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Energy Policy WA
Locked Bag 11
Cloisters Square WA 6850

Submitted via email: energytransformation@energy.wa.gov.au

ENERGY AND GOVERNANCE LEGISLATION REFORM – CONSULTATION PAPER

Alinta Energy appreciates the opportunity to provide feedback on EPWA's proposed reforms to the governance of WA's electricity and retail gas sectors.

While Alinta Energy agrees that centralising the sector's regulations under common objectives and governance may improve the coordination of reforms, it is concerned that the consultation paper sets broad policy objectives that cannot be achieved by changes to the regulatory structure. Attempting to resolve such issues as part of this project risks producing ad-hoc policy changes that aren't founded in proper analysis and that don't receive the benefit from appropriate consultation.

For example, Alinta Energy contests whether the proposed reforms can resolve issues such as low load (as inferred) – its persistence being more a result of residential rooftop solar PV subsidies coupled with inefficient, regulated electricity tariffs, rather than "regulatory barriers" preventing further investment in DER that can be removed by governance changes. Alleviating such issues will require separate, well-focused policy responses and not by 'enhancing or modifying' regulations as part of this project.

Given this, Alinta Energy recommends that EPWA narrows the focus of this project to structural objectives - i.e., designing a regulatory framework that is intuitive and logical, supports coordination and has a fair method for recovering its administration costs, rather than aiming for broader, market-based outcomes.

The remainder of this submission outlines further issues and recommendations for EPWA's consideration. For any recommendations that are beyond the scope of the structural objective outlined above, Alinta Energy suggests that these are considered via separate policy design processes with discrete goals.

Appropriate governance within EPWA

With the expanded responsibility these reforms would give the Energy Coordinator and EPWA, Alinta Energy recommends that this project consider whether there is an appropriate governance structure within EPWA to avoid too much responsibility being vested in too few people. For example, it may be more appropriate to establish a panel to make certain decisions, rather than just the Coordinator.

Appropriate scrutiny of market reforms

Linked to the above point, with more decision-making responsibility for EPWA, Alinta Energy considers that the function of reviewing the effectiveness of ER-WA reforms should be clearly independent from the decision maker. For example, the ERA could be required to review the effectiveness of the regulations, prioritising issues according to their materiality.

To ensure that this analysis has practical outcomes, Alinta Energy suggests that the project establish mechanisms that require the independent reviewer's findings to be followed by reform proposals where appropriate and duly considered by EPWA in its subsequent decisions.

Appropriate cost recovery of new market structures and functions

Increasingly, wholesale market participants are required to fund downstream DER-related projects that aim to fix issues that they did not cause and deliver outcomes that they won't directly benefit from.

For example, last year, rule changes required market participants to fund AEMO's in-period allowable revenue submission in support of its DER roadmap actions.

According to AEMO's AR6 proposal, further in-period submissions are expected in support of the DER roadmap, including to help establish a distributed services market.

Alinta Energy supports the intent of the DER Roadmap to resolve the system security issue presented by distributed solar generation and create new markets for DER services. However, it does not support the proposal for WEM participants to bear the costs of actions aiming to achieve these objectives.

As recognised by the DER Roadmap, rooftop solar PV owners currently receive significant cross-subsidies, including via network tariff structures that understate the costs they impose on the system and leave the residual to be recovered from other network users. Such subsidies have incentivised the uptake of rooftop solar PV to the level that now threatens system security.

Alinta Energy is concerned that requiring WEM participants to fund the resolution of the impending security issue would exacerbate the cross-subsidies which caused this problem in the first place. As Market Fees are charged on \$/MWh basis, rooftop solar PV owners would have little exposure to the additional charges. Conversely, generators and loads without rooftop solar PV would be penalised for an issue they did not cause and cannot control.

Further, having private sector WEM participants continue to fund the development of the market for DER services may also create cross-subsidies from the private sector to the public sector because current subsidies and pilots give Synergy a clear first-mover advantage in this space. Subsidised DER roadmap actions such as 'Project Symphony' and the Schools VPP Pilot Project give Synergy an exclusive capability to manage and aggregate DER services, and to partner with AEMO and Western Power, potentially crowding out the private sector. Consequently, recovering the costs of the development of DER services market, AEMO's development of a DSO role, and Project Symphony, means that market participants may fund the creation of a market that predominately benefits Synergy, their competitor.

To avoid continuing and exacerbating these cross-subsidies, Alinta Energy recommends the method for recovering ER-WA's administrative costs be based on causer and benefiter pays principles.

Alinta Energy notes that AEMO's market fees would be in many ways separate from ER-WA's administration costs and that broader reform to improve the fairness of AEMO's cost allocation would be beyond the scope of Project Eagle's structural objectives. Consequently,

Alinta Energy suggests that reforms to address the broader, existing DER related issues outlined above should be addressed via a separate review with a more precise scope.

Appropriate prioritisation criteria

Given the expanded rule book and the energy transition, Alinta Energy considers there is greater potential for more frequent reform proposals, and therefore a greater need for criteria to appropriately prioritise which issues receive EPWA's and the sector's scarce resources.

Given this, Alinta Energy recommends that EPWA develop, through consultation, criteria that appropriately considers:

- the risk of not progressing a given proposal,
 - the relative benefit of the proposal with respect to the market objectives, and
 - the time and resources required to implement the proposal
- in deciding which reforms to progress.

Appropriate ER-WA objectives and integration with climate policy

Alinta Energy recommends appropriate consultation on the ER-WA objectives to ensure that the sector's policy objectives continue to promote sustainable competition and investment in WA's energy sector as they are made to span new regulatory areas.

Alinta Energy also notes the importance of linking any emissions-based or climate objectives with government policy. This is required to ensure that these objectives are appropriately considered in policy decisions, rather than being abstract and difficult to apply. This clarity is particularly important for parts of the wholesale market like the RCM and more currently, the RCM review. Without clear links to broader climate policy, there is a risk that ER-WA and therefore investment signals are out of step with government policy and the need for an orderly energy transition.

Electricity licensing

The consultation paper does not discuss whether a review of electricity generation licensing is in-scope for Project Eagle, specifically whether section 7(1) of the Electricity Industry Act 2004 (EI Act), which imposes a licence requirement on those who construct and/or operate electricity generating works, may be considered for removal.

Generators are subject to requirements under approved frameworks that operate independently of the licensing scheme, including as participants of the WEM. Alinta Energy considers there are sufficient regulatory and commercial arrangements in place for generators without the need for licensing. As such, Alinta Energy urges EPWA to consider a review of electricity generation licensing as part of this legislative reform project.

Alinta Energy also notes there is a misalignment between gas and electricity retail licensing requirements. Whilst the Energy Coordination Act 1994 (Gas Act) requires a licence be obtained to sell gas to small use customers whose consumption of gas is less than 1 terajoule per year (refer section 11G(2)), the EI Act requires a licence be obtained to sell electricity to customers regardless of size (section 7(4)).

With the proposed consolidation of small use electricity and gas codes into the ER-WA, it makes sense to align electricity and gas retail licensing requirements. Alinta Energy would advocate for electricity retail licences to be required for small use customers consuming less than 160 MWh per year only. Extending licensing requirements beyond small use customers introduces significant costs for electricity retailers operating in that space and, to Alinta Energy's knowledge, there have been no major retail licence incidents concerning large use electricity customers.

Customer protections

Alinta Energy has previously advocated for a single Energy Code comprising both gas and electricity obligations, which would enable energy retailers to streamline processes and ultimately provide better outcomes for customers. To this end, Alinta Energy fully supports the proposed consolidation of the Electricity Customer Code, the Gas Marketing Code and the Gas Compendium into the ER-WA.

In parallel, Alinta Energy would encourage review of the associated regulations to remove any redundant references. In particular, the Energy Coordination (Customer Contracts) Regulations 2004 (Gas Regulations) includes many outdated references to the Natural Gas Customer Service Code (AGA Code). The AGA Code, last updated in 1998, is generally considered by industry to be obsolete. It would be more appropriate to incorporate the few relevant clauses of the AGA Code directly in the Gas Regulations.

Alinta Energy retails to over 440,000 small use gas and electricity customers in WA and, given our significant presence in the market, would like to be considered for representation on the consultative committee to be established to assist the coordinator with the review of customer protections.

Contestability

The consultation paper notes that section 54 of the Electricity Corporations Act 2005 (EC Act) will be reviewed under Project Eagle with a view to enabling contestability orders based on individual supply points, rather than the current position whereby if a customer consumes more than 50 MWh per annum at any of their supply points, then that customer is contestable at all supply points, regardless of consumption.

Alinta Energy would be keen to understand the logic behind such a change, given the implications for both retailers and the many customers currently deemed contestable by virtue of a single supply point over 50 MWh.

Alinta Energy would expect currently contestable customers to, at the very least, retain their contestable status despite any amendments to the EC Act.

Consultation processes

To have meaningful consultation, Alinta Energy would expect that stakeholders will be able to provide feedback on the proposed positions used to begin drafting the legislation. Alinta Energy considers that drafting legislation in parallel to the design process would make consultation superficial. Alinta Energy supports a genuine co-design process, with appropriate time for stakeholders to digest the proposed policy positions, changes and drafting, rather than having policy positions presented to stakeholders after they have been decided.

Further, as outlined above, Alinta Energy recommends that any proposed reforms or issues that are beyond the scope of designing a regulatory framework that is:

- intuitive and logical,
- supports coordination, and
- has a fair method for recovering its administration costs,

should be considered and consulted on via separate policy reform processes.

Thank you for your consideration of Alinta Energy's submission. If you would like to discuss this in more detail, please contact Oscar Carlberg at oscar.carlberg@alintaenergy.com.au or on 0409 501 570.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'GH', is positioned above the name and title of the sender.

Graeme Hamilton

General Manager, Government and Regulatory Affairs
Alinta Energy