultation Paper

PE appreciates the intent of the objectives of introducing the consideration of impacts on end-use customers into the Access Code. However, in the absence of a formal tripartite relationship between the network service provider, the retailer and the end-use consumer, it must be made clear that services are provided to, and costs are borne by network users (now largely retailers). While the ERA may have regard to the impact of its decisions on electricity tariffs, it is the retailers affected by network access terms and conditions that must ultimately bear the responsibility for assisting and managing loads through discussions about and the impacts of decisions made by Western Power and the ERA.

In most cases retailers are responsible for managing their customers' energy needs. Importantly, this includes the adequate provision of services and, most importantly to customers, affordability. This provides a significant incentive for retailers to effectively participate in the access arrangement review process including influencing network services offered, tariff structures and access terms and conditions. However, as part of previous access arrangement review processes (and other initiatives such as the aforementioned 100 MW challenge), consultation with, and comments made by, retailers has been largely ignored.

As previously mentioned, the proposed Access Code changes will result in a process being followed, however, there is no guarantee that any genuine consultation will occur. PE has concerns in relation to the transparency and robust justification of both proposals and decisions under the access arrangement review process and therefore recommends supporting the introduction of the end-use customers into the access arrangement process with:

- the establishment of an independent consultative group representative of the users of the network to advise the ERA on:
    - whether the proposal is in the long-term interests of consumers; and
    - the effectiveness of engagement activities with users and how this is reflected in the development of the proposal; and

[20] Western Power describes the issues as a construct of the regulatory framework and the practice of applying a smooth price path to recover revenue during an access arrangement period:
In summary, transmission network prices at the end of the AA3 period were substantially lower than transmission target revenue. Western Power's transmission target revenue for the AA4 period is forecast to be similar to the AA3 period , however, because transmission prices are currently so much lower than target revenue, they will need to increase sharply during the AA4 period in order to recover Western Power's revenue requirement. Transmission network tariff increases could be as high as 18 per cent per year if no measures are taken to address this issue.
Page 1, Transmission price path, Access arrangement information, Western Power, 2 October 2017

- formal requirements to seek, address and report feedback from this consultative group in the early stages of regulatory proposals and decisions.

Summary of PE's recommendations on enabling consumer engagement

Effective consultation on behalf of consumers

- Genuine consultation must be achieved.
- A consultative group representative of the users of the network should be established to facilitate engagement on the access arrangement review process (inculding the framework and approach process).

Enabling cost recovery for Advanced Metering Infrastructure

Section 4.3 of the Consultation Paper

PE supports the replacement of old end of life meters with advanced meters and would like to see this process accelerated. PE made a submission to this effect as part of the AA4 review process on the basis Advanced Metering Infrastructure (AMI) will:

- enable innovative products from retailers;
- further reduce the physical barriers needed to facilitate greater choice for consumers in the WEM;
- support the success of time of use tariffs and allow customers cost to accurately reflect their use of the network at a more granular level than was possible before; and
- over the longer term, allow customers to better manage their use of the network and receive the benefits through more dynamic tariff arrangements as a result.

PE notes the issue has arisen as ERA did not allow Western Power to include the forecast cost of the communications infrastructure, stating:

> *Western Power has not been able to demonstrate a positive net benefit, the proposed expenditure on the communications infrastructure is not reasonably likely to meet the requirements of the new facilities test.*[21]

While PE supports the roll-out of AMI by Western Power, it does not support the intergenerational cross-subsidy introduced by recovering the costs into the future.

PE is concerned the proposed changes seek to override and undermine the independent economic regulator. They set an expectation that costs deemed unjustified can be mandated to be recovered by future generations.

The NFIT is designed such that, where investment is driven by factors other than network objectives or net benefits, and therefore may not be able to be justified under NFIT, they are not recovered through network

[21] Paragraph 458, Draft Decision on Proposed Revisions to the Access Arrangement for the Western Power Network, ERA, 2 May 2018

users. This is to ensure that the beneficiaries of the investment pay for it. Where a project is determined by the ERA as not meeting the NFIT, such as AMI, it is excluded from the revenue requirement. This does not prevent Western Power from undertaking the project, it must fund it through means other than regulated revenue. This has the effect of the shareholder (i.e. the Minister for Energy) funding the project rather than network customers. We recommend this model is retained to ensure those who benefit from the project pay for it.

PE does note however, that Western Power obtained funding from Government of $100 million to deploy the radio mesh communications as part of the 2019-20 State Budget, and has since commenced construction of the radio mesh communications network as part of its deployment of advanced metering infrastructure. We recommend that the roll-out of AMI is supported by the shareholder as an investment in the Western Power business. This is a core element of the DER Roadmap and underpins the development of new technologies including virtual power plants and behind the meter systems.

