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Good afternoon

## Proposals for changes to the Market Power Mitigation Mechanism

Perth Energy welcomes the opportunity to provide feedback on the proposed market power mitigation mechanisms set out in the Energy Transformation Taskforce Consultation Paper dated 31 March 2021. With the new Wholesale Electricity Market (WEM) market design coming into effect, it is an opportune time to undertake this review to ensure a market mitigation framework is established which supports a dynamic, competitive market with clear guidance and rules to enable a level playing field for new and existing market participants.

The misuse of market power is a significant risk in a market such as the WEM where there is significant market concentration. While Synergy no longer holds such a large percentage share of generation assets as at market start, it still has a dominant market position supported by a large non-contestable customer base. At the same time, the level of generation assets held by other market players has risen and smaller players can exercise a degree of market power due to their position in the dispatch stack. This situation will be accentuated in the new WEM by the move to shorter gate closure and the introduction of competitive markets for Essential System Services (ESS).

The Energy Transformation Taskforce has clearly stated the need for change highlighting the time, cost and inefficiency of the current ex-post process. As noted in the Consultation Paper, these issues have been exemplified by the investigations before the Electricity Review Board which have been time consuming, expensive and, due to the lack of transparency of these investigations and their outcomes, provided little guidance to market participants.

Perth Energy broadly supports the proposed high-level design outlined in the Consultation Paper and the analysis set out in the Sapere-RBP supporting WEM paper. Together, these papers outline a more effective staged approach to reviewing market power through the three-part test which appears to be more suited to the WEM needs. We acknowledge the principles proposed for the market power mitigation framework review (page 8 of the Consultation Paper), and emphasise that for a dynamic, competitive market to operate effectively and for the best outcomes for consumers, the measures must allow market participants to be responsive to market signals and not deterred from recovering efficient costs. Also, any



new regulatory requirements must be proportionate to the management of known risks and unambiguous to enable participants to be confident in their operational and investment decisions. We offer the following specific comments.

### ***Value of fuel***

The consultants allude to issues with determining the “value” of fuel that is used in determining the marginal generation cost because this is the dominant factor in setting an offer price, especially for a gas fired generator. Market participants are likely to have a range of fuel sources, including gas held in storage, spot purchases and gas from term contracts which may be at, above or below “market” price. They may also have alternative markets for selling their gas rather than putting it into a generator.

It is appropriate that the ERA should provide Offer Construction Guidelines to the market. These will be challenging to develop and the ERA will need to allow appropriate leeway as to how market participants arrive at this value. Further, if the parties do not agree on this value, there must be an efficient dispute resolution process. Perth Energy considers that development of any guidelines should be through a broad consultative process within which participants can put forward their various perspectives.

### ***Increased data retention obligations***

Enhancing the internal control obligations around submission of price offers appear to be a sound process provided that these controls are clear and set out time periods for which this information must be retained for all market participants to allow for any subsequent ex-post review. It may be possible for some of these requirements to be built into the new trading systems that all market participants are having to develop as part of the market transition process. It would be beneficial to have sufficient definition to allow any IT system enhancements to be made as soon as possible so that these can be incorporated from new market start. The timeframe for designing and implementing the new trading systems is very tight and we would certainly not want the market power mitigation actions to lead to a deferral of new market start.

### ***ERA involvement in ESS Pricing***

It is widely agreed that storage will have a significant role to play in stabilising the grid and that ESS payments will need to be a major source of revenue to fund this. The ERA has the task of monitoring ESS outcomes and triggering a SESSM process if it considers that market outcomes are not consistent with efficient operation. Determining appropriate levels for ESS prices will be demanding but we would encourage the ERA to address this as a matter of urgency. Investment decisions in respect to storage are already being flagged to the market but no indication is available as to what levels of ESS prices will be considered reasonable.

Perth Energy appreciates that the Transformation Taskforce would prefer to see storage investment arising from the out-workings of the ESS markets. We suggest that this would be facilitated by having ESS price caps determined within the next few months with a commitment that these be held for a nominated period, we suggest three years. Without this, there is the strong possibility that investors will be deterred from investing in these solutions, either forcing the Government to step in or leaving the power system unnecessarily exposed.



We are also concerned that the biennial review of the “acceptable” levels of ESS outcomes has, of itself, the potential to establish market power. This is because Synergy, as a Government trading enterprise (GTE), and Western Power, similarly a GTE and with its ability to roll capital costs into its regulated asset base, will each have a different risk profile to other non-government market participants who have no guarantee of investment return. As a result, GTEs may potentially be able to accept more exposure in their operations and investments and be prepared to accept greater risk of an ERA review reducing its return on investment.

### ***Price suppression***

While the emphasis is on protection of customers in the short term by preventing market participants from pushing prices **up** we are pleased to note that there is also emphasis on making sure prices are not pushed **down**. This action, while appearing to benefit customers, can cause long term harm by acting as a barrier for new participants to enter the market and as a result restricting competition impacting the medium to long term benefits that would otherwise be gained.

### ***Pivotal Supplier Test***

It is proposed that the pivotal supplier test assess whether there would still be surplus capacity if a market participant withdraws all of its capacity. Perth Energy supports this as a sound screening test, however, we suggest that there will still be opportunities for market power to be exercised when this test does not bind. Smaller participants may hold market power whenever they are dispatched and there is a significant price between their plant and that of the next generator in the dispatch stack.

A feature of the WEM is that some market participants have both low cost and higher cost plant. A potential scenario to manipulating the market is a participant withdrawing low priced capacity which in turn drives up the price of energy it receives for the balance of its operating plant. While the market participant may incur reserve capacity refunds, there is the potential for the entity to earn substantial amounts of revenue.

Perth Energy is reluctant to encourage excessive monitoring because of the cost on both market participants and the ERA, but we suggest that an assessment be made as to whether any broader tests, beyond the pivotal supplier test, should be considered.

Should you have any questions in relation to this submission please contact me on 0437 209 972 or at [p.peake@perthenergy.com.au](mailto:p.peake@perthenergy.com.au).

Kind regards,

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