



30 April 2021

Dora Guzeleva
Energy Transformation Taskforce
Level 1, 66 St Georges Terrace
Perth WA 6000

Submission by email: energytransformation@energy.wa.gov.au

Dear Dora,

RE: Consultation Paper – Proposals for changes to Market Power Mitigation Mechanisms

Shell Energy Australia Pty Ltd (Shell Energy) welcomes the opportunity to respond to the Energy Transformation Taskforce (Taskforce) on the Consultation Paper – Proposals for Changes to Market Power Mitigation Mechanisms (the Paper). energytransformation@energy.wa.gov.au

About Shell Energy in Australia

Shell Energy is Australia's largest dedicated supplier of business electricity. We deliver business energy solutions and innovation across a portfolio of gas, electricity, environmental products and energy productivity for commercial and industrial customers. The second largest electricity provider to commercial and industrial businesses in Australia¹, we offer integrated solutions and market-leading² customer satisfaction, built on industry expertise and personalised relationships. We also operate 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, supporting the transition to renewables, and are currently developing the 120 megawatt Gangarri solar energy development in Queensland. Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy.

www.shellenergy.com.au

Shell Energy is generally supportive of the proposed amended framework, however, we are concerned by the lack of specific detail supplied in a number of critical areas. We agree with the Paper that the current SRMC market power monitoring regime does not provide sufficient clarity on what constitutes acceptable conduct. Shell Energy welcomes the Taskforce's review of the market power mitigation mechanisms in the West Australian Electricity Market (WEM) with the view that any proposed replacement mechanism provides greater transparency and clarity around appropriate conduct whilst not being so prescriptive as to restrain the effective competition outcomes observed in the WEM.

The Paper provided a relatively high-level view of a proposed replacement market power mitigation framework that will be considered by the Taskforce, in addition to the associated Sapere Research Group and Robinson Bowmaker Paul Consultants Paper (the Consultants Paper) provides more detail of the concepts for the replacement framework. In principle, the framework appears to be reasonable although Shell Energy has serious concerns that there are significant details around the various guidelines that are yet to be developed and as such are not available for MP's and interested stakeholders to review and provide comments. The effectiveness of any changes to the current mechanism is reliant upon a detailed structure which is yet to be developed and shared with Market Participants (MPs). Shell Energy understands the tight timeframes that the Taskforce is working against in order to approve the framework however, it is that lack of clarity around the detail that is a concern. Given that the intention of the Energy Policy WA (EPWA) is to seek the Taskforce's approval before development of Rule Changes, it is imperative that MPs and other interested stakeholders are thoroughly consulted in the development of the Rule Changes and the subsequent details to be contained in the various associated guidelines. The market can ill afford a mechanism that is highly prescriptive which leads to efficient competition being impacted resulting in an ineffective market. The following provides some comments regarding some aspects of the proposed framework.

At first glance the concept of a "pivotal supplier test" seems to be reasonable in that the proposed framework would contain a pre-determined test to insure only those MPs that are deemed to be "pivotal suppliers" that meet a threshold are the focus of market power mitigation obligations and surveillance of these "pivotal suppliers" will increase clarity

¹ By load, based on Shell Energy analysis of publicly available data

² Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2020.



around trading conduct. However, the threshold for the proportion of pivotal intervals that trigger the application of the mitigation mechanisms is of utmost importance. If this threshold is set too low, every MP could be deemed to have a level of transient market power under specific market conditions which in our view would not improve the mechanism. We consider the threshold for designation as a “pivotal supplier” should be set on the basis of the ability to exercise sustained market power under a wide range of market conditions which has a substantial impact of effective competition in the WEM. The details around this appropriate threshold will be key to whether this “pivotal supplier test” will result in efficient and effective outcomes for the WEM.

The frequency of the review period for which MPs satisfy the criteria of the “pivotal supplier test” is critical. Let’s assume the ERA determines a quarterly review is what is required. If a MP is below the threshold in one quarter but then is deemed to be above the threshold the next quarter, no details are currently provided on how long the MP has to set up internal controls to support self-monitoring. If the threshold is set too low, the number of MPs that come in and out of threshold would cause significant uncertainty for those MPs, especially if internal controls for self-monitoring and detailed record keeping were required. The Consultants Paper suggests that MPs who rarely have market power may choose to keep records for internal purposes anyway, and that the ERA may provide guidance on the types of records it expects pivotal and non-pivotal suppliers to keep. Building these controls in to internal systems requires considerable lead time. In order to make these internal decisions, the detail of what is required for compliance by all MPs is required from the ERA as soon as possible.

Shell Energy is also supportive of the removal of the currently utilised SRMC concept and replacement of it with “offer construction guidelines”. However, again the individual components of this proposed reform are crucial in order to understand the impact on MPs. Whether these will be as per the suggestions in the Consultants Paper is unclear. As per the EPWA paper on Clarifying Market Offer Requirements released in 2020, Shell Energy believes an offer should include the components outlined in the proposed “offer construction guideline”, but not be limited to those components. It is important that MPs are able to recover all implicit as well as explicit costs.

The mitigation controls proposed in the framework are:

- 1) a threshold to determine presence of market power;
- 2) guidelines on a safe trading envelope; and
- 3) an effects test.

Further to this, responsibility falls upon MPs to develop internal controls to support self-monitoring and prevention of the potential exercise of market power. Retaining records for underlying rationale for any submissions including assumptions made to inputs (such as expected run time, fuel cost, load forecast, and presence or absence of congestion) is overly prescriptive and not a level of data and record keeping Shell Energy believes warranted. The current rules allow a MP to adduce evidence that it had reasonable grounds for including a price, quantity or ramp rate limit in the Balancing Submission [7A.2.16(b)]. Shell Energy does not see the need to require even more detailed internal controls given the mitigation controls proposed.

Finally, Shell Energy agrees with the Consultants Paper that isolated instances of the exercise of transient market power do not have material effect on market outcomes. We consider the ERA should focus on situations where participant activities result in sustained and substantial hindrance to, or prevention of, effective competition outcomes. The focus on sustained and substantial hindrance / prevention is key here. Again, it is imperative that MPs are consulted on this definition of sustained and substantial effect on effective competition outcomes.

Shell Energy believes that MPs and interested stakeholders should be given the opportunity to be consulted and provide feedback on anything the ERA deems process or guideline driven in relation to the proposed framework. This includes, but is not limited to, the setting of the threshold level and inclusions in the offer construction guidelines. Shell Energy would also appreciate a timeline on release of information from the ERA so that internal decisions can be made promptly regarding processes and systems.

If you have any queries in relation to this submission, please don’t hesitate to contact me on 08 9338 6659.

Yours sincerely

Wendy Ng
GM Physical Trading West