As the State Government was satisfied with the information included in Western Power's funding request, PE expects it should equally adequately articulate and quantify the benefits relevant to the costs in a manner be suitable to demonstrate the capital expenditure meets the requirements of the NFIT for the ERA. This would allow the assets, including the communications equipment to be added to the regulated asset base and charged to those customers that benefit from them.

Summary of PE's recommendations on cost recovery for AMI

Intergenerational cross-subsidy

- Western Power must fund the AMI cost through means other than regulated revenue, as per the ERA findings in AA4.

Improving access to the Western Power network

Section 4.4 of the Consultation Paper

PE supports the various changes in respect to access contracts and arbitration that ensure a user can be curtailed in circumstances where network constraints caused by others come into effect. This is fundamental to the operation of a market that is built upon the concept of security constrained economic dispatch. To this end, PE also supports the removal of "bare transfers" and relocations as these would conflict with the new WEM Rues related to Network Access Quantities (NAQ).

Beneficiary pays principle

PE highlights however, commensurate with the removal of services (and the obligation to provide those services) to generators under the constrained network access regime, transmission use of system charges must be removed. This is consistent in other constrained access network arrangements including the NEM, where network charges are levied on loads only (more discussion on this is provided in the response to section 4.2.1 of the Consultation Paper).

Connection process

While access to the network must not be unnecessarily restricted, care must be taken to ensure that there is not a repetition of the issues that arose when generators were granted access in the North Country Area. In this situation the way in which spinning reserve levels were determined and paid for was disrupted by the establishment of a situation that was not covered by the system security processes in place within the WEM. The changes to the Access Code should provide adequate protection as one of its objectives is to promote:

> *… the long term interests of consumers in relation to (a) price, … reliability and security of supply of electricity …*

With this objective in place Western Power will be required, in the future, to ensure that it does not permit any connection that could bring about similar problems as arose with the North Country connections. However, PE suggests a specific obligation be placed on Western Power to liaise with AEMO in any situation where a proposed connection may have broader impacts on the operation of the WEM. Where Western Power is unsure of whether there is a broader impact on the market (such as spinning reserve requirements) then the default position should be for Western Power to ensure that AEMO is informed and undertakes an assessment.

Interactions between access and capacity

The proposed WEM reforms are designed to ensure that the NAQ process provides generators the security of network access required for positive investment decisions. There is the potential, however, for a facility's NAQ to be reduced where network capacity is no longer available to support it. For example, Western Power removes a transmission line or network element from service, a generator may be placed in a position where it cannot export its full capacity and so would lose capacity credits in the WEM. This could arise as a result of:

- an aging transmission line is damaged by bushfire, storm or some similar disaster and Western Power considers it not to be economic to repair;
- a change in network configuration to accommodate load or generation elsewhere resulting in loss of capacity at another location; or
- Western Power deciding to invest in a non-network solution such as a battery (considered by the DER Roadmap) or establish a network control service contract in place of refurbishment, replacement or augmentation of its network.

To mitigate this risk, PE recommends there is a specific inclusion in the NFIT guideline which requires Western Power and the ERA to consider the impact of investment decisions on Market Participants' NAQ and capacity credits.

Summary of PE's recommendations on improving access to the Western Power Network

Connection in the context of the entire market

- A specific obligation must be placed on Western Power to liaise with AEMO in any situation where a proposed connection may have broader impacts on the operation of the WEM.
- Specific inclusion in the NFIT guideline requiring Western Power and the ERA to consider the impact of investment decisions on Market Participants' NAQ and capacity credits

Enable cost recovery for constraint-related functions

Section 4.5 of the Consultation Paper

PE appreciates that the intent of the proposed introduction of sections 6.81 to 6.83 and definitions of access reform work and access reform costs is to ensure Western Power can recover costs incurred in relation to the development of network constraints information and preparation of the initial WOSP.

The justification of the proposed amendments is that the work goes beyond Western Power's typical network planning processes as it is covering a longer time period and is co-optimising network investment with generation investment.

PE is surprised the additional resourcing and associated cost of this access reform work is expected to be material enough to warrant an application, consultation, review and revenue recovery process. PE would not expect the extension of high-level assumptions from a 10 to a 20-year planning horizon would substantially increase planning costs. PE also notes Western Power has previously conducted generation planting analysis as an input into the Transmission Network Development Plan. Again, PE does not expect the level of effort or cost to be materially different to the business as usual activities and as such, does not consider Western Power should need to recover any additional revenue.

In the initial development of the WOSP, PE questioned the value added by the 20-year planning horizon used in the WOSP and value of the WOSP over the WEM Electricity Statement of Opportunities. However, PE understands there is yet to be a cost benefit assessment of the Energy Transformation Strategy as a whole, or any aspects such as the WOSP. PE recommends part (b) of the definition of "access reform work" in the proposed changes is removed, and that there is a cost benefit assessment of each aspect of the Strategy, including the WOSP, and it be retained and updated only where there is value.

As previously mentioned, we consider the prudence and efficiency of the costs incurred by Western Power should be considered by the ERA, this applies equally to Western Power's operating expenditure incurred for the purposes of reform. This will ensure that all the costs Western Power recovers from customers are prudent and efficient.

Summary of PE's recommendations on cost recovery for constraint-related functions

Recovery of access reform work costs

- Amend the proposed definition to remove part (b) of the definition of access reform work in the proposed changes.
- Ensure that there is a cost benefit assessment of each aspect of the Strategy, including the WOSP, and it be retained and updated only where there is value

Introducing a framework and approach process

Section 5.1 of the Consultation Paper

PE supports the introduction of a framework and approach step in the access arrangement review process, as it is expected to provide more certainty regarding the key elements of the access arrangement ahead of the revenue determination.

The primary justification for the proposed change is that separating the approval of those aspects of the access arrangement that can be done in advance of the rest of the access arrangement approval process would lessen the current time pressures on the ERA during the access arrangement process.

PE does not agree that there would, or should be less time spent on incentive mechanisms, form or price control, classification of services and tariff structure. However, PE supports the proposed change as it will decouple arguments made in relation to the design of aspects from the arguments around costs and prices. This should improve the operation of the regulatory framework in the long term.

PE reiterates however, the need for genuine consultation, and considers its recommendation in relation to enabling better consumer engagement in response to section 4.2.3 of the Consultation Paper should equally apply to the framework and approach process.

Summary of PE's recommendations on cost recovery for constraint-related functions

Framework and approach process

- Genuine consultation must be achieved, and this can only come from retailers via the establishment of a consultative group, representative of the users of the network.

Streamlining the access arrangement process

Section 5.2 of the Consultation Paper

PE supports the reduction in the overall length of the access arrangement review process by removing the Further Final Decision. PE agrees there is limited value in this step as stakeholders are not consulted, and the ERA's decision is unlikely to change.

Miscellaneous provisions

Section 5.3 of the Consultation Paper

PE has no comments on the amendments relating to this section of the Consultation Paper.

Transitional arrangements

Section 6.1 of the Consultation Paper

PE understands that the State Government has proposed to defer Western Power's initial AA5 submission to avoid the caretaker period for the 2021 State Election, and that sufficient time be made available for Western Power to incorporate elements of the ongoing Energy Transformation Strategy into its access arrangement.

While deferring the revisions submission date for an access arrangement period can be problematic, PE is not fundamentally opposed to delaying the AA5 submission if it means the various policies, contracts, tariff structures and prices that comprise AA5 can reflect new WEM arrangements, which are scheduled to commence in October 2022.

PE maintains that, rather than push the AA5 revisions submission date out to October 2021 (at the earliest), it need only be delayed until Friday 28 May 2021. PE submits that a 28 May 2021 submission date has significant advantages over the proposed October 2021 to February 2022 window considered, and October 2021 date proposed. In summary, Western Power submitting its initial AA5 proposal in May 2021 will:

- avoid the 2021 State Election caretaker period;
- enable the access arrangement and all of the key policies, contracts, tariff structures and prices that underpin it to be developed, consulted on and finalised prior to commencement of the new market arrangements in October 2022;
- ensure market participants have sufficient information to be able to effectively participate, and negotiate appropriate contractual arrangements (as generators and retailers) in the new market;
- allow sufficient time for Western Power to incorporate ongoing Energy Transformation Strategy reforms into its AA5 proposal;
- avoid public consultation having to be conducted over the Christmas period;
- allow sufficient time for the incoming Government and Cabinet to familiarise itself with Western Power's initial AA5 proposal ahead of its submission to the ERA; and
- allow the ERA's AA5 Draft Decision (and potentially Western Power's revised proposal) to be factored into submissions for the Western Australian State Budget 2022-23.

More detail in relation to the issues raised was provided in PE's submission to the Fact Sheet made on 2nd June 2020. PE urges consideration of these issues before making the proposed amendments to the Access Code.

Summary of PE's recommendations on transitional arrangements

AA5 review commencement

- AA5 must commence no later than the commencement of the new WEM arrangements.
- Western Power must make its initial proposal by 28 May 2021.