



**Submission to the Economic Regulation Authority:  
Western Power's proposed model service level  
agreement**

**20 November 2017**

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## Executive summary

<b>Matter</b>	Western Power ( <b>WP</b> ) proposed model service level agreement ( <b>MSLA</b> )
<b>Context</b>	<p>On 24 August 2017 WP released its proposed new MSLA for public comment. Synergy currently pays approximately \$75M per annum to WP on the provision of metering services to enable Synergy to transact with its one million customers. Efficient and effective metering installation and operational services with independent regulatory oversight is fundamental to retailers and generators to establish and maintain customer service in a market, particularly where there is currently no competition in the provision of such services.</p> <p>On 18 September 2017 Synergy submitted its detailed response to WP in relation to its proposed MSLA (<b>September Submission</b>). The September Submission was provided to the Economic Regulation Authority (<b>Authority</b>) on 27 September 2017. On 20 October 2017 the Authority published WP's response to Synergy's submission. In the majority of instances WP has not agreed with Synergy's submissions on either of Synergy's proposed amendments or regulatory position nor has WP made proposed amendments that address Synergy's concerns.</p> <p>This submission sets out Synergy's concerns with respect to WP's proposed MSLA. These concerns remain very much along the lines proposed by Synergy originally in its September Submission. Where Synergy's concerns raised in its September Submission have been addressed by WP, or where WP has further amended the MSLA but Synergy still has concerns, this submission then sets out WP's response to Synergy's September Submission and then provides further comment.</p>
<b>Scope</b>	<p>Synergy's submission:</p> <ul style="list-style-type: none"><li>▪ Outlines the customer impacts of the proposed MSLA.</li><li>▪ Outlines the Synergy operational impacts of the proposed MSLA noting Synergy has experienced metering service issues.</li><li>▪ Sets out Synergy's view of the <i>Electricity Industry (Metering) Code 2012</i> (<b>Code</b>) requirements against which the Authority must assess the MSLA.</li><li>▪ Provides details of the areas Synergy is unable to determine the extent to which the MSLA meets the law, including the Code requirements due to a lack of information.</li><li>▪ To the extent Synergy has been able, expresses its views on certain areas where Synergy has concerns the MSLA does not meet relevant legal requirements including the Code requirements.</li><li>▪ Where known, details WP's responses to Synergy's September Submission.</li><li>▪ Sets out Synergy's response to WP's responses to Synergy's September Submission.</li><li>▪ Finally, identifies issues raised by Synergy in the September Submission in respect of which Synergy and WP were able to agree now meet the requirements of the Code (which are set out in Attachment 2 to this Submission).</li></ul>

## Key issues

- Synergy appreciates WP's level of AA4 engagement and consultation. However, while noting the significant improvement relative to previous access arrangements, Synergy considers:
  - WP claims to have complied with the requirements of clause 6.11 of the Code but in Synergy's view has not taken Synergy's submissions properly into account contrary to clause 6.11 of the Code and therefore the Authority must not approve the MSLA consistent with the Authority's obligation under clause 6.11(4) of the Code; and
  - WP has not complied with clause 5.1 of the Code because it has not used all reasonable endeavours to accommodate Synergy's requirements in connection with the negotiation of a service level agreement, in this case being the MSLA.<sup>1</sup>
- Metering services under the MSLA must be consistent with the Code and Code *documents*, *Customer Transfer Code*, *Code of Conduct* and the *Access Code*. Synergy has explained in its September Submission (and this submission) why certain services cannot fall under the MSLA. Some services, for example, because they are related to the conveyance of electricity not metrology.
- As the largest *user* of *network* and *metering services* in the SWIS, Synergy has explicitly articulated to WP the services it requires to meet its needs and the needs of its one million customers. These requests for services are detailed in this submission. As is obvious from the submission, WP has not taken Synergy's requirements properly into account and in Synergy's view this means the Authority cannot approve the MSLA, consistent with clause 6.11(4) of the MSLA.
- The Western Australian access and metering regulatory framework is fundamental to *users'* regulatory rights that underpin the provision of services. The framework governs the rights *users* have to request services. In Synergy's view WP's *metering services* in a number of instances are not consistent with the regulatory framework for the reasons specified in this submission and therefore the Authority cannot approve the MSLA under the Code as drafted consistent with the requirements of clause 6.11(4) of the Code.
- Synergy has previously advised WP of its concerns in relation to sequencing<sup>2</sup> and forming a holistic view of all the proposed changes in relation to AA4. As such, some of Synergy's comments regarding the MSLA may be subject to change, depending on which "covered services" are to be provided under AA4. Synergy therefore reserves its rights to make further submissions in respect of the MSLA. However, where Synergy makes a submission in respect of what is and is not permitted under the Law, including the Code, this representation should be taken as Synergy's final position with respect to these matters. At the time of lodging this submission WP has yet to disclose to the market its:

<sup>1</sup> Clause 5.1 of the Code requires among other things, that WP must use all reasonable endeavours to accommodate Synergy's requirements in connection with the negotiation of a service level agreement. To the extent this review of the MSLA is a negotiation of a service level agreement, Synergy is concerned WP has not complied with clause 5.1 of the Code.

<sup>2</sup> Please refer to Synergy's letters to WP dated 18 July 2017 and 7 September 2017.



- advanced meter functionality specification;
  - advanced meter communications technology specification;
  - proposed B2B procedural changes;
  - proposed *communication rules* changes; and
  - proposed *mandatory link criteria* changes.
- Consistent with clause 6.11(4) of the Code, the Authority must not approve the MSLA until it is given the opportunity by WP to adequately consider the requirements of *users* and the steps taken by WP to address those concerns. Analysis of this submission will demonstrate WP has not given adequate consideration to Synergy's requirements in its submission of the MSLA to the Authority for approval.
  - Synergy, recognising the importance of *interval energy data* to customer choice and affordability, supports in principle WP's advanced meter infrastructure (**AMI**) deployment under AA4. In this request a number of AMI service charges contained in the MSLA appear reasonable. However, all of WP's proposed charges will of course need to be properly assessed to ensure they meet the relevant regulatory tests, including under clause 6.6(1)(e) of the Code, and that they are consistent with the "Code objective" under section 2.1 of the *Access Code* (as contemplated by clauses 2.1(1)(c) and 6.15(1) of the Code). Synergy therefore reserves its rights to make further submissions in relation to the *Access Code* once sufficient information becomes available as to how WP proposes to recover its total AMI capex and opex and avoid over-recovery.
  - Synergy considers the MSLA service descriptions are not consistent with clause 6.6(1)(b) of the Code. Each service description within the MSLA must specify the key individual components that constitute the service (including *standing data* updates) so *users* can determine when the service is complete, measurable and payable. In the absence of such clarity, whether or not WP is acting consistent with its legal obligations will be constantly open to interpretation, dispute or arguments as to when a service has been completed. Such an outcome unduly favours WP and is inconsistent with the *Code objectives*, particularly at clause 2.1(1)(a) of the Code.
  - The Code does not allow a mass roll out of *network operator* selected and mandated enhanced technology features. Under the Code, meters fundamentally deal with metrology and if a *user* requires certain non-metrology enhanced technology features these are to be negotiated under a different agreement and be provided as covered services if it forms part of WP's *covered network*. With the advent of AMI deployment the regulatory concept of metering has significantly changed under the Western Australian regulatory framework, as noted in the penultimate comment.
  - It is therefore critical that each type of AMI functionality be considered in the context of whether the function is primarily metering (energy measurement) related, or network (electricity conveyance) related. The answer to this question will determine what form of regulation and price control should apply as the mechanism for price control and regulation differs depending if services are provided under the Code or the *Access Code*. In Synergy's view, WP has not gone through this process, which is essential to properly characterising the services being provided and their proper regulatory frameworks.

- While key pieces of information pertaining to WP's AMI proposal have not been made public, including the AMI business case, which fundamentally limits the ability of *users* and other stakeholders to provide informed commentary, WP's AMI proposal appears to have some similarity to the "power of choice" reforms adopted in the National Electricity Market (**NEM**). The crucial difference is that WP's proposal lacks the regulatory and governance frameworks present in the NEM that ensure efficient, timely, reliable and quality delivery of services. For example, the cost of a smart meter and enhanced technology features will be rolled into WP's regulated asset base allowing WP to earn a regulated return on and of capital. However, WP has proposed *users* will be required to negotiate terms of use including price to access some meter functionality such as direct load control. Synergy is concerned that the interrelationship between the Code and the *Access Code* must be clear in order to avoid any over recovery by WP in respect of the AMI roll-out. In this regard, the imposition of adequate price control measures and regulatory scrutiny of the terms and conditions on which enhanced technology features are provided where *users* may already be paying for those features, in whole or in part.
- A major deficiency with both the current MSLA and the proposed MSLA is they contain no clear contractual right for the counterparty to address the common situation in which metering services are not provided in accordance with the required service standard. This means that there is no incentive to provide the service in accordance with the standard because there is no financial or regulatory consequence of not doing so. This is inconsistent with the *Code objectives*. Synergy notes this is not the case in relation to the agreements established under the contestable metering framework such as the NEM's "power of choice".
- Synergy requires *interval energy data* should be received remotely especially for residential customers. However, until customers are transitioned to AMI Synergy still requires a manually read *interval energy data* service for residential customers. WP has consistently declined to provide this service under the current MSLA. Further, despite WP's public commitments, the proposed MSLA does not provide a daily *interval energy data* service and price. This is contrary to clause 5.1 of the Code.
- Without access to WP's costs Synergy cannot validate WP's determination of *metering service* price change and service standard changes consistent with clause 6.6(1)(e) of the Code. Consequently, Synergy considers that the Authority must review:
  - WP's contractor service standard performance and costs;
  - WP's service standards and charges, including "benchmarking" them against comparable distributors in other jurisdictions; and
  - the costs and service standard performance against alternative competitive meter service provider models in the NEM and New Zealand.

## A. INTRODUCTION

Synergy is Western Australia's largest electricity retailer and also WP's largest network user. Synergy's retail and generation electricity transfer access contracts (**ETAC**) with WP collectively involve more than one million *connection points*. Synergy pays WP more than \$1.2b annually for transport services under its two existing ETACs and approximately \$75M in annual metering charges.

Synergy appreciates the opportunity to comment on WP's proposed MSLA and AMI implementation. This is the first time the *service level agreement* under the Code has been reviewed since the document was originally approved by the Authority.

Efficient and effective *metering installation* and operational services with independent regulatory oversight is fundamental to maintaining customer service in a market where there is currently no competition in the provision of such services.

The context, scope and key issues for this submission are described in the preceding paragraphs.

Despite Synergy acknowledging the quality of WP's consultation in respect of AA4 has improved compared to prior access arrangement submissions, Synergy considers that WP's engagement with Synergy and more generally its conduct under the *Access Code* and the Code, when considering WP's AMI proposal, has not been consistent with WP's legal obligations under those legislative instruments:

- WP did not consult with Synergy in respect of what Synergy's AMI requirements were prior to WP going to tender for AMI, thus limiting the extent to which WP can now comply with clauses 5.1(1) and 5.1(2) of the Code.
- WP has published the AA4 proposal and yet the market still does not know what AMI specifications and communications technology WP proposes to charge users in respect of.
- WP's AA4 submission does not contain a binding and definitive AMI implementation program, noting WP did not implement the AMI proposal approved by the Authority in respect of the third access arrangement (**AA3**) despite earning a regulated return on that approved capital expenditure, which was not ultimately spent. This topic will be the subject of further submissions from Synergy but Synergy's view is the Authority should subject the AA3 "smart grid" approved expenditure to a "true up" in AA4.
- Synergy is concerned WP's AMI strategy is to earn some revenue in the absence of adequate price control mechanisms off the back of a regulated asset.
- The effect of WP's proposal is to restrict access to covered services under the reference service eligibility criteria, Applications and Queuing Policy (**AQP**) and ETAC.<sup>3</sup>
- Synergy is still trying to understand the various customer, technical, regulatory, cost and system change impacts on Synergy and its customers in relation to AMI deployment. WP's current approach to defined terms related to AMI is confusing and uncertain. Therefore, Synergy requires all definitions in relation to metering must adopt Code definitions so *users* can understand in advance how the AQP will operate and whether the practices proposed by WP in respect of metering are consistent with the Code and *Access Code* (in particular sections 5.7 and 5.11).

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<sup>3</sup> Refer WP's proposal to mandate a D1 and D2 reference services in situations where a residential or business customer has a *Type 4 meter* installed.

## B. CODE REQUIREMENTS

In preparing this submission Synergy has had particular regard to the following key provisions of the Code and the *Economic Regulation Authority Act 2003 (WA) (ERA Act)*:

- Clause 1.5 – dealing with any inconsistency between the Code and other enactments, including (at section 1.5(5)), any inconsistency with the *Code of Conduct*. In such a case, the Code does not operate to the extent of any inconsistency between it and the *Code of Conduct*.
- Clause 2.1(1) – setting out the *Code objectives*, being to:
  - promote the provision of accurate metering of *electricity* production and consumption;
  - promote access to and confidence in *data* or parties to commercial *electricity* transactions; and
  - facilitate the operation of Part 8 and Part 9 of the *Electricity Industry Act 2004 (WA) (EI Act)*, the *Customer Transfer Code* and the *Code of Conduct*.
- Clause 2.1(2) - requiring *Code participants* to have regard to the *Code objectives* when performing an obligation under the Code, whether or not the provision under which they are performing refers expressly to the *Code objectives*. In particular, this applies to WP's development of the MSLA, its engagement with *users* and its submission to the Authority. It also applies to the Authority's exercise of its functions under the Code, particularly the approval of the MSLA.
- Clause 5.1 – setting out the *network operator* obligations to provide access to *metering services* to a *user*.
- Clause 5.8 – setting out the obligations of the *network operator* to provide whatever information that is necessary to enable the *user* to comply with its obligation under the *Code of Conduct*.
- Part 6 – detailing the *Authority's* approval procedure for proposed *documents* under the Code.
- Clause 6.5 – setting out certain specific mandatory requirements the MSLA must comply with, including among others the MSLA must be consistent with "other enactments" (clause 6.5(g)), such as the *Code of Conduct*.<sup>4</sup>
- Clause 6.6 – setting out the minimum content requirements for the MSLA.
- Clauses 6.11(2) and 6.11(3) – detailing the process WP must follow for stakeholder consultation on its proposed MSLA, which in Synergy's view was not adequately followed by WP.
- Clause 6.11(4) – providing the Authority must not approve a proposed *document* unless the Authority is satisfied the *network operator* has complied with clauses 6.11(2) and 6.11(3).
- Clause 6.14 – providing the Authority must not approve a proposed MSLA unless it is satisfied the MSLA meets the criteria set out in clauses 6.5 to 6.9 (as applicable) of the Code.
- Clause 6.15 – providing the Authority must take into account and may give priority to the "Code objective" in the *Access Code*, when considering whether to approve a MSLA.

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<sup>4</sup> Under the *Interpretation Act 1984 (WA)*, an "enactment" is defined to mean "a written law or any portion of a written law" and a "written law" is defined to include "all subsidiary legislation for the time being in force". The Code of Conduct is subsidiary legislation (see EI Act, section 80) and is therefore an "other enactment" for the purposes of clause 6.5(g) of the Code.



- ERA Act - section 26(1) – listing certain matters the Authority must have regard to when performing, among other things, the functions it is given by or under any "other enactment" (see section 25(f) of the ERA Act), which would include, among others, its functions under the Code, the *Access Code* and the EI Act.

In Synergy's view, it is necessary for the Authority to apply these provisions to its own functions under the Code and to also require WP's strict compliance with these provisions, in each case to the extent legally binding. These provisions are detailed in Attachment 1.

In this submission, words shown in *italics* have the meaning given under the Code unless the context otherwise requires. Matters in **bold** (excluding headings) are for emphasis.

## C. OVERARCHING ISSUES

Synergy's September Submission made a range of suggestions to WP. WP's response to that document has been, in Synergy's view, non-compliant with WP's obligations under the Code. The structure of this submission:

- details the particular concerns raised in the September Submission, adjusted to reflect instances where WP has amended the MSLA to comply with the legal requirements identified by Synergy in the September Submission;
- identifies WP's concerns, as published by WP in relation to its stakeholder consultation; and
- details Synergy's further response to WP detailing where WP's position does not meet Synergy's requirements and/or WP's legal obligations under the Code.

### 1. Advanced meter infrastructure (AMI) deployment

Synergy supports in principle WP's AMI deployment for AA4 and considers a number of AMI service charges contained in the MSLA appear reasonable (although all of WP's proposed charges will of course need to be properly assessed to ensure they meet the relevant regulatory tests, including under clause 6.6(1)(e) of the Code). However, Synergy does not have sufficient information in relation to what, how and when WP will deploy AMI nor the prices it will charge for what it classes as additional metering services i.e. those services which are neither a standard or extended metering service. Consequently Synergy has a number of outstanding concerns in relation to WP's proposed AMI deployment. These include:

- Currently there is no published AMI deployment schedule which specifies the proposed AMI locations within the metropolitan and regional areas.
- The MSLA specifies no dates in which the AMI functionality will be available for use.
- Currently there is no published smart meter functionality specification. The MSLA specifies some AMI functionality (ASP-1, MP-2, MDP-3, MDP-10, MDP-12, MDP-13 and MDP-14) but not all. The MSLA refers to additional metering services but provides no indication as to what these services are or may be. Further, WP has indicated where additional metering services are required, a User and WP will be required to negotiate a new SLA for the provision of those services. From Synergy's point of view, this is problematic because Synergy's experience has shown that, despite the existing requirements of the Code and the *Access Code*, there is still no structured process mapped out for such negotiations that would ensure WP does exert excessive market power in those negotiations.
- Synergy has no visibility on the communication technology(ies) to be utilised as part of AMI deployment nor when it will be fully functional.
- Synergy has no visibility on proposed B2B procedural changes, proposed communication rules changes; and proposed mandatory link criteria changes.<sup>5</sup>
- Synergy does not have full visibility on AMI costs. Whilst we have visibility on some AMI charges recovered via extended metering services under the MSLA. Synergy assumes there will be additional AMI cost recovery beyond standard and extended metering services for example cost recovery via reference service tariffs. However, until we have such visibility

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<sup>5</sup> Synergy notes that this dot point was not included in the September Submission.

Synergy is unable to determine the AMI cost impacts to its one million customers over the life of AA4 nor are we able to determine whether the MSLA costs are reasonable and, consistent with Code clause 6.6(1)(e), they do "not exceed the costs that would be incurred by a network operator acting in good faith and in accordance with good electricity industry practice, seeking to achieve the lowest sustainable costs of providing the relevant metering service".

#### **WP's response**

Western Power acknowledges Synergy's in principle support for the AMI proposal. Western Power agrees the Authority will need to assess proposed charges and expenditure in accordance with the relevant Access Code provisions.

#### **"Communications technology"**

Western Power considers the purpose of the MSLA is to define services, prices and service standards. The selection of communication technologies to support such services is a separate process that Western Power will manage in a manner that most efficiently delivers to these expected service definitions, prices and service standards. Western Power will continue to engage with stakeholders at appropriate stages throughout this process.

Additionally, the approval of regulated capital and operating expenditure is governed by the Access Arrangement process, which includes the role of the Authority in assessing the efficient costs of service provision.

#### **"Regulatory considerations"**

Western Power agrees the Authority should, in accordance with the Code, take whatever steps are required to determine that Western Power is demonstrating efficient expenditure and the charges defined are in accordance the cost recovery provisions defined in the Metering Code. This Authority determination may include any of the relative measures described by Synergy.

Western Power considers that, in accordance with Clause 6.6 of the Metering Code, the MSLA seeks to address the services that Western Power considers Code Participants will require. This is no way diminishes the ability of Code participant's to request additional services beyond those defined in the Model, without having to go through the regulatory change process. Further, Western Power notes that Clause 6.6 of the Metering Code also provides only for the recovery of efficient costs. Further, section 8 of the Metering Code provides for dispute resolution processes should negotiation of services and their pricing not progress as expected.

Western Power is open to any additional services that Code participants may require, in accordance with the Metering Code. For example, Western Power currently has Service Level Agreements for additional metering services that have been negotiated with Code participants.

Western Power acknowledges the need for ongoing retailer engagement on AMI services and will seek to implement transitional meetings with retailers and, where relevant, working groups, as part of its transition to AMI services.

#### **Synergy's further comments**

WP has not addressed Synergy's material concerns as set out in its September Submission detailed in section C, item 1 ("Advanced meter infrastructure (AMI) deployment"). Importantly, WP has not responded to the particular areas where Synergy considers WP's approach to be non-compliant with the Code or the broader regulatory regime. Synergy has expressly set out areas where it considers WP to be non-compliant with the Code whereas WP has not provided any substantiation to support

its response, including its view that WP is acting consistent with the Code. These matters are discussed in more detail in this Submission.

Response to: "Communications technology"

WP has not addressed Synergy's concerns, particularly with respect to Code compliance and broader regulatory regime. Further, WP has not addressed Synergy's request for information.

Synergy does not agree with WP's interpretation the *communications link* is a matter separate to the requirements of the Code, the MSLA, *communication rules* and *mandatory link criteria*.

The MSLA purpose is specified in the Code including what it must contain. The Code is specific in relation the scope of a *communications link* and how enhanced technology features are delivered. These matters are subject to regulatory oversight and *user choice* under the Code.

In particular, Division 3.4 makes it clear the Code contemplates the enhanced technology services and *communications link* a *user* may reasonably request in accordance with clause 5.1 of the Code. In Synergy's view, WP cannot seek regulatory approval to or seek to offer enhanced technology services without it being effectively led by *users* and their agreement. In Synergy's view, WP has not taken this step, therefore WP's approach is not compliant with Division 3.4 of the Code.

Therefore, WP's choice of *communications link* needs to be assessed against the Code's requirements. Synergy understands WP is seeking to implement a *communications link* to support activities that are outside the requirements of the Code including enhanced technology features it has unilaterally selected with its new *Type 4 meters* (referred to as AMI Meters).

Synergy considers the *users'* rights to request *metering services* is a fundamental principle that underpins the Code and the operation of the *Code objectives* and requires the Authority to determine whether a *user* has a right to obtain information in relation to WP's AMI and communication infrastructure so they can reasonably exercise their rights to request *metering services* in relation to the proposed AMI infrastructure. This includes *users* being provided with information so they can determine whether WP's communications infrastructure is consistent with the Code, and consistent with the ERA Act, promotes regulatory outcomes that are in the public interest and the long-term interests of consumers in relation to the way *metering services* are contemplated to be delivered under the Code.

Further, in the event *users* consider the proposed communications infrastructure does not meet their requirements *users* may elect to pay for behind the meter solutions such as demand response enabled devices such as air-conditioning direct load control (Synergy also understands this is occurring in the NEM). If this eventuates in the SWIS then WP's regulated asset based should be adjusted accordingly in relation to the relevant communications.

Response to: "Regulatory considerations"

Synergy notes WP has not addressed its concerns raised in relation to clause 6.6 of the Code.

The Code clause 6.6(1)(e) specifies the *metering services* that must be provided in the MSLA. Synergy does not agree with WP's interpretation of clause 6.6. Synergy has substantiated its *metering service* requirements and WP has, without showing why it would not be reasonably practicable in accordance with *good electricity industry practice* to provide those *metering services*, declined to provide the services in the form and content requested by Synergy.

*Users* need an MSLA containing standard metering services on commercial and transparent terms that meet their reasonable requirements for *metering services*. The current proposal of having to negotiate individual service terms with a monopoly service provider does not meet the *Code objectives* because in Synergy's experience with WP during negotiations it does not consistently promote access to and confidence in *data* of parties to commercial *electricity* transactions. There are in practice no efficient and effective safeguards for ensuring the monopoly service provider does not

exert significant market power in such negotiations. Synergy considers given this, the Authority must have regard to:

- the need to institute some protections for *users* seeking to negotiate outcomes consistent with the Code and the *Code objectives*;
- the need to prevent abuse of monopoly or market power, consistent with its obligation under section 26(1)(f) of the ERA Act; and
- the need to promote competitive and fair market conduct consistent with its obligations under section 26(1)(e) of the ERA Act.

Consequently, Synergy now seeks the Authority to make a determination on the matters it has raised here and in the September Submission, having regard to the regulatory provisions and instruments cited by Synergy in the September Submission.

## 2. MSLA coverage

With the advent of AMI deployment the regulatory concept of metering has significantly changed under the Western Australian regulatory framework. The EI Act and the Code contemplate metering in terms of electricity measurement (metrology), but not the conveyance (transport) of electricity.

Further, the Code does not allow a mass roll out of *network operator* selected and mandated enhanced technology features. Rather, the Code deals with metrology and if a *user* requires certain non-metrology enhanced technology features these would be negotiated under a different agreement and presumably be provided as covered services if they form part of WP's covered network.

WP's decision to purchase meters with enhanced technology features and the proposed MSLA has blurred this fundamental operation of the Code, the *Access Code* and a *user's* right to choose the enhanced technology feature it requires.

This is exacerbated by the fact WP already gained approval for capital expenditure necessary to provide meters of this kind in AA3, which were not installed in accordance with the associated approved target revenue. Synergy notes that this means WP has earned a regulatory return on approved expenditure that was not actually expended by WP.

While key information that is necessary for *users* and other stakeholders to meaningfully consider WP's AMI proposal has not been made public, including the AMI business case, Synergy considers WP's proposal appears similar to what has been contemplated under the "power of choice"<sup>6</sup> in the NEM.<sup>7</sup> However, WP's proposal lacks the regulatory and governance frameworks that ensure efficient, timely, reliable and quality delivery of services.<sup>8</sup> The transparent and collaborative process that

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<sup>6</sup> With the fundamental difference it is a network operator mandated roll out of AMI as opposed to a retailer led roll out as contemplated under the "power of choice".

<sup>7</sup> Power of choice is a package of reforms highly contingent upon the rollout of retailer and customer led smart meter uptake in the various regions of the NEM. It has involved widespread and exhaustive consultation, led by the Australian Energy Market Commission with extensive buy-in from state and federal governments via the COAG Energy Council, which has been responsible for initiating various rule change requests to the National Electricity Rules. For more information, see [www.aemc.gov.au/Major-Pages/Power-of-choice](http://www.aemc.gov.au/Major-Pages/Power-of-choice).

<sup>8</sup> For example, the National Electricity Rules provide for the minimum services that a new or replacement meter installed at a small customer's premises must be capable of providing, provides for the circumstances in which small customers may opt out of having a new meter installed at their premises. See, for example, National Electricity Amendment (Expanding competition in metering and related services) Rule 2015 and National Energy Retail Amendment (Expanding competition in metering and related services) Rule 2015.



resulted in the "power of choice" changes made in the NEM has not occurred in the SWIS and *users* have not been given a right to choose as contemplated by Division 3.4 of the Code. However, Synergy now requires transparency in relation to the enhanced technology features that will be included in the new Type 4 meters so it can make a decision on the full range of covered services it may require, on behalf of its customers, to be provided under the access arrangement.

For example, from a legal point of view, an electricity disconnection or reconnection is legitimately a "covered service"<sup>9</sup> and can be part of a reference service or a standalone reference service. An electricity connection, disconnection or reconnection (including remote re-arming) is ancillary to the conveyance of electricity on a covered network and is a service which is required by all electricity customers. This is particularly the case when considering the remote reconnection or disconnection where *Type 4 meters* operate to effect or interrupt the conveyance of electricity. The same premise holds true in relation to manual disconnection and reconnection. These are network services not *metering services*.

Similarly, direct load control involves the establishment of a remotely controllable switch at premises that can turn power to a load or appliance on or off, thus controlling the quantity of power that a load/appliance can consume. Load limitation refers to the application of a reduction of power transfer capability at a *connection point* and, like direct load control, results in a comparative reduction to the quantity of power that a load can consume.

Direct load control and load limitation services are "covered services" because they are services provided by means of the WP network and are ancillary to the conveyance of electricity. They do not relate to the measurement or accuracy of *energy data*, but their primary function is to control the flow of electricity.

Each type of AMI functionality must be considered in the context of whether it is primarily metering (energy measurement) related or *network* (electricity conveyance) related as this will determine what form of regulation should apply and what costs and margin can be recovered by WP. Synergy considers that only then will an economically efficient allowance for costs and margin be determined consistently with the *Code objectives*, avoiding the risk of inefficient over-recovery by WP.

#### **WP's response**

See response immediately below under the heading "Service Classification".

In regards to electricity disconnection and reconnection, see detailed responses to ASP-2 and ASP-3.

Regarding cost recovery and margin, Western Power notes it is only permitted to recover efficient costs under the Metering Code. Any additional metering services will be priced in accordance with this, and no "margin" will apply.

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<sup>9</sup> A "covered service" is defined in the *Access Code* to mean a service provided by means of a covered network including a connection service; or an entry service or exit service; or a network use of system service; or a common service; or a service ancillary to the foregoing categories but does not include an excluded service. Synergy notes that under the Code, the MSLA must be consistent with the *Access Code*.

### "Service Classification"

Western Power agrees with Synergy these services are "covered services". Further, Western Power considers that all services defined in the MSLA are "covered services", in accordance with the definition in the Access Code.

As per the Access Code, Western Power sets out its proposed price control mechanisms in the Access Arrangement. As part of the AA4 proposal, and consistent with AA3, Western Power is proposing that revenue for services defined as standard metering services be recovered within the Revenue Cap as reference services, and by exception, all other services provided under the MSLA are non-revenue cap (non-reference) services.

In determining those services which are included as standard metering services, Western Power is guided by section 5.2 of the Access Code, whereby reference services should meet the needs of a significant number of users and/or proportion of the market, and provide only those services that users will typically require. This is consistent with the requirements of section 6.15 of the Metering Code.

Western Power considers that standard metering services includes the basic metrology functions to enable the market to function, consistent with the objectives of the Metering Code and in line with section 5.2(b) of the Access Code. Western Power considers it is reasonable and appropriate to charge for services allocated as extended metering services on an individual basis, due to the non-routine nature in which they arise for an individual consumer, in line with section 5.2(c) of the Access Code. As per section 6.6 (1)(e) of the Metering Code, Western Power then seeks to price these services at the efficient incremental cost for delivering the service. Where a service leverages existing metering functionality in situ, only the incremental cost to provide the service is included (for example, the pricing of a remote re-energisation service only contemplates the operator time to deliver the service, not any proportion of the capital cost of the metering infrastructure).

Western Power notes that including those services defined as extended metering services within the standard metering services charge means that customers who do not require these services in a given period will pay a higher standard metering service charge than they otherwise would.

Western Power considers it appropriate to include a price signal for these services, to ensure they are requested as and when required, and are thus not effectively provided on an "unlimited" basis. Further, this will assist with operational forecasts to deliver these services, and is aligned with service classifications and offerings in other jurisdictions.

Western Power has addressed each of the specific service requests as part of detailed responses in Appendix A (to its Stakeholder Engagement Report).

Regarding ASP-1, see specific comments on ASP-1 in Appendix A, Table 4 of WP's Stakeholder Engagement Report.

The service in ASP-1 is the provision of a metering installation ancillary to the network connection. Disaggregation of the functionality of the metering installation is not relevant.

### **Synergy's further comments**

Synergy notes WP has not disputed Synergy's regulatory position but contends its proposal raises no issue of non-compliance with the Code.

Synergy notes WP's comments "...no margin will apply..." but WP has not provided information to substantiate this position. Synergy notes it has previously been required by WP to obtain residential manual *interval meter data* by way of a non-reference services at what it considers to be above market costs. Synergy therefore considers the Authority tests WP's margin assertion in relation to these *metering services*.

Synergy also considers the Authority must determine whether WP's *metering service* and cost proposal is consistent with the Code and where applicable the *Access Code*. This includes having binding service commitments and timelines specified in detail in the MSLA. Synergy's view is that WP has not demonstrated consistency with the Code.

Further, Synergy considers the *Access Code* requires the cost recovered by WP in relation to the AA3 AMI initiative should form part of the target revenue true up. However, WP has not confirmed that this will occur under AA4. This is important given the AMI funding WP received under AA3 but did not fully deploy.

Response to: "Service Classification"

WP's position with respect to how services that are *metering services* under the Code should be dealt with in terms of pricing and other regulation if they are also covered services under the *Access Code* is non-compliant with the Code. WP's position impacts on how WP defines and sets its prices for its "extended metering services" and "standard metering services". The matter is exacerbated by the convergence of multiple functionalities (not all of which relate to metrology) onto a single equipment platform, such as the "AMI Meters" proposed by WP.

**Why it is important to determine if AMI functionality is primarily for metering (energy measurement) or network (electricity conveyance).**

Clearly there is scope for some overlap between the definitions of *metering services* under the Code and "covered services" under the *Access Code*. Thus:

- The definition of *metering services* in the Code relates primarily to measurement of *electricity* (i.e. metrology). However, the use of words such as "in connection with" and "services ancillary" allow for a potential widening to non-metrology. Nevertheless, read in the light of the Code objectives and the purpose of the Code under section 39(2)(a) of the EI Act,<sup>10</sup> it seems the main focus of the Code is (and should be) regulating metrology.
- The definition of "covered services" in the *Access Code* relates primarily to services for the conveyance of electricity and other services provided **by means of a covered network** (i.e. network services), and also includes services ancillary to such services if provided **by means of a covered network**.<sup>11</sup>

Logically, therefore, "covered services" under the *Access Code* can include *metering services* under the Code if they are provided "by means of" the covered network.

However, where a supplementary matter such as "metering" (i.e. metrology) is dealt with under the Code, an *access arrangement* must deal with that supplementary matter (metering) in a manner which is "consistent with and facilitates the treatment" of metering in the Code (see section 5.28 of the *Access Code*).

On that basis, "metering services" that deal with "metering" (i.e. metrology "metering services") should be primarily dealt with under the Code. If those metrology metering services are also "covered services" under the *Access Code*, then to the extent they are dealt with under AA4, they must be dealt with in a manner which is "consistent with and facilitates the treatment" of metering in the Code. For

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<sup>10</sup> Section 39(2)(a) of the EI Act provides the Code is to provide for and in relation to "(a) metering of the supply of electricity by licensees including — (i) the provision, operation and maintenance of metering equipment; and (ii) ownership of and access to metering data;"

<sup>11</sup> See the definitions of "services" and "covered service" in section 1.3 of the *Access Code*.

example, the pricing for a metrology covered service under AA4 should be consistent with and facilitate the pricing requirements under clause 6.6(1)(e) of the Code.

Conversely, other "metering services" that do **not** deal with "metering" as such (i.e. non metrology "metering services") and that are also "covered services" under the *Access Code* can be dealt with under AA4 without needing to be dealt with in a manner which is "consistent with and facilitates the treatment" of metering in the Code. For example, WP's proposed "metering services" relating to network connection/disconnection, even if provided via an "AMI Meter", are covered services that do not involve "metering" (i.e. metrology) as such and are better dealt with in AA4 as covered services under the *Access Code* requirements (without regard to the Code).

Therefore, Synergy considers the Authority must consider each type of AMI functionality in the context of whether the function is primarily metering (energy measurement) related, or network (electricity conveyance) related, as this will determine what form of regulation and price control should apply.

In Synergy's view, WP's proposal does not do this and is therefore not compliant with the Code and the *Access Code* for the reasons set out below.

**WP's proposed AA4 pricing methodologies ("revenue cap" and "charging criteria") are not clearly appropriate for metrology covered services (because they do not clearly take into account section 6.6(1)(e) of the Code).**

WP proposes:

- its "standard metering services" under the Code be treated as reference services that are priced as "revenue cap services" under AA4; and
- its "extended metering services" under the Code be treated as non-reference services that are priced as "non-revenue cap services" under AA4.<sup>12</sup>

WP's proposed AA4 price control mechanisms for its "revenue cap services" and "non-revenue cap services" are set out in Chapter 5 of WP's Access Arrangement Information for AA4 (dated 2 October 2017) (**AA4 Information**). Specifically, WP proposes charging for "revenue cap services" (including "standard metering services") by applying a revenue cap set by reference to its approved total costs in accordance with Chapter 6 of the *Access Code* (see AA4 s 5.1.2(a)), while WP proposes charging for "non-revenue cap services" (including "extended metering services") by applying its "charging criteria" set out in AA4 s 5.1.2(b).

Neither WP's proposed "revenue cap", nor its proposed "charging criteria" clearly apply the requirement in clause 6.6(1)(e) of the Code where the service in question is one that relates to "metering" (i.e. metrology) under the Code.<sup>13</sup> While the requirement in clause 6.6(1)(e) of the Code may contain similarities to some of the pricing requirements for covered services under the *Access Code*, they are not identical and so specific regard should be had to the requirement in clause 6.6(1)(e) of the Code, where it applies apply.

Therefore, in Synergy's view, the Authority must determine WP's AA4 Information pricing methodologies for covered services (both revenue cap and non-revenue cap services) need to be amended to ensure that if they are applied to metrology metering services that are covered services,

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<sup>12</sup> See WP's Access Arrangement Information for AA4, 2 October 2017, at [873] (including footnote 187), [874] and [882].

then they must also be consistent with and facilitate the operation of the Code (including by applying clause 6.6(1)(e) of the Code).

**WP's approach to classifying extended metering services as non-reference services is flawed.**

WP indicates it is guided by section 5.2 of the *Access Code* in determining if a service is a reference service. However, WP's implementation of the criteria in section 5.2 of the *Access Code* when determining its "extended metering services" are non-reference services is flawed.

Specifically, WP seems to determine its "extended metering services" are non-reference services "due to the non-routine nature in which they arise for an individual consumer, in line with section 5.2(c) of the *Access Code*."

However, the correct test for a reference service under section 5.2(b)(i) of the *Access Code* is whether the covered service is likely to be sought by "a significant number of users and applicants",<sup>14</sup> not whether the covered service arises in a "non-routine nature ... for an individual consumer". So if a covered service is likely to be sought by a significant number of retailers (or other "users"), then it can be a reference service, irrespective of whether or not the service is routine for an individual consumer. For example, Synergy considers a significant number of retailers are likely to (routinely) seek a service for disconnecting their customers, even if that service would not be routine viewed from the perspective of any of those individual *customers*.

Therefore, Synergy considers the Authority must form the view WP has incorrectly assessed its "extended metering services" to be non-reference services in accordance with the relevant criteria in section 5.2 of *Access Code*.

**Generally**

WP has not addressed Synergy's concerns and requirements, nor has it substantiated how its categorisation of services is consistent with the *Access Code* and Code.

To promote regulatory certainty and outcomes that are in the public interest Synergy considers the Authority must determine how *user* requests for services should be treated and what services legally can be included under the MSLA and governed by the Code.

This legal clarity is also required in relation to *users* who may request services, making it clear which regulated instrument will govern the request for services. In addition, it is also key to ensure *metering services* or arrangements are not being used to frustrate or hinder the provision of network services under the *Access Code*. For example, it is not reasonable if *users* are compelled to negotiate a non-reference exit service to obtain manually read *interval energy data* under the Code.

**WP's flawed arguments to the effect that pricing extended metering services as non-reference services is necessary to send appropriate "price signals" and avoid bundling them with standard metering services**

WP suggests the alternative to pricing its extended metering services individually as non-reference services would be "including those services defined as extended metering services within the standard metering services charge" so that "customers who do not require these services in a given period will pay a higher standard metering service charge than they otherwise would."

But that approach appears to be based on a misconception the only alternative would be to bundle these extended *metering services* with other services as a standard *metering service*. On the contrary,

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<sup>14</sup> The term "user", as defined in the *Access Code*, includes a person (such as a retailer) who has an access contract with a service provider.



both the Code (clause 5.1(2)(c)) and the *Access Code* (sections 2.8(c) and 5.2(c)) are clear that, whether the service is a *metering service* or a covered service, it should be structured so that a *user* should (to the extent reasonably practicable) be able to acquire only those elements of the service it wishes to acquire. WP has not shown why it is not reasonably practicable to allow such selectivity in this case or why bundling with other standard *metering services* would automatically be required as the alternative in this case. WP also assumes the extended *metering services* are non-reference services (which as noted above, seems based on an incorrect application of the test in section 5.2 of the *Access Code*).

Unless WP shows (which it currently has not) bundling of these services with other standard *metering services* would be the only reasonable alternative in practice, it would seem perfectly possible to have these "extended metering services" provided as separate "metering services" or (if they satisfy the *Access Code* test) "covered services" (whether reference or non-reference). In that case, *users* would presumably only take up the service if required and the appropriate pricing of the service (in accordance with the Code or *Access Code* as the case may be) would deal with any lingering concern WP might have about including appropriate "price signals".

Synergy therefore does not consider WP's comment on "price signal" has any practical relevance here.

Nor does Synergy consider WP's comment about "aligned with service classifications and offerings in other jurisdictions..." is particularly relevant here. From a regulatory perspective, the service classifications and offerings required of WP are dictated by the requirements under the Code and *Access Code*, not what happens in other jurisdictions (where other rules and circumstances may dictate different outcomes). WP has not shown why aligning with service classifications and offerings in other jurisdictions are relevant here.

WP's approach to pricing services under the MSLA also indicates an apparent concern of WP to ensure services are "not effectively provided on an "unlimited" basis". It is not clear if WP is suggesting here it provide services on a "limited" basis. If so, Synergy considers such an approach would not be consistent with the *Code objectives* or in accordance with clauses 5.1 and 6.6 of the Code.

WP comments in relation to the "...Disaggregation of the functionality of the metering installation..." underpins Synergy's concern in relation to what legally is a service governed by the *Access Code* and what is a service governed by the Code.

Therefore, Synergy considers the Authority must determine WP's pricing approach is inconsistent with the Code. In addition, to the extent WP has aligned and classified services with offerings in other jurisdictions Synergy considers the Authority must further determine these alignments are inconsistent with the Code.

Services under the MSLA must be consistent with the Code and the *Access Code*. Synergy's September Submission detailed its rationale why certain services should not fall under the MSLA for example because they are related to the conveyance of electricity not metrology. As the largest *user* of network and *metering services* in the SWIS Synergy has also explicitly articulated to WP the services it requires to meet its needs and the needs of its one million customers.

The Western Australian access and metering regulatory framework is fundamental to *users'* regulatory rights and underpins the provision of services including disputes in relation to the provision of services. The framework governs the rights *users* have to request services and which regulatory instrument applies in respect of that request. Synergy's position is WP's proposed metering services, in a number of instances, are not consistent with the regulatory framework.

Accordingly, Synergy considers the Authority must make a regulatory determination that WP's proposal is not compliant with the Code or the *Access Code* for the reasons described above.

On the basis of the above, Synergy's regulatory position as regards **classification of services** is outlined in the following table (with further consideration, comment and rationale on this and other aspects

being set out elsewhere in this submission, including in Section E). Synergy requests the Authority determine the classification of each of the services in accordance with the Code and the *Access Code*.

**Table 1** meter service classification

ID	MSLA service description	Synergy position regarding service classification
<b>Ancillary Service Provision</b>		
ASP-1 (formerly referred to as ASP-2 in WP's initial MSLA proposal)	De-energise (Non-AMI Meter)	This service should not be an extended <i>metering service</i> nor be dealt with as part of any <i>metering service</i> , as it does not relate to metrology. The service relates to the conveyance of electricity and therefore should be dealt with as a reference service. (Synergy by letter to WP dated 8 September 2017 formally requested this to be provided as a reference service.)
ASP-2 (formerly referred to as ASP-3 in WP's initial MSLA proposal)	Re-energise (Non-AMI Meter)	This service should not be an extended <i>metering service</i> nor be dealt with as part of any <i>metering service</i> , as it does not relate to metrology. The service relates to the conveyance of electricity and therefore should be dealt with as a reference service. (Synergy by letter to WP dated 8 September 2017 formally requested this to be provided as a reference service.)
ASP-3 (formerly referred to as ASP-4 in WP's initial MSLA proposal)	Supply abolishment	This service should not be an extended <i>metering service</i> nor be dealt with as part of any <i>metering service</i> , as it does not relate to metrology. The service principally relates to the modification of the network and the removal of a <i>connection point</i> from a <i>user's</i> ETAC. Accordingly the service needs to be dealt with as a reference service and not an MSLA matter. The requirement for a <i>meter</i> under the Code clause 3.5(1) does not apply once the <i>connection point</i> has been abolished.
<b>Meter Provision</b>		
MP-1 (formerly referred to as ASP-1 in WP's initial MSLA proposal)	Meter installation and energisation	While Synergy acknowledges that new <i>metering installations</i> are presently provided by WP as a standard <i>metering service</i> , Synergy considers that a <i>user</i> who requests a <i>metering installation</i> at a <i>user's customer's</i> request at a new <i>connection point</i> should be required to request an MP-4 meter exchange (which Synergy suggests is renamed "meter installation – customer"), i.e. an extended <i>metering service</i> and not a standard <i>metering service</i> . From a conceptual point of view, Synergy queries why installation of a new <i>meter</i> at new premises is any different to a <i>customer</i> requesting a new <i>meter</i> at existing premises. They should be treated consistently as regards cost recovery, margin and charging via extended metering service in order to avoid over-recovery or double-recovery in accordance with the <i>Code objectives</i> .
MP-2	Meter	Synergy agrees this service is a standard <i>metering service</i> .

ID	MSLA service description	Synergy position regarding service classification
(formerly referred to as MP-1 in WP's initial MSLA proposal)	installation repair	<p>Synergy requires the service is retitled to “meter installation – operational”.</p> <p>Synergy requires this service under clause 5.1 of the Code should be extended to also include replacement of a <i>meter</i> in a situation where there have been 9 consecutive months of no <i>meter</i> access for the purpose of WP obtaining a <i>meter</i> reading. This requirement is consistent with clause 2.1(c) of the Code <i>objective</i> as it will facilitate the operation of the <i>Code of Conduct</i> by:</p> <ul style="list-style-type: none"> <li>- obviating the need to disconnect customers in accordance with clause 7.4 of the <i>Code of Conduct</i>;</li> <li>- reducing the number of estimated bills (clause 4.8 of the <i>Code of Conduct</i>) and billing adjustments (clauses 4.9 and 4.19 of the <i>Code of Conduct</i>);</li> <li>- redrafting the service description to reflect upgrades for meter compliance purposes.</li> </ul> <p>Synergy considers that, therefore, the Authority and WP must have regard to this requirement consistent with clause 2.1(2) of the Code.</p>
MP-3 (not contained in WP's initial MSLA proposal)	Meter upgrade	<p>The <i>meter</i> upgrade service is not a service that <i>users</i> use. It is specifically a compliance function WP must perform to ensure its <i>meters</i> are compliant with clause 3.9(3) of the Code. In Synergy's view, it must be treated in the same manner as any compliance function, rather than being characterised as a specific <i>metering service</i> required by <i>users</i>. In Synergy's view it would not be consistent with the <i>Code objectives</i> to allow for this to be made a separate service.</p>
MP-4 (formerly referred to as MP-2 in WP's initial MSLA proposal)	Meter exchange	<p>Synergy agrees this service is an extended <i>metering service</i>.</p> <p>Synergy requires the service is retitled to “meter installation – customer” to reflect the <i>meter</i> is being installed at the request of the <i>customer</i>. As per our comment on MP-1 Synergy also requests under clause 5.1 of the Code that the service is extended to also include a <i>metering</i> installation at new premises and at a new <i>connection point</i>.</p>
MP-5 (formerly referred to as MP-3 in WP's initial MSLA proposal)	Meter investigation	<p>Synergy agrees this service is an extended <i>metering service</i>.</p>
MP-6 (formerly referred to as MP-4 in WP's initial MSLA proposal)	Communication s installation	<p>Synergy agrees this service is an extended <i>metering service</i>.</p>

ID	MSLA service description	Synergy position regarding service classification
to as MP-4 in WP's initial MSLA proposal)		
MP-7 (formerly referred to as MP-5 in WP's initial MSLA proposal)	Meter test (laboratory)	Synergy agrees this service is an extended <i>metering service</i> .
MP-8 (formerly referred to as MP-6 in WP's initial MSLA proposal)	Meter test (on-site)	Synergy agrees this service is an extended metering service.
MP-9 (formerly referred to as MP-7 in WP's initial MSLA proposal)	Meter reconfiguration (Non-AMI Meter)	Synergy agrees this service is an extended <i>metering service</i> .
MP-10 (formerly referred to as MP-8 in WP's initial MSLA proposal)	Enablement of signal pulse outputs	Synergy agrees this service is an extended <i>metering service</i> .
MP-11 (formerly referred to as MP-9 in WP's initial MSLA proposal)	Remove meter	Synergy does not consider that the proposed service meets the requirements of clause 6.5 and 6.6 of the Code because it is not clear what WP is proposing forms the basis of the service and this lack of clarity cannot be consistent with the Code <i>objectives</i> .

ID	MSLA service description	Synergy position regarding service classification
<b>Meter Data Provision</b>		
MDP-1	Scheduled bi-monthly meter reading	Synergy agrees this service is a standard <i>metering service</i> .
MDP-2	Scheduled manual interval meter reading	Synergy agrees this service is a standard <i>metering service</i> .
MDP-3	Scheduled remote meter reading (AMI Meter)	Synergy agrees this service is a standard <i>metering service</i> .
MDP-4	Scheduled remote meter reading (RRIM)	Synergy agrees this service is a standard <i>metering service</i> .
MDP-5	Scheduled customer meter reading	<p>Synergy considers there should not be a fee for this service. If a <i>user's customer</i> or a <i>user</i> elects or agrees to provide a self-read then WP has not incurred a meter reading cost. Accordingly a <i>user</i> should not be charged a <i>meter</i> reading fee when WP itself has not incurred a <i>meter</i> reading cost. Synergy recognises WP will incur a cost to receive a self-read and validate the <i>energy data</i>. However, this cost should be imposed under a separate and new <i>meter energy data</i> provision service “customer / User meter reading validation”. Failure to do this will mean that <i>users' customers</i> that are required to self-read <i>meters</i> will be over-charged relative to the service they are paying for, which is inconsistent with the objective of the <i>Access Code</i> and by extension clause 2.1(1)(c) of the Code.</p> <p>Further Synergy questions WP’s legal authority to oblige a <i>customer</i> to self-read their <i>meter</i> without the <i>user's customer's</i> consent. Clause 5.1 of Synergy’s Authority approved standard form contract reflects a <i>user's customer</i> must consent to provide a self-read. Further clause 4.6(1)(b) of the <i>Code of Conduct</i> specifies WP must consent to a <i>user's customer</i> self-reading a <i>meter</i>. However, the Code does not grant WP the authority to instruct a <i>user's customer</i> to self-read a <i>meter</i> and the Authority should not allow such a right to be imposed by WP without statutory basis.</p>
MDP-6	Standing data provision	Synergy agrees this service is a standard <i>metering service</i> .



ID	MSLA service description	Synergy position regarding service classification
MDP-7 (formerly an extended metering service in WP's initial MSLA proposal)	Historical energy data provision	Synergy considers this service should be an extended <i>metering service</i> .
MDP-8	Verify meter data	Synergy agrees this service is an extended <i>metering service</i> .
MDP-9	Non-scheduled special meter reading (Non-AMI Meter)	Synergy agrees this service is an extended <i>metering service</i> .
MDP-10	Non-scheduled special meter reading (AMI Meter)	Synergy questions the need for this service given WP's public commitments that remote interval special meter reading data will be provided daily as part of a standard <i>metering service</i> which is proposed to be provided as part of WP's proposed AMI capabilities.
MDP-11	Non-scheduled special meter reading (RRIM)	Synergy agrees this service is an extended <i>metering service</i> .
MDP-12	Meter reconfiguration (AMI Meter)	Synergy is concerned that it is unclear what the purpose of this service is or what benefit will be made available to <i>users</i> or the <i>customers</i> of <i>users</i> . Until clarity can be provided by WP that the service is consistent with the Code, Synergy considers that the <i>Code objectives</i> and the requirements of clause 6.6 of the Code are not met.
MDP-13	De-energise (AMI Meter)	This service should not be an extended <i>metering service</i> nor be dealt with as part of any <i>metering service</i> , as it does not relate to metrology. The service relates to the conveyance of electricity and therefore should be dealt with as a reference service. (Synergy by letter to WP dated 8 September 2017 formally requested this to be provided as a reference service.)
MDP-14	Re-energise	This service should not be an extended <i>metering service</i> nor be dealt with as part of any <i>metering service</i> , as it does not relate to

ID	MSLA service description	Synergy position regarding service classification
	(AMI Meter)	metrology. The service relates to the conveyance of electricity and therefore should be dealt with as a reference service. (Synergy by letter to WP dated 8 September 2017 formally requested this to be provided as a reference service.)
MDP-15 (newly proposed by Synergy)	Customer self-read meter data validation)	Refer comment under MDP-5, above. Synergy requests this service under clause 5.1 of the Code in the form of an extended <i>metering service</i> .

As Synergy does not have full visibility of WP's full AMI specification it cannot form a concluded view as to whether any as-yet unknown additional AMI functionality should be classified as a reference service, standard *metering service* or an extended *metering service*. However, as a fundamental principle, to the extent the AMI forms part of the regulated asset base, a *user* should not be required to negotiate access to services provided by means of that AMI infrastructure, nor should WP be permitted to earn unregulated revenue from the provision of that service.

#### WP's response

Western Power considers its proposal is consistent with the Metering Code.

Western Power is committed to delivering efficient and prudent metering services, in accordance with existing instruments, and has proposed expenditure in this manner.

#### Synergy's further comments

Synergy notes WP has not disagreed with the regulatory position presented by Synergy in Section C, item 2 ("MSLA coverage") of the September Submission.

However, WP has not responded to Synergy's concerns its proposal is not consistent with the Code in circumstances where Synergy considers a number of WP's proposed services lack specificity, particularly in relation to AMI functionality. As such, they are not compliant with clause 6.5 of the Code given it is not consistent with *good electricity industry practice* or reasonable, nor meets the requirements of clause 6.6(1)(b) of the Code.

Synergy considers the Authority must determine if WP's proposed roll out of AMI meters including *communications link* and enhanced technology feature services is consistent with the Code including the *documents* under Division 6.1 of the Code or if Synergy's position is correct.

### 3. Additional metering services

WP has proposed use of additional metering services (yet to be defined) is to be negotiated under an additional metering service level agreement. Synergy is concerned WP requires *users* to negotiate the provision of a number of regulated services which will be provided by the regulated (metering asset) where WP is proposing to recover the costs from *users* as part of their target revenue.

Synergy considers it is inconsistent with the *Code objectives* to require Users to negotiate access to additional metering services via an additional service level agreement for meter infrastructure which it has or will pay for under WP's regulated asset base. In the event a *meter* is included within the

regulated asset base then the services that can be provided from the use of that regulated asset should similarly be regulated to avoid double cost recovery or over-recovery inconsistent with the *Code objectives*. If a distributor earns a regulated return on a metering asset, it should not then be permitted to earn unregulated return from a *user* in relation to accessing or using that asset.

Consequently, AMI assets used to recover un-regulated revenue in relation to additional metering services should not form part of the regulated asset base and be recovered as part of WP regulated (capex) target revenue either in the form of MSLA extended services for metrology related functionality and any AMI functionality that is ancillary to the conveyance of electricity on a covered network should be a covered service (e.g. direct load control or load limitation).

Synergy considers to effect this arrangement, the MSLA should contain a mechanism whereby a user can request, and WP must provide, additional or new metering services, where the capital cost associated with the underlying infrastructure by which those services are provided is included in WP's regulated asset base.

#### **WP's response**

The scope of the services that must be included in the MSLA is found in the Metering Code in section 6.6(1). The MSLA must include the services Western Power must provide under the Metering Code, the Code of Conduct and the Customer Transfer Code.

Notwithstanding this, Western Power has engaged Code participants in an effort to determine the services they require and include them in the Model where appropriate. Western Power notes that this in no way diminishes a Code Participants ability to request additional services at a future point in time. This situation is regulated by section 5.1 of the Metering Code.

Further, Western Power notes that, as per the Metering Code, it may only recover efficient costs associated with any additional metering services. Western Power will not be seeking to recover additional capital expenditure where a service requested does not require it, i.e. where services are solely delivered via existing infrastructure.

Western Power notes Synergy already has an additional SLA with Western Power for services specific to Synergy requirements.

It is impossible for Western Power to contemplate and define every possible service and associated retailer-specific requirement the market may request during AA4.

Western Power notes that whilst charges for Extended Metering Services are not included within the Revenue Cap, they are still covered services and regulated as such.

#### **Synergy's further comments**

WP released its AMI request for tender prior to engaging with Synergy. Therefore the state's largest metering service *user's* requirements were not included within the tender specification. As at 20 November 2017 Synergy still has not been provided with the full meter specification or details of the preferred communications infrastructure. Consequently, Synergy cannot reasonably determine what services are available to it and more importantly determine whether they will meet the needs of its customer base as per clause 5.1 of the Code.

In the event the AMI contains meter functionality that does not form part of a covered service or *metering service* under the Code or is not required by a *user*, the applicable AMI should be excluded from the regulated asset base and the MSLA.

In the event meter functionality that a *user* requires does form part of the regulated asset base Synergy considers that this should be subject to a revenue cap under the *Access Code*.

Finally, Synergy notes WP's comment it is impossible for WP to contemplate and define every possible service and associated retailer specific requirement the market may request during AA4. Put simply, it is not for WP to do this but instead to comply with its obligations under the Code, including clause 5.1 of the Code to use reasonable endeavours to provide access to *metering services* and negotiate in good faith with respect to the terms for a *service level agreement*.

#### **4. Performance incentive provisions**

A major deficiency with the current and proposed MSLA is it contains no contractual ability to address the common situation whereby *metering services* are not provided in accordance with the required service standards.

##### **WP's response**

###### **"Penalty mechanisms and performance reporting"**

Western Power considers the existing regulatory framework for metering includes adequate performance measures and accountability mechanisms.

The delivery of metering services in accordance with the performance standards defined in the MSLA is a license obligation for Western Power, and compliance with these license obligations is overseen by the Authority.

In response to feedback received from Stakeholders, Western Power has updated its proposal to include additional detail, to ensure suitable and clear performance standards. Currently, Western Power reports on service standard performance to the Authority via a number of established annual reports.

The main reporting mechanism is through the Electricity Industry (Metering) Code 2012 – Annual Performance Report, which is submitted annually to the Authority and the Minister for Energy, at the end of September. The report covers the performance of each of the services provided under established service level agreements and is available on the Western Power website. The report is prepared in accordance with clause 5.37 (2) of the Metering Code.

Western Power also provides an Annual Compliance Report to the Authority, and this report identifies each non-compliance with Western Power's obligations under its operating licences, as detailed in the Authority's Electricity Compliance Reporting Manual. The Manual incorporates all obligations under various Regulations and Codes, including the Electricity Industry Metering Code 2012, the Code of Conduct for the Supply of Electricity to Small Use Customers 2016, the Electricity Industry (Customer Transfer) Code 2016, the Electricity Industry (Network Quality and Reliability of Supply) Code 2005 and the Electricity Industry (Obligation to Connect) Regulations 2005.

Western Power considers the level of service standard performance reporting currently in place is comprehensive, and Western Power would not support any further reporting initiatives.

##### **Synergy's further comments**

###### **Response to: "Penalty mechanisms and performance reporting"**

Compliance reporting does not address Synergy's concerns articulated in the September Submission. In any event, a regulatory outcome through the Authority or the Minister for Energy is not the same as a commercial outcome between affected parties, where the latter is required under the Code. It is unreasonable for WP to have financial redress with its service providers when services are not

performed to the required standard but to expect the party that pays WP for the service not to have a similar commercial redress, especially when the *user* (and not the *network operator*) can be expected to deal with electricity customer dissatisfaction when a service is not adequately provided (e.g. a late reconnection). Synergy is satisfied its required amendment meets the *Access Code* objectives and *Code objectives* as well as the public interest test (noting the matters the Authority must have due regard to under the ERA Act, including those mentioned below).

Accordingly Synergy requests the Authority to make a regulatory determination on the matter. Synergy's reasons are further articulated below in this item 4, Section C under the sub-heading "Response to: "Performance incentive provisions"" .

Clause 2.1(2) of the Code requires WP must have regard, when setting and complying with service standards, to the *Code objectives*. The following *Code objectives* are particularly relevant here:

1. the promotion of accurate metrology;
2. the promotion of confidence in *data* of parties to commercial *electricity* transactions; and
3. the facilitation of the operation of the *Access Code* and the *Code of Conduct*.

Section 26(1) of the ERA Act relevantly requires that in performing its functions under enactments such as the Code and *Access Code*, the Authority must have regard to, among other things:

1. "the need to promote regulatory outcomes that are in the public interest" (section 26(1)(a) of the ERA Act);
2. "the long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets" (section 26(1)(b) of the ERA Act);
3. "the need to promote competitive and fair market conduct" (section 26(1)(e) of the ERA Act); and
4. "the need to prevent abuse of monopoly or market power" (section 26(1)(f) of the ERA Act).

In this regard, Synergy considers it is not in the public interest or the long-term interests of consumers for WP to have inadequate incentives for its service performance as ultimately WP's poor service adversely impacts them.

Synergy also considers introducing proper performance incentives, such as refunds and liquidated damages payments for WP's unsatisfactory service performance, promotes conduct that would be normal and appropriate if this were an effective or workable competitive market as would be expected if the market for provision of metering services in the SWIS was opened up to competition. In Synergy's view not having proper performance incentives, such as refunds and liquidated damages payments for WP's unsatisfactory service performance is not in the long term interests of consumers.

Therefore, Synergy considers the Authority must form a view on whether Synergy or WP is correct in terms of whether the operational and legal effect of the MSLA provides service outcomes that are consistent with the *Code objectives*, including whether it promotes the long-term interests of consumers in relation to the price, quality and reliability of services provided under the Code and *access arrangement*.

Table 2 (below) details Synergy's experience as the recipient of current MSLA services as contained in its September Submission.



**Table 2** SWIS metering performance

SYNERGY August 2017							Region	YTD Performance	Month Performance	Month Volume
		Service Target	YTD Performance	Month Performance	Month Volume	Month Indicator				
<b>Meter Provision</b>										
1	Establishment and Energisation of a metering connection point	95%	100%	99%	1,881	✓	Metro	100%	99%	1,652
2	Meter upgrade	95%	This service not requested by Synergy				Country	99%	100%	229
3	Meter change	95%	94%	94%	1,545	✗	Metro	94%	94%	1,366
4	De-energise	95%	91%	91%	3,390	✗	Country	93%	93%	179
5	Re-energise	98%	99%	98%	2,168	✓	Metro	91%	91%	2,926
6	Meter Investigation	95%	79%	83%	157	✗	Country	92%	91%	464
7	Communications installation	95%	25%	33%	3	✗	Metro	99%	98%	1,916
8	Supply abolishment	95%	93%	94%	236	✗	Country	98%	98%	252
<b>Data Collection, Data Provision</b>							Metro	80%	83%	132
9	Scheduled bi-monthly meter reading	100%	96%	95%	606,190	✗	Country	77%	80%	25
10	Scheduled monthly meter reading	100%	100%	100%	2,502	✓	Metro	0%	0%	1
11	Non-scheduled special meter reading	95%	92%	94%	17,681	✗	Country	50%	50%	2
12	Card meter reading	100%	100%	100%	36,282	✓	Metro	93%	93%	216
13	Customer meter reading	100%	100%	100%	16,574,748	✗	Country	93%	100%	20
14	Manually collected energy interval data (monthly)	100%	67%	65%	62,157,488	✗				
15	Remotely collected energy interval data (monthly)	100%	99%	98%	456,816	✓	Metro	96%	95%	539,589
16	Remotely collected energy interval data (daily)	100%	100%	100%	384	✓	Country	98%	98%	66,601
17	Historical energy interval data (up to 12 months)	100%	100%	100%	129,502	✓	Metro	100%	100%	2,461
18	Standing data provision	100%	100%	100%	3	✓	Country	100%	100%	41
19	Energy interval data produced by survey meter	100%	This service not requested by Synergy				Metro	91%	93%	15,711
20	Historical energy interval data (13 - 24 months)	100%	100%	100%	1,425	✓	Country	98%	98%	1,970
21	Verify meter data	98%	100%	100%		✓				
<b>Technical Services</b>							No Metro/Country Split			
22	Enablement of signal capabilities	95%	100%	100%	1	✓	No Metro/Country Split			
23	Meter test (laboratory) - single and three phase	95%	33%	0%	1	✗	No Metro/Country Split			
24	Meter test (on-site) - single and three phase	95%	94%	89%	19	✓	No Metro/Country Split			
25	CT meter test	95%	n/a	n/a	0	✓	No Metro/Country Split			
26	Meter installation repair	95%	94%	100%	6	✓	No Metro/Country Split			
27	Meter reconfiguration	95%	94%	93%	1,891	✗	No Metro/Country Split			
							This service not requested by Synergy			
							No Metro/Country Split			
							No Metro/Country Split			

From Synergy's discussions with NEM metering industry participants, Synergy understands it is common practice for contracts between a *network operator* and their service provider(s) to contain performance incentives within their own service level agreements. Further, Synergy understands network operators can and do impose significant penalties under their own service level agreements with contractors which require the payment of liquidated damages in the event their contractors do not meet their stipulated performance standards and other contractual requirements. In Synergy's view, *users* and *customers* should get the benefit of any liquidated damages that accrue to WP where these payments do not represent WP's losses. Plainly, it is unreasonable for a *network operator* to receive incentive payments from their service provider when the service recipient receives no similar incentive payments.

Further, Synergy notes under clause 4.17(2)(a) of the *Code of Conduct* a retailer is prohibited from recovering from a customer an undercharge in excess of 12 months due to, among other things, an error, defect or default for which the distributor is responsible. In other words a retailer is financially liable due to the **distributor's actions** under that Code. Given the MSLA is the primary contract for meter service provision it is reasonable it should contain an incentive mechanism where meter services are not provided in accordance with specified MSLA standards.

Consequently, Synergy considers the MSLA should include performance incentive provisions, each of which would promote the *Code objectives*, to the following effect:

- **Refunds:** If any service standard specified in Schedule 4 for a particular service is not achieved for that service at any time, then WP must not charge the User for that service and to the extent the User is charged for that service, WP must refund the charge to the User in full as

soon as reasonably practicable, but in any event within 10 business days after the end of the calendar month in which the particular service standard failure occurred. Where the MSLA contract is ongoing, a refund may be made in the form of a credit on an invoice.

- **Service standard payments:** If any service standard specified in Schedule 4 for a particular service is not achieved for that service at any time, then WP must (in addition to any refund or other amount payable in respect of that failure and without prejudice to a User's other rights in respect of the service standard failure) pay the User a service standard payment as specified in Schedule [4] for the relevant service. A service standard payment would be a liquidated damages payment aimed at compensating the User for any losses, costs etc it is reasonably estimated as being likely to suffer or incur (including any amounts it is required to pay to its customers, WP or third parties) arising from or in relation to the service standard failure. The existence or payment of a service standard payment would not prevent a User separately claiming for any losses, costs etc it suffers or incurs due to the service standard failure (subject to setting off the amount of any service standard payment received in respect of that service standard failure so as to prevent any double-recovery).

To facilitate the above performance incentive provisions, the MSLA would also need to require WP to report its service standard performance measurement to Users on a weekly basis (not just quarterly, as currently provided in Schedule 4 to the draft MSLA) or such later frequency as the parties agree. (The latter reflects some smaller retailers may not require weekly performance data.)

Synergy considers the inclusion of such performance incentive provisions within the MSLA is consistent with clause 6.5 of the Code on the basis it:

- would not impose a barrier to market entry;
- would be consistent with *good electricity industry practice*;
- be reasonable; and
- facilitate the operation of the *Code of Conduct*.

#### **WP's response**

##### "Performance incentive provisions"

See Western Power's response above on "Penalty mechanisms and performance reporting".

Western Power does not agree with Synergy's suggested inclusion of punitive provisions and notes the Metering Code defines that Western Power can only pass through its efficient costs.

Operationally, Western Power has a number of contracts to support the delivery of metering services in the SWIS, where outsourcing represents an efficient delivery option. It is unreasonable to expect a simple pass through of contract terms that Western Power has negotiated, as Western Power (and not the contractor) is ultimately held accountable for compliance and requires the ability to negotiate any service delivery contractual safeguards it feels necessary to ensure efficient service delivery and compliance objectives are maximised. A simple pass through of these contracts is not appropriate.

Western Power considers the existing regulatory framework for metering includes adequate performance measures and accountability mechanisms. In response to feedback received from Stakeholders, Western Power has updated its proposal to include additional detail, to ensure suitable and clear performance standards. Currently Western Power reports on service standard performance to the Authority via a number of established annual reports.

The main reporting mechanism is through the *Electricity Industry (Metering) Code 2012 – Annual Performance Report*, which is submitted annually to the Authority and the Minister for Energy, at the

end of September. The report covers the performance of each of the services provided under established service level agreements and is available on the Western Power website. The report is prepared in accordance with clause 5.37 (2) of the Metering Code.

Western Power also provides an *Annual Compliance Report* to the Authority, and this report identifies each non-compliance with Western Power's Obligations under its operating licences, as detailed in the Authority's *Electricity Compliance Reporting Manual*. The Manual incorporates all obligations under various regulations and Codes, including the *Electricity Industry Metering Code 2012*, the *Code of Conduct for the Supply of Electricity to Small Use Customers 2016*, the *Electricity Industry (Customer Transfer) Code 2016*, the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005* and the *Electricity Industry (Obligation to Connect) Regulations 2005*.

Western Power considers the level of service standard performance reporting currently in place is comprehensive, and Western Power would not support any further reporting initiatives.

### Synergy's further comments

#### Response to: "Performance incentive provisions"

Refer to Synergy's further comments above in this Section C, item 4 under the sub-heading "Response to: "Penalty mechanisms and performance reporting"".

Synergy's position on the MSLA performance measures is simply it and its *customers* require financial redress when WP does not meet its *metering service* obligations. This is the only effective way to guarantee service delivery and meet the *Code objectives*. In the absence of metering competition, compliance reporting alone is insufficient to safeguard the long term interests of consumers.

It is commercially inconceivable for a service contract with an annual value of \$75M to contain no performance incentives. It is also inequitable if WP has imposed financial performance measures on its suppliers but rejects the notion of itself being subject to such measures. Further Synergy notes the Authority approved standard ETAC provides for direct damage in relation to contractual default however, the MSLA remains silent on the matter.

WP claims Synergy's proposed performance incentive mechanisms (i.e. refunds and service standard payments) are "punitive" and "penalties". But there is nothing punitive or penal about them. It is neither punitive nor penal to require a refund when a service provider has failed to properly perform a service. Nor is it punitive or penal to require the service provider to pay reasonable compensation to its customers (in this case via liquidated damages in the form of service standard payments) for the loss it has caused them by its service failure. Both such performance incentive mechanisms would be expected as usual in effective or workable competitive markets.

A key question for the Authority to consider is the actual state of affairs between WP and its contracted service providers. Do these contracts contain terms of the kind referred to above and if so, should the benefit of those provisions be passed-on to users and by extension consumers? Further, WP has not substantiated how its own position is consistent with clauses 2.1(1) and 2.1(2) of the Code.

Given the volume of *metering service* transactions, resolving non-performance through a legal dispute under the Code and passing the legal costs on to customers is not a reasonable (or efficient) approach. Therefore, Synergy considers the Authority must make a determination in relation to performance incentives including whether additional performance incentives of the kind suggested by Synergy in its September Submission to WP are required for consistency with the Code, having regard to the *Code objectives* and the matters listed in section 26(1) of the ERA Act, including:

- the need to promote regulatory outcomes that are in the public interest (section 26(1)(a) of

the ERA Act);

- the long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets (section 26(1)(b) of the ERA Act);
- the need to promote competitive and fair market conduct (section 26(1)(e) of the ERA Act); and
- the need to prevent abuse of monopoly or market power (section 26(1)(f) of the ERA Act).

This also includes determining what should occur when WP consistently does not meet service standards in relation to *metering services* provided to *customers* (in particular customers under the *Code of Conduct*).

## 5. Scrutiny of WP's contractual arrangements<sup>15</sup>

Related to the matters raised above in Section C, item 4 "Performance incentive provisions", is the question of how much scrutiny the Authority should bring to bear on WP's contractual arrangements to determine whether the maximum charges WP proposes to charge under the MSLA are consistent with clause 6.6(1)(e) of the Code. Clause 6.6(1)(e) of the Code requires the MSLA must at least provide the charges which may be imposed under the MSLA may not exceed the costs that would be incurred by a *network operator* acting in good faith and in accordance with *good electricity industry practice*, seeking to achieve the lowest sustainable costs of providing the relevant *metering service*.

In Synergy's view, "lowest sustainable cost" should be assessed with regard to the particular contractual arrangements that are entered into between WP and its contractors. There are three reasons for this:

- First, if it is evident WP is able to obtain goods and services from suppliers at a rate that is, having regard to the contractual arrangements as a whole, lower than the costs WP proposes to charge users under the MSLA, then it is open to the Authority to conclude if those contractual arrangements are sustainable, the higher costs proposed by WP are not consistent with clause 6.6(1)(e) of the Code;
- Second, given the extent of WP's dominance in the market for electricity sector meter related services in Western Australia, the Authority should, consistent with its obligation under section 26(1)(f) of the ERA Act, give consideration to whether WP should be scrutinised for failing to comply with clause 6.6(1)(e) of the Code in circumstances where it takes advantage of its market power to impose charges inconsistent with clause 6.6(1)(e) of the Code; and
- Third, the Authority should, consistent with section 26(1)(f) of the ERA Act, have regard to the extent to which WP has the ability to take advantage of market power, in the form of monopoly power, to arrive at low cost service acquisition, which are subsequently not passed on to *users* and the extent to which greater transparency of costs in the MSLA, including via the Authority providing periodic reviews of costs, may avoid this outcome.

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<sup>15</sup> Synergy notes that this item 5 "Scrutiny of WP's contractual arrangements" is a new submission – it was not included in the September Submission.

## 6. Manual interval data from type 4-6 meters

WP proposed existing manually read *interval energy data* service will continue. However, WP has not been providing Synergy the manual read *interval energy data* service for residential customers under the current MSLA. This manually read service is listed as a standard *metering service* and notwithstanding the Code requires the current MSLA to specify the maximum charges (see clause 6.6(1)(c) of the Code), WP has indicated it will only provide Synergy this service subject to charges additional to the standard *metering service* charges under the current MSLA.

The residential *customer* impact of not having access to *interval energy data* means:

- *customers* cannot accurately determine how their consumption affects their bill, especially *hardship customers*;
- *customers* cannot determine the financial viability of new technology such as PV and battery storage or optimising existing infrastructure and appliances; and
- *customers* cannot assess different retail tariff offerings specifically time of use.

Synergy's preference is to receive *interval energy data* remotely especially for residential *customers*. However, until *customers* are transitioned to AMI, Synergy still requires a manually read *interval energy data* service for residential customers. Consequently, Synergy requests in accordance with clause 5.1 of the Code the MSLA explicitly provides, as a standard metering service, for a manually read *interval energy data* service from existing *Type 5 meters* (registered as *Type 6*) and a *Type 4 meter* which has yet to have remote functionally fully activated as part of an MDP-2 service.

Synergy notes WP has proposed a price of \$64.55 to exchange a *meter* in the metropolitan area to a *Type 4 meter*. It appears WP's metering strategy is to decline providing the manually read interval data service without further payment, essentially requiring *users* to request the installation of *Type 4 meters* if *users* seek a residential *interval meter* remote reading. If this is the case, Synergy queries how this arrangement can be considered economically efficient, given it appears to unreasonably increase WP's regulated asset base.

Synergy considers the charges imposed by WP for conducting a manual read on an *interval meter* is well above cost reflective levels. Synergy queries whether this approach is designed to accelerate the installation of new remote meters. Synergy considers such an arrangement to be inconsistent with the Code requirement for the MSLA to ensure the charges imposed under the MSLA may not exceed the costs that would be incurred by a *network operator* acting in good faith and in accordance with *good electricity industry practice*, seeking to achieve the lowest sustainable costs of providing the relevant *metering service* (clause 6.6(1)(e) of the Code).

Consequently, Synergy requests in accordance with clause 5.1 of the Code the MSLA explicitly provides, as a standard metering service, for a manually read interval data service from existing *Type 5 meters* (registered as *Type 6*) and a *Type 4 meter* which has yet to have remote functionally fully activated as part of an MDP-2 service.

### WP's response

#### "Access to interval data"

Western Power notes Synergy's request that interval data be collected manually during any transition period to remotely communicating advanced meters.

Western Power recognises the manual collection of interval data is an expensive and outdated option. Further, Western Power recognises the limitations of manually collecting data, such as collection frequency, substantially erode benefits when compared to an AMI option. Western Power's extensive experience, as the provider of both manual and remote meter reading services

across an extended period, is the manual collection of interval data is prone to external issues and the remote collection of interval data is the most reliable and efficient method for collection and provision of this data.

Western Power considers its AMI proposal represents a prudent and efficient roadmap for the provision of interval data to Code participants.

Western Power intends to continue to service existing manually read interval meters (MRIM), where obligated to do so (i.e. existing MRIM customers). However, Western Power does not support the manual collection of interval data as an interim AMI transitional arrangement.

**"Manual interval data from type 4-6 meters"**

Western Power agrees access to interval data can deliver benefits to the market, including Code Participants, customers and third party innovators.

Western Power agrees that bringing an efficient interval data service to market is important, and Western Power's modelling demonstrates that remote collection of interval data is the most reliable and efficient method for collection and provision of this data.

Western Power recognises the manual collection of interval data is an expensive and outdated option. Further, Western Power recognises the limitations of manually collecting data, such as collection frequency, substantially erode benefits when compared to an AMI option.

Western Power intends to continue to service existing manually read interval meters (MRIM), where obligated to do so (i.e. existing MRIM customers).

Western Power notes that under 3.2(2) of the Code, a deemed accumulation meter only necessitates a record of the accumulated energy data registered by the meter. This is regardless of the inherent functionality of the meter installed.

Western Power does not agree that meters deemed accumulation meters that have capability for the measurement and collection of interval energy data are required to be read as interval meters (and further, to be included as a standard metering service).

**Synergy's further comments**

**Response to: "Access to interval data"**

There are between 200,000 and 300,000 *meters* that record *interval energy data* within the SWIS. However, Synergy receives *interval energy data* for less than 15,000 residential *customers* mostly as a result of the Perth solar cities trial. Synergy has been attempting to obtain manual *interval energy data* as a standard *metering service* for two years with limited success. WP has only permitted Synergy to obtain manual *interval energy data* under a non-reference service under terms Synergy considers to be uncommercial despite *Type 5 meters* forming part of WP's regulated asset base and subject to the Weighted Average Capital Cost rate of return. This practice has effectively denied residential *customers* accessing (specifically hardship *customers*) *interval energy data* on a large scale.

Synergy submits that WP's conduct in this respect is contrary to the requirements of the Code.

Synergy, under clause 5.1 of the Code, has a right to choose and request the elements of *metering services* to the extent reasonably practicable in accordance with *good electricity industry practice*. Clause 5.1 also requires WP to reasonably accommodate Synergy's requirement for *metering services*, and clause 6.6(1)(a) of the Code requires the MSLA must at least specify the *metering services* that WP must, and may, provide. Further, clause 6.6(1)(e) contemplates the *metering services* would be provided in good faith, achieving the lowest sustainable costs. Synergy notes WP



has not disagreed with Synergy's regulatory position but has not substantiated its approach under the relevant statutory provisions.

Synergy notes WP has not shown the manual collection of *interval energy data* during any transition period is not reasonably practicable in accordance with *good electricity industry practice*. Rather, WP has offered Synergy a non-reference service to obtain manual *interval energy data* under on terms Synergy considers uncommercial.

It is important to note manually read *interval energy data* services are provided in other jurisdictions where the *communications link* has failed or has not been installed (in some cases due to customer choice). Synergy notes WP has not proposed any transitional arrangements pending AMI deployment.

Synergy notes WP's proposed communication infrastructure should be subject to the regulatory test. In particular, elements of the communication infrastructure that is used for purposes other than obtaining *energy data* from the *metering installation* (purposes beyond that contemplated by the Code).

Billing data underpins a significant number of transactions and obligations in the SWIS, including a *user's* obligations to its *customers*. Cost effective provision of *interval energy data* would assist Synergy's hardship *customers* to understand how their consumption impacts their bill.

Under clause 3.2 of the Code WP has the discretion to install an (interval) *Type 1-5 meter* on its *network* and register it as an *accumulation meter*. In Synergy's view the Code did not contemplate this provision would be used to restrict the provision of *interval energy data* and in a manner that would be contrary to the *Code objectives*.

WP has adopted this practice on a mass scale possibly to increase the return on the regulated asset base. In Synergy's view, WP's current practice and position in relation to an *interval energy data* service is contrary to clauses 2.1(2), 5.1 and 3.9(3A) of the Code. Therefore, Synergy requests the Authority to consider WP's practice in relation to clause 3.2 of the Code and whether it is consistent with the Code giving due regard to the matters specified in section 26(1) of the ERA Act.

Response to: "Manual interval data from type 4-6 meters"

Refer to Synergy's further comments under the sub-heading "Response to: Access to interval data", immediately above.

Synergy has repeatedly requested WP to provide a manual *interval energy data* service under the MSLA, but WP has declined, requiring Synergy to enter into a non-reference service to obtain the *energy data* (on terms Synergy considers uncommercial).

WP's proposal to provide residential *interval energy data* in future is to require a *user* to pay for a *meter* exchange to replace the existing *meter* (which in many cases is a relatively new *Type 5 meter*) with WP's proposed new (AMI) *Type 4 meter*. Once this occurs WP will:

- Provide *interval energy data* every two months (not daily) once its communication infrastructure is available. Until, a date to be specified, the *user* only gets basic *accumulation data* – despite having paid for a new *interval meter*.
- Restrict the access to reference services by moving the *customer* to its new time of use (ToU) reference service and remove the ability for the retailer or *customer* to choose any other network service.

In Synergy's view this approach, and the mass (registration) treatment of *interval meters* as *accumulation meters*, is:

1. not consistent with the Code (including it does not promote economically efficient investment in or operation or use of the *network* or services of the *network*, as required by

the "Code objective" under section 2.1 of the *Access Code*, and is therefore contrary to the *Code objective* in clause 2.1(1)(c) of the Code of facilitating the operation of Part 8 of the EI Act , under which the *Access Code* is established);

2. not good and fair industry practice;
3. not in the public interest or the long-term interests of consumers (contrary to section 26(1)(b) of the ERA Act); and
4. not the kind of conduct that would reasonably be expected to occur in an effective or workable competitive and fair market (contrary to section 26(1)(e) of the ERA Act).

Therefore, Synergy considers the Authority must determine if Synergy is correct or if WP's proposed approach to providing manual *interval energy data* is consistent with the Code, having regard to the *Code objectives* and the matters listed in section 26(1) of the ERA Act, including:

1. the need to promote regulatory outcomes that are in the public interest (consistent with section 26(1)(a) of the ERA Act);
2. the long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets (consistent with section 26(1)(b) of the ERA Act);
3. the need to promote competitive and fair market conduct (consistent with section 26(1)(e) of the ERA Act); and
4. the need to prevent abuse of monopoly or market power (consistent with section 26(1)(f) of the ERA Act).

In doing so the Authority should request WP to provide to the Authority its contractual arrangements with its suppliers to validate WP's costs and assertion it is more efficient to replace an existing *Type 5 meter* with a *Type 4 meter* to manually obtain residential *interval energy data* consistent with clauses 5.1 and 6.6(e) of the Code.

## **7. Fixed standard metering service charge**

Synergy supports WP's proposal to move to a fixed standard metering service charge being recovered through reference tariffs on the basis the current variable charging methodology under AA3 does not reflect that metering costs are largely fixed. This is subject to WP's fixed standard metering service charges being cost reflective and determined in accordance with the Code requirements (including clause 6.6(1)(e)).

### **Synergy's further comments**

WP did not provide a response to Synergy's submission on the fixed standard metering service charge.

## 8. Service standards

WP states:

“As part of this review of the MSLA, Western Power has sought independent benchmarking of existing service standards relative to other jurisdictions. This has identified that in general, the performance targets outlined in the existing Model are similar to those prescribed in other jurisdictions in Australia. However, for a number of meter provision and technical services, the existing Model has shorter timeframes to undertake the work.

Western Power has reviewed the impact of these shorter timeframes and identified they may be contributing to higher service delivery costs, particularly when servicing Country areas, where scheduling to meet shorter timeframes may result in suboptimal resource utilisation. As a result, Western Power is proposing amended service standards that seek to balance both timeliness and cost-efficiency.”<sup>16</sup>

Under the MSLA a number of extended metering service costs have reduced but the service delivery timeframe has increased (e.g. MP-2A). However, for other services the cost and service timeframe have both increased.

Without access to WP’s costs Synergy cannot validate the above statements to determine whether the MSLA cost:

“exceed the costs that would be incurred by a *network operator* acting in good faith and in accordance with *good electricity industry practice*, seeking to achieve the lowest sustainable costs of providing the relevant *metering service*.”

Consequently, Synergy considers the Authority must review:

- WP’s contractor service standard performance and costs, including any liquidated damages or similar arrangements which can, or should, be passed through to *users*;
- WP’s service standards and charges against comparable distributors in other jurisdictions, noting the significant economies of scale available to WP relative to smaller distributors in the NEM; and
- the costs and service standard performance against alternative meter service provider models in the NEM and NZ.

### Western Power's response

#### "Service standards"

Western Power agrees the Authority should validate costs relative to service standards.

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<sup>16</sup> See, WP Metering Model SLA Consultation on proposed Model SLA amendments 25 August 2017, page 10.

## Synergy's further comments

### Response to: "Service standards"

Synergy considers the Authority must, in making a determination of WP's proposed fees, review:

- WP's contractor service standard performance and costs, including any liquidated damages or similar arrangements that can, or should, be passed through to *users*;
- WP's service standards and charges against comparable distributors in other jurisdictions, noting the significant economies of scale available to WP relative to smaller distributors in the NEM; and
- the costs and service standard performance against alternative meter service provider models in the NEM and New Zealand.

Further Synergy, in Section C, item 8 ("Service standards") of its September Submission, raised concerns the MSLA service descriptions were not consistent with clause 6.6(1)(b) of the Code because they were insufficiently detailed as to what constituted a service (refer also to Synergy's further comments in this item 8, Section C under the heading "Service descriptions", below). That is, for example, the service is not simply installing the *meter* but also includes notifying the *user* of the completion date and updating metering and *standing data*. This is the point at which the service standard should be measured against and the service paid for, not limited to just the field installation.

It is also clear from clause 2.1(1)(c) of the Code that one of the Code *objectives* is to facilitate the *Code of Conduct*. If WP's service standards and KPIs do not allow Synergy to fulfil its obligations under the Code, then clearly, those service standards are inconsistent with the Code *objectives*. This issue arises between the Code of Conduct and the MSLA in several respects, for example, in relation to MDP-9's service standards which are described as five "business days", whereas Synergy's obligation under clause 5.7 of the *Code of Conduct* is described as 5 "days".

Therefore, Synergy considers the Authority must determine whether Synergy is correct or whether WP's proposed service descriptions and service standards are complete and consistent with the Code, including clauses 5.8 and 6.6(1)(b). It is also critical that any instance of inconsistency between the MSLA and the *Code of Conduct*, or any instances where the MSLA does not "facilitate" the *Code of Conduct* are identified and addressed by the Authority.

Synergy considers the MSLA service descriptions are inconsistent with clause 6.6(1)(b) of the Code and the *Code objectives*. The MSLA service standards need to explicitly state what each particular service actually involves. If this does not occur it can be difficult to measure whether the service has been delivered in accordance the service standards. In the absence of such clarity, it will be constantly open to interpretation, dispute or arguments as to when a service has been satisfactorily completed if there is no transparent end point and description to measure against. For example, in the case of *meter* provision the service standard simply refers to the "service" such as a *meter* exchange being performed by the required date without actually defining what constitutes a *meter* exchange in relation to the commercial electricity transaction under clause 2.1(1)(b) of the Code. For example, has a meter exchange occurred if *standing data* has not been updated?<sup>17</sup>

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<sup>17</sup> Synergy notes that this last part of this paragraph commencing "*in relation to the commercial electricity transaction...*" was not included as a part of the September Submission.

Synergy's position is the service is not simply the *network operator* installing the *meter* but also includes notifying the *user* of the completion date and updating metering and *standing data*. This is the point at which the service standard should be measured against and the service paid for. The absence of accurate metering service descriptions is a tier 1 MSLA issue for Synergy (and, we expect, also for other *users*).

#### WP's response

##### "Service descriptions"

In response to Synergy's feedback, Western Power has amended service descriptions for clarity in the proposed MSLA. In addition, for the purposes of clear performance measurement, service order types have been allocated for each service, and prescription around service order receipt and completion notifications.

As part of this submission, Western Power has included a mark-up of the originally proposed MSLA, to provide Stakeholders and the Authority with visibility as to changes progressed following feedback. Further, Appendix A details the service specific amendments made following feedback from stakeholders.

As a broad principle in updating the MSLA, Western Power has sought to avoid duplication within the MSLA itself and other relevant instruments such as the Metering Code, the SWIS Communication Rules and the Metrology Procedure.

For example, the provision of standing data updates has attribute requirements and timeframes, which are defined in the Code, and transactional detail, which is defined in the SWIS Communication Rules. As such, Western Power has sought to avoid duplicating these as terms in the MSLA.

#### Synergy's further comments

##### Response to: "Service descriptions"

Synergy notes WP has not disagreed with Synergy's regulatory position, but the amendments WP has proposed to the MSLA service descriptions do not properly deal with the issue.

WP's proposed amendments to the MSLA service descriptions essentially insert the following words into each service description:

"This Service description should be read in conjunction with the Code and the Communication Rules, which incorporate the Build Pack."

In some cases the following additional words (with some variants for different services shown square bracketed) are added:

"The Build Pack including the [WA B2B Procedures: Service Order Process / Customer Transfer and Standing Data Procedure] defines specific detail as to the business processes and B2B transactions associated with the provision of [this Service/Standing Data]".

The words "read in conjunction with the Code and the Communication Rules" do not give sufficient detail about what will actually be provided by WP (and the timeframe) to comply with Code provisions; nor do these words clearly contractually **incorporate** compliance with the Code and the *communication rules* into the service description.

Clause 6.6(1)(b) of the Code requires the MSLA must include a "detailed description" of the *metering service* and a timeframe, and where appropriate other service levels, for the performance of the metering service. The *Code objectives* include promotion of the provision of accurate metering

(clause 2.1(a) of the Code) and access to *data* (clause 2.1(b)), and the facilitation of the operation of, among other things, Part 8 of the EI Act (which includes facilitating the operation of the *Access Code*), the *Customer Transfer Code* and the *Code of Conduct* (clause 2.1(c)).

In Synergy's view, WP's proposed service descriptions provide inadequate detail of those things that need to be done under the Code to ensure the service is compliant under the Code. For example, the service is not simply installing the *meter*, but also includes notifying the *user* of the completion date and updating metering and *standing data* (as the *registry* is not permitted to be materially inaccurate (see clause 4.5 of the Code)).

If service descriptions lack specific detail or are otherwise vague or uncertain about what precisely is required to be done, then that opens the door to conflicting interpretations and dispute, including as to whether or not a service has been properly completed. Any lack of clarity is likely to favour WP, given the inherent bargaining strength of its monopoly position. That in turn is inconsistent with the *Code objectives*.

A requirement for the service to comply with the Code and other laws should of course be included. However, that alone is not enough. *Users* also need detailed descriptions for each service which clearly show what will be done as part of the service, to what standard and in what timeframe.

Therefore, WP has not addressed Synergy's concern in this area. For clarity, the issue is not in relation to duplication but ensuring the MSLA services are described in such a way that requires WP to comply with its obligations under the Code and gives sufficient detail concerning deliverables to know exactly when a service has or has not been properly performed.

Synergy does not accept WP's position the MSLA is only in relation to providing field services and not the services required by the Code. WP has not disagreed with the arguments, presented in Synergy's September Submission, in relation to consistency with the Code. For example, clause 6.6(1)(b) also requires the MSLA to make it clear when the *standing data* will be updated.

In the absence of regulatory clarity in terms of the *metering services* to be provided Synergy will continue to experience operational issues affecting its *customers*. For example, where the field service reports a disconnection is complete but the site is still reported as being energised showing consumption or where field service reports a meter has been changed but *standing data* reports data provision under the old *meter*. Remedial actions to address these issues are costly and time consuming. Therefore, the MSLA and service standards must provide for the end to end metering service contemplated by the Code not just site activities. Including ensuring the *registry* is not permitted to be inaccurate in accordance with clause 4.5 of the Code.

Synergy requests the Authority determine whether the service descriptions provide for the total service including "...where appropriate other service levels for the performance of the *metering service*...", in compliance with clauses 6.6(1)(a)(i) and 6.6(1)(b) of the Code.

## 9. MSLA structure

The MSLA content structure makes the document very difficult to read in terms the service description, service standards and service fees applicable to a particular service given this information is spread across 3 separate schedules. It would be a clearer, more transparent document if consistent with the *Code objectives*, for each service, it specified the description, standard and fee in the one place.

### WP's response

Western Power considers the formatting of the proposed MSLA is user friendly, and an improvement on the existing MSLA. In particular, Western Power has sought to remove duplication; for example the removal of repetition of the same clause in every service description, and improves transparency and consistency; for example through the increased detail provided on service standards.



### Synergy's further comments

Synergy as the “major user” of the MSLA reiterates its earlier comments and expects the Authority, having regard to the *Code objectives* and the matters listed in section 26(1) of the ERA Act, will form its own independent view as to whether the MSLA is presented in a way that best promotes the public interest of having transparency and efficient utility from a *user’s* perspective.

## 10. Governance arrangements

WP is proposing the mandated roll out of *Type 4 meters* (with non-metrology enhanced technology features) with the aim of providing:

- remotely read *interval energy data*, regulated under the Code, as a minimum requirement for new and replacement *meter* installations;
- field and network services remotely enabled via the *Type 4 meter*;
- negotiated unregulated remote services enabled via the *Type 4 meter*; and
- as an interim measure until the communications technology is fully available WP proposes to install a *Type 4 meter* and operate as a basic *meter* in accordance with the existing metrology procedure approved by the Authority.

The proposal appears to be similar to what has been contemplated under the “power of choice” in the NEM but without the necessary regulatory and governance frameworks that ensure efficient, timely, reliable and quality delivery of services.

There are some key concerns:

- WP has not committed to when these services, in particular the *interval energy data* service, will be provided to *users*. There is no implementation plan or date that has been published which has regulatory oversight or enforcement mechanisms. These plans and mechanisms are typically detailed in the metrology procedure.
- WP’s minimum regulated obligation in relation to providing *interval energy data* is specified in the metrology procedure and is not aligned with their proposal.
- The regulated controls and oversight that characterise the “power of choice” mechanism are not contemplated by the Code or metrology procedure.
- The Code, *communication rules* and Build Pack do not contemplate the arrangements, frameworks and implementation of remote services as proposed by WP. For example the current Build Pack does not distinguish between a manual or remote reconnection request. This will need to change so Synergy can reconcile its charges for manual and remote service provision.
- If approved in its current form a subordinate regulated contract, **not the Code itself**, will determine the minimum metering requirements in the SWIS. For example, the minimum *meter* type for a residential *customer* under the Code is a *Type 6 meter*. However the new minimum standard WP proposes for a residential *customer* will be a *Type 4 meter*. In Synergy's view, this would be inconsistent with the *Code objectives*.

Therefore, Synergy considers the Authority should reject or ensure there is a mechanism for regulatory oversight and control in relation to WP’s proposal in relation to:

- Metrology, including remotely collected *energy data* services – This will require the *metrology procedure* and *mandatory link criteria* to be amended and approved by the Authority.
- Provision of remotely enabled value add services under the MSLA – This will require a review of the *communications rules* to ensure WP's proposal can be practically achieved without creating compliance issues that affect service delivery to the *customer*.
- Provision of negotiated unregulated remotely enabled services provided by the regulated metering and communication assets – this will need a legal review to confirm WP's proposal is consistent with the regulatory regime. Synergy's position is that any *metering service* provided via a metering asset that forms part of the regulated asset base should be subject to Authority oversight.

Further, it is not clear, if a *dispute* were to be lodged under the Code in relation to WP's proposed AMI services and publicly stated commitments, how the *arbitrator* would resolve the matter including what considerations under the Code, *metrology procedure*, *mandatory link criteria* and *communications rules* the *arbitrator* can give in relation to assessing if WP has met its publicly stated commitments.

### **WP's response**

#### "Governance arrangements"

Western Power considers the provisions of the Access Code, Metering Code and oversight of the MSLA by the Authority is an appropriate regulatory and governance framework for the efficient delivery of advanced metering infrastructure and associated services.

Western Power notes that Appendix 1 of the Metering Code defines the classification of Metering Installation (Types) as an accuracy requirement, linked to throughput. The Type then defines a minimum Meter Type requirement (i.e. accumulation). For example, the accuracy requirement does not state that a Type 6 meter is an accumulation meter, only that to ensure appropriate level of accuracy, it is read at a minimum as an accumulation meter.

Western Power notes the Metering Code does not explicitly define a specific Type requirement for an AMI meter. However, Western Power considers that use of different technology does not change the throughput and associated Type. In short, an AMI meter for a small use customer is not automatically a Type 4 meter.

Western Power is committed to delivering efficient and prudent metering and network services deriving from AMI. Western Power considers the provisions of the Access Code, Metering Code and oversight of the MSLA by the Authority is an appropriate regulatory and governance framework for the efficient delivery of advanced metering infrastructure and associated services.

AMI meters and their functionalities are now generally standard through the industry (internationally). Western Power has sought to maintain this industry standard.

Western Power acknowledges the SWIS Communication Rules and Metrology Procedure closely interact with the Model SLA. Western Power will be seeking to review relevant components of B2B procedures and associated documents, in consultation with retailers, as part of managing the transition to AMI services. Western Power is currently developing a detailed engagement plan that identifies its approach to engagement of the market on AMI implementation.

Western Power acknowledges the need for ongoing retailer engagement on AMI services and will seek to implement transitional meetings with retailers and, where relevant, working groups, as part of its transition to AMI services.

## Synergy's further comments

### Response to: "Governance arrangements"

Synergy reiterates the points made in the September Submissions (at Section C, item 10 ("Governance arrangements")).

WP has not adequately explained how WP's proposed roll-out of the AMI meters is consistent with the requirements of the Code and, where applicable, the *Access Code*.

WP's comments concerning its view that Appendix 1 of the Code defines the classification of Metering Installation (Types) as an accuracy requirement, linked to throughput so that "in short, an AMI meter for a small use customer is not automatically a Type 4 meter" is a distraction which lacks relevance to the more fundamental issue whether WP is effectively seeking to impose a "gold-plated" AMI metering option that WP has not shown to be consistent with the Code and, where applicable, the *Access Code*.

Consequently Synergy requests the Authority to make a regulatory determination as to whether WP's proposal is consistent with the requirements of the Code and, where applicable, the *Access Code*, having regard to the *Code objectives* and the matters listed in section 26(1) of the ERA Act, including whether WP's proposal:

- promotes regulatory outcomes that are in the public interest (section 26(1)(a) of the ERA Act);
- is in the long-term interests of consumers in relation to the price, quality and reliability of metering services (section 26(1)(b) of the ERA Act);
- is in the legitimate business interests of customers who invest in the cost of a new meter (e.g. are they being offered the most economically efficient metering option by WP for their needs?) (section 26(1)(d) of the ERA Act);
- promotes competitive and fair market conduct (e.g. is WP's approach consistent with what would normally be expected to happen in an effective or workable competitive market?) (section 26(1)(e) of the ERA Act);
- prevents abuse of monopoly or market power (section 26(1)(f) of the ERA Act); and
- promotes transparent decision-making processes that involve public consultation (e.g. are customers who invest in the cost of a new meter being fully consulted and given full information so they can choose the most economically efficient metering option for their needs?) (section 26(1)(g) of the ERA Act).

## 11. Fee adjustments

WP proposes its fees may be revised annually subject to CPI adjustment without approval by the Authority. Synergy does not consider that this is consistent with the *Code objectives*, or clause 6.6(1)(e) of the Code. Given the present state of the economy, Synergy considers the adoption of CPI adjustment may not represent "lowest sustainable costs" in circumstances where market prices for non-capital components of *metering services* may actually be static or may reduce over the next several years. Even if CPI escalation is required in such circumstances, it may be more appropriate and consistent with the requirements of the Code for the Authority to approve CPI adjustment on a Perth, rather than a Weighted Average of Eight Capital Cities metric.

Alternatively, the Authority determine the MSLA price list should be subject to prior Authority approval before any price list increases can be effected by WP. This is especially important since

(unlike in the NEM) customers in the SWIS do not have the benefit of metering competition and "power of choice". Synergy considers this approach would promote the *Code objectives*.

Synergy notes WP has sought the ability to increase fees by CPI irrespective of whether proposed investments and technology should be bringing the real cost of services down. This transparency between WP's efficiency initiative, infrastructure investments and operating expenditure has not been provided. Further, WP has also suggested the total fees Synergy pays is likely to reduce in the future but is unable to confirm this including the amount of the reduction.<sup>18</sup>

It is not clear how the MSLA prices may be permitted to vary between each successive year. Synergy is attempting to determine (based on the information provided in the AA4 Information) if its (total combined metering and network) costs are really coming down or whether they have just been reallocated. For example, in favour of the returns that can be provided to a network service provider by a having a higher regulated asset base.<sup>19</sup>

However, it is clear that clause 6.6(1)(e) requires WP to demonstrate it is "...**seeking to achieve** the lowest sustainable costs of providing the **relevant metering service**...". In fact, it could be strongly argued that broadly applying CPI to costs would be an incentive not to pro-actively seek to achieve the lowest sustainable cost or pass through any cost savings that have actually been achieved. Including if WP does not pass through savings under its supplier agreements.<sup>20</sup>

Synergy considers the Authority must determine if a general application of CPI to increase costs under the MSLA satisfies clause 6.6(1)(e) of the Metering Code.<sup>21</sup>

#### **WP's response**

Western Power considers CPI to be the most efficient pricing escalation mechanism, as opposed to alternatives such as annual price reviews by the Authority.

#### **Synergy's further comments**

Synergy reiterates the points made in the September Submission. Refer also to Synergy's further comments in Section C, item 13 ("Metering Expenditure"), below.

Synergy does not agree with WP that automatic CPI adjustment is necessarily "the most efficient pricing escalation mechanism, as opposed to alternatives such as annual price reviews by the Authority". WP has not shown why that would necessarily be the case. WP also apparently ignores the need for consistency with the *Code objectives* in clause 2.1 of the Code (including facilitating the operation of the *Access Code*), and the requirements of clause 6.6(1)(e) of the Code.

To the extent the MSLA price list includes pricing for a *metering service* which is also a covered service that is properly subject to price control under the *Access Code*,<sup>22</sup> WP has also apparently not addressed the need for consistency with the *Access Code*.

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<sup>18</sup> Synergy notes that this paragraph is a new submission and did not form a part of the September Submission.

<sup>19</sup> Synergy notes that this paragraph is a new submission and did not form a part of the September Submission.

<sup>20</sup> Synergy notes that this paragraph is a new submission and did not form a part of the September Submission.

<sup>21</sup> Synergy notes that this paragraph is a new submission and did not form a part of the September Submission.

<sup>22</sup> Refer Synergy's comments at item 4 above, including concerning WP's apparent potential misclassification of some "extended metering services" as non-reference services.

The prices in the MSLA price list are subject to clause 6.6(1)(e) of the Code and, where applicable, price control under the *Access Code*. WP proposes it may revise them from time to time subject to not exceeding the costs that would satisfy the requirements in clause 6.6(1)(e) of the Code (see WP's proposed MSLA at page 79). However, in addition, WP proposes its MSLA price list fees be subject to annual CPI adjustment without approval by the Authority (see WP's proposed MSLA at page 79). Such automatic CPI adjustment across all *metering service* fees would lead to price increases that have not been independently tested against, and may therefore not satisfy, the requirements in clause 6.6(1)(e) of the Code or, where applicable, price control under the *Access Code*.

In particular, Synergy considers WP's proposal of unilaterally increasing prices by CPI is not consistent with clause 6.6(1)(e) in relation to demonstrating WP is "...**seeking to achieve** the lowest sustainable costs of providing the **relevant metering service**...".

Synergy therefore considers the Authority must determine if WP's proposed MSLA price review and adjustment mechanisms are consistent with the requirements of the Code and, where applicable, the *Access Code*, having regard to the *Code objectives* and the matters listed in section 26(1) of the ERA Act. This includes determining whether changes to the MSLA price list fees for each *metering service*:

- should legally be subject to prior Authority approval to verify they are in accordance with clause 6.6(1)(e) of the Code and, where applicable, price control under the *Access Code*, before any price list increases can be effected by WP; and
- should not be subject to automatic adjustment for CPI without any independent assessment of whether that would satisfy the relevant price control requirements in the Code and, where applicable, the *Access Code*.

This is especially important since (unlike in the NEM) customers in the SWIS do not have the benefit of metering competition and "power of choice". Further, it is not clear whether WP's proposed CPI increases will be applied routinely when equipment and sub-contractor service costs may be coming down.

## 12. Proposed AMI Implementation<sup>23</sup>

Synergy requires WP's AMI implementation plan to be consistent with the Code, the *Code of Conduct*, be binding and have regulatory oversight. For example it is presently unclear how services will be technically delivered in a compliant way ensuring *users* can continue to provide compliant (retail) services. Further, this information is also required so that retailers can accurately assess costs for system and process changes. Synergy's experience in relation to the Perth Solar City deployment was there were material disruptions and costs for remedial actions<sup>24</sup>.

A number of general claims have been made in relation to AMI under WP's AA4 proposal. However, Synergy considers:

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<sup>23</sup> Synergy notes that this item 12 ("Proposed AMI Implementation") is a new submission – it was not included in the September Submission.

<sup>24</sup> Issues experienced included incorrect *standing data* preventing Synergy from billing, incomplete *interval energy data* resulting in estimated bills and *energy data* timeliness.

- It is widely accepted that a key benefit of AMI to retailers is the timely provision of *interval energy data* from *Type 4* and *Type 5 meters*. Like PVs the cost of *interval meters* has dropped (but not necessarily the costs related to the various options of obtaining the *interval energy data* from the meter). Synergy's view is the Code requires WP's *communications link*<sup>25</sup> proposal to read the *meters* must be subject to the Regulatory Test (under the *Access Code*).
- Synergy advocates a model where retailers and consumers choose the service that is required – similar to the principles reflected in “power of choice” and the Code. Further, Synergy considers some of the value added services provided by the *meter* may be done more cost effectively through “behind the *meter*” solutions. Synergy understands, from its discussions with meter service providers in the NEM, this is what is occurring in parts of the NEM despite in some circumstances users already having paid for AMI infrastructure. Synergy considers this is not an efficient outcome and the lessons learnt from the Perth Solar City deployment should be considered. Synergy is currently considering a number of behind the *meter* value added services and is keen to obtain information of WP's proposed AMI *meter* specification to ensure there is no duplication and *users* are not paying for features they are not going to use. Therefore, the cost of these enhanced technology features should not be added to the regulated asset base if a *user* does not wish to utilise the service.
- WP's proposed AMI implementation, at least as characterised through its publicly released submissions to the Authority, lack a clear business case demonstrating a comprehensive cost / benefit analysis. This is particularly concerning, given the AMI trial and benefits proposed in AA3 were not delivered. Synergy considers the Authority should, pursuant to the Regulatory Test, give consideration to whether alternative options to a mass AMI implementation exist that could deliver the same or increased benefits to users and the network. One option may be the voluntary uptake by consumers of behind the *meter* technology that could give rise to network and *consumer* benefits for a reduced cost. If this were the case, it would be unfortunate if consumers in Western Australia have to pay twice once for WP's infrastructure and again to receive services through a behind the *meter* solution.
- WP has not addressed Synergy's concerns in relation to the technology risks and ensuring the relevant Build Pack and B2B documents have been revised under the Code to support this proposal. WP comments (set out in this Submission) now appear to suggest these documents will be subsequently revised after the MSLA has been approved. If this were to occur then Synergy considers the Authority must re-open the MSLA for public consultation.

Therefore, Synergy considers the Authority must ensure WP's AMI proposal provides a list of binding commitments that is consistent and enforceable by the regulatory regime and has full visibility on all AMI related changes to the local regulatory framework including B2B procedure, *communication rules* and *mandatory link criteria* .

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<sup>25</sup> Noting the Code only requires a *communications link* for obtaining *energy data* and not for any other purpose. Synergy understands WP's proposed communication infrastructure has a broader use.



### 13. Metering Expenditure<sup>26</sup>

Synergy currently spends approximately \$75M per annum on *metering services* provided by WP and its contractors annually to enable Synergy to transact with its one million customers.

#### WP's response

For clarification, Synergy's expenditure associated with the metering component of reference services in FY17 was \$75.9M. This expenditure was associated with Standard Metering Services (included in Reference Services).

In FY17, Western Power collected a total of \$9.57M in revenue (across all Code participants), through charges for Extended Metering Services under the MSLA.

Western Power's proposed charges for metering service in AA4 represent a reduction in fees, in comparison to AA3.

#### Synergy's further comments

Synergy is the largest user of WP's *metering services*. Off the back of the *metering services* WP provides to Synergy, Synergy provides a range of services to its 1 million customers. It is the *electricity* consumer who ultimately receives and pays for *metering services*.

Accordingly, it essential WP is accountable for its *metering service* performance.

The volume of *metering services* Synergy uses to meet the needs of *customers* is substantial and it has extensive experience in relation to the use of those services and the provision of services directly to the *customer* (as required by the *Code of Conduct*).

Synergy is as the largest retailer and *user* of WP services and is well placed to comment on metering application, quality, problems, regulatory matters and customer impacts.

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<sup>26</sup> Synergy notes that this submission formed a part of Section A ("Introduction") to the September Submission. It is repeated here as WP gave a response to this matter.

## D. MSLA PROVISIONS (including Schedule 1 (Dictionary))

### Definitions

**AMI Meter** – This definition is ambiguous and not consistent with the Code or aligned with WP's proposed roll out of 355,000 Type 4 meters with a range of "enhanced technology features" mandated by WP. The proposed definition is so broad it covers *Type 1-4 meters* under the Code that do not have advanced technology meters. The MSLA must be consistent with the Code and clearly delineate an AMI Meter is a *Type 4 meter* where WP has mandated the technology feature from a meter where the User has requested "enhanced technology features" in accordance with clause 3.20 of the Code.

#### WP's response

As noted above, in Western Power's response to Synergy feedback item "Governance Arrangements", an AMI meter for a small use customer is not automatically a Type 4 Meter.

WP considers that this definition is appropriate.

#### Synergy's further response

The definition of "AMI Meter" underpins the assessment of whether WP's AMI proposal is consistent with the regulatory framework.

Synergy's regulatory position is the AMI proposal and the definition of AMI Meter is a *Type 4 meter (interval meter)* with certain (non-metrology) enhanced technology features (see clause 3.19A of the Code, and the note to Division 3.4 of the Code). *Type 4 meters* are already in operation in the SWIS, and *Type 4 meters* (with remote communications) are also widely used in the SWIS.

WP's proposed definition of "AMI Meter" is unworkably broad and creates significant ambiguity under the existing access and metering regulatory frameworks. In particular, it is not clear to Synergy from the proposed definition the *Type of meter* WP is referring to. It is therefore inconsistent with clause 6.5(d) of the Code and the *Access Code* objective.

Further, an ambiguous definition does not, and will not, promote regulatory outcomes that are in the public interest (ie in the interests of end users/*customers*). In this way, Synergy submits the Authority should determine that WP's proposed definition of "AMI Meter" is not consistent with section 26(1)(a) of the ERA Act.

Having regard to the matters raised in the September Submission on the AMI proposal and the additional matters raised in Section C, item 12 ("Proposed AMI Implementation") of this Submission, Synergy requests the Authority determine a definition of "AMI Meter" which reflects the Code requirements for *meters* with enhanced technology features.

**Commencement Date** – Is the date of execution or the date the MSLA is deemed to apply to an arrangement (e.g. under Code clause 5.2). It is assumed the MSLA has legal effect under the Code on the date the ERA approves the amendments (see Code clause 6.20). As such, the new MSLA is a revocation and replacement of WP's current SLA, as opposed to amending the current SLA.

#### WP's response

It is also Western Power's view the new MSLA will operate in this manner.

### Synergy's further comments

Synergy acknowledges WP's response and view of the intended operation of the new MSLA.

However, Synergy suggests the definition of "Commencement Date" refer to either the date of execution of the Agreement or the date the Agreement is deemed to commence by operation of clause 5.2 of the Code (as applicable).

See also Synergy's further comments at below in this Section D in respect of proposed clause 2.1 (Term).

**Connection Point** – WP introduced a definition of 'connection point' as part of its proposed amendments. The definition is not directly aligned with the Code and *Access Code* but instead uses the definitions under the AQP which contemplates a single "indivisible" attachment point in relation to WP's network assets. Synergy is concerned this definition, in relation to a physical attachment point, may be too narrow. For example, there may be circumstances where network assets are installed upstream and downstream of the *revenue meters* – sub-meters, transformers, data loggers, WP owned streetlights on *Type 7 connection points* etc.

### WP's response

In response to Synergy's feedback, Western Power has amended the MSLA to include the term "Metering Point" and updated numerous references to "Connection Point" throughout the document.

WP considers that to ensure consistency between Access Contracts and the MSLA, the definition of Connection Point should be retained and used in some instances.

### Synergy's further comments

#### (a) Definition of "Connection Point"

WP has amended the definition of "Connection Point" to mean the defined term in the Code, and which "includes a point on a Covered Network which is "subject to bi-directional electricity flows" under section 3.3A of the Code".

The effect of WP's proposed amendment is to vary the Code definition of *connection point* (which in turn refers to the *Access Code* definition). Varying the Code definition of *connection point* is likely to create confusion and inconsistency in practice in terms of the operation of the Code and the *Access Code*.

Synergy considers the definition of Connection Point should simply be defined by reference to the definition of that term in the Code.

#### (b) Definition of "Metering Point"

Synergy agrees in principle with including a definition of "Metering Point" in the MSLA. However, Synergy does not agree with the drafting of the proposed definition. For the reasons identified above in relation to the definition of "Connection Point", Synergy requests the definition of "Metering Point" be amended to refer simply to the defined term under the Code. The additional words – "and includes a point on a Covered Network which is "subject to bi-directional energy flows" under section 3.3A of the Code" – should be removed from the definition of "Metering Point". The effect of those words is to amend the definition of "Metering Point" in the Code, which is likely to create confusion and inconsistency in practice.

**Customer Prevented** – WP’s initial proposed definition contemplates the *customer* is a party to the MSLA and may make requests contrary to the *user* in respect of the MSLA. It is not clear if such an arrangement is lawful. In addition, *customers* may not be aware of their implied liability under the MSLA if this arrangement is approved under the MSLA.

#### WP's response

Western Power has amended the definition of “Customer Prevented” to remove the reference to “or request made”, as suggested by Synergy.

#### Synergy's further comments

Synergy acknowledges that WP has removed the words "or request made" from the definition of "Customer Prevented".

However, Synergy is concerned about the potential consequences of the "Cancellation Fee" service that WP is proposing (see Synergy's further comments in Section F ("Cancellation Service"), below).

In Synergy's view, the ability to request a Cancellation Fee based simply on the definition of "Customer Prevented" – ie whether the Customer prevented the work being completed – is not reasonable, and therefore inconsistent with section 6.5(d) of the Code. The definition states that a Service Order could not be competed due to an action taken by a Customer – there is no objective measure against which to determine whether WP has used all reasonable endeavours to ensure the Service Order is completed (consistent with clause 5.1(1) of the Code which requires a *network operator* to use all reasonable endeavours to accommodate the *user's* request for a *metering service*).

In Synergy's view, the concept of "Customer Prevented" and the imposition of a cancellation fee on the basis of that definition is inconsistent with the *Access Code* objective to promote the economically efficient operation of and use of services of *networks*.

**De-energise** – WP’s initial proposed definition picked up the meaning given in the *Code of Conduct*, but that definition only applies to small use customers (as "supply address" relates to the standard form contract which in turn only relates to small use customers). For use in the MSLA, the definition of "de-energise" needs to be broadened so as to apply to all *customers*, not just small use.

#### WP's response

Western Power has amended the definition of “De-energise” as suggested by Synergy.

#### Synergy's further comments

Synergy notes that WP has, in response to Synergy's September Submission, amended the proposed definition of "de-energise".

However, Synergy suggests that, for clarity, the words "and (if appropriate) supply current" and "so as to prevent the transfer of electricity through the Connection Point" be added to the proposed definition as set out below (amendments in underline). This is because, technically the supply voltage is not removed. What occurs is the supply circuit is open and it interrupts the flow of electricity – ie there is voltage (open circuit voltage), but no supply current. However, a pole top disconnection requires the removal of both supply voltage and current).

"De-energise means the removal of the supply voltage and (if appropriate) supply current from the Meter at the Metering Point so as to prevent the transfer of electricity through the

#### Connection Point."

**Disconnect** – WP's initial proposed definition picked up the meaning given in the *Code of Conduct*, but that definition only applies to small use customers. For use in the MSLA, the definition of "disconnect" needs to be broadened so as to apply to all *customers*, not just small use.

#### **WP's response**

Western Power has reviewed the proposed definition of "Disconnect" and the definition of "De-energise" and considers there is not a need for both terms to be used in the MSLA.

WP has deleted this definition and revised references throughout the document to use the term "De-energise" consistently.

#### **Synergy's further comments**

Synergy notes that WP has removed the definition of "Disconnect" from the proposed MSLA, having considered there is no need for both terms to be used in the MSLA. Synergy does not object in principle to the deletion of the definition from the MSLA.

However, Synergy considers the references to the (proposed) non-defined term "disconnect" in ASP-3 (Supply Abolishment) should be replaced with words to the effect of "physically de-attach" to make it clear it is a permanent disconnection of the meter and the supply system.

**Entry Point** – See Synergy's comments above in relation to the definition of "Connection Point".

#### **WP's response**

To address the points raised by Synergy, Western Power has deleted this definition as it is no longer required due to the amendment of the definition of "Connection Point".

#### **Synergy's further comments**

For the reasons set out above in respect of the definition of "Connection Point", Synergy considers the definition of "Connection Point" should simply refer to that term as defined in the Code.

On that basis, Synergy considers the defined term "Entry Point" is not required as it is no longer specifically referenced anywhere in the MSLA.

**Exit Point** – See comments in relation to Connection Point.

#### **WP's response**

To address the points raised by Synergy, Western Power has deleted this definition as it is no longer required due to the amendment of the definition of "Connection Point".

#### **Synergy's further comments**

For the reasons set out above in respect of the definition of "Connection Point", Synergy considers the definition of "Connection Point" should simply refer to that term as defined in the Code. On that basis, Synergy considers the defined term "Exit Point" is not required as it is no longer specifically referenced anywhere in the MSLA.

**Extended Metering Services** – It appears some of the “field” services contemplated under the MSLA are not a “metering service” as defined under the Code. For example, supply abolishment. Further, a supply abolishment is not contemplated under the *Code of Conduct* or *Customer Transfer Code* and could be argued to be outside the scope or function of the MSLA. Therefore, this definition should be amended to reflect an extended metering service relates to metrology services.

#### **WP's response**

Western Power does not propose to amend this definition.

Regarding the inclusion of supply abolishment in the MSLA, Western Power considers it appropriate to continue to include this service, noting the abolishment of supply represents the fundamental termination of supply at the metering installation (including removal of the meter).

#### **Synergy's further comments**

See Synergy's further comments under the sub-heading "Response to: "Service Classification" in Section C, item 3, above and the further comments in Section C, item 13 ("Metering Expenditure"), above.

Synergy's proposed service classifications in relation to covered and *metering services* are summarised in Table 1 in Section C of this Submission. Synergy requests the Authority determine which services proposed by WP under the MSLA are:

1. covered services regulated under the *Access Code*; and
2. *metering services* regulated under the Code.

Synergy repeats its September Submission the definition of "Extended Metering Services" needs to be amended, consistent with the scope of the Code, to reflect that those *metering services* relate to metrology services. Amending the definition in this way will allow *users* to understand whether it is the Code or the *Access Code* which regulates their rights in relation to the services proposed under the MSLA.

**Fees** – The definition contemplates WP may unilaterally vary the fees from time-to-time by publishing them. In Synergy's view amending the fees under the MSLA is an amendment to the MSLA that must be approved by the Authority. The definition needs to be changed to reflect the fees amended under the MSLA and will need to be approved by the Authority.

#### **WP's response**

This approach is consistent with the existing MSLA. There is no change proposed to these arrangements by Western Power under the new MSLA.

WP does not propose to amend the definition of “Fees”.

#### **Synergy's further comments**

Synergy does not agree with WP's comment that "there is no change proposed to these arrangements by WP under the new MSLA". Unlike the proposed Schedule 4 for the new MSLA, Schedule 3 of the current MSLA does not provide the fees will be CPI-Adjusted.

Consistent with Synergy's comments in Section C, item 11 ("Fee adjustments") above, Synergy



requests the definition of "Fees" (and consequently the wording in Schedule 5 (under the heading "Fees") to the proposed MSLA) be amended so it refers to fees amended under the MSLA will be approved by the Authority consistent with the requirements in clause 6.6(1)(e) of the Code.

**Field Completion Date** – The definition does not make it clear if this information is part of Standing Data, defined under the Communication Rules that must be recorded in the *registry*. Synergy requires WP to make it explicit under the MSLA whether "Field Completion Date" is required to be part of *standing data* and therefore, is subject to the controls and requirements of the Code.

#### WP's response

In response to Synergy's feedback, Western Power has added additional detail to Schedule 4 to address the items raised.

#### Synergy's further comments

WP's amended proposed definition of "Field Completion Date" means a date when the Service Order is (i) **completed** or (ii) attempted but **not completed**. This is not a contractually workable definition.

It is concerning that such an important piece of information used to transact with the end *customer* can have opposite meanings. It is important to note the definition of "Field Completion Date" will underpin how a service standard is measured, which means WP can record a service as complete when it is not complete. See also Synergy's further comments on clause 3.2 in Section D, below.

The additional information WP has included in Schedule 4 does not make it clear what is meant by "Field Completion Date".

Further, WP has not addressed the concern in Synergy's September Submission the definition of "Field Completion Date" make it explicit whether the information forms part of *standing data* and is therefore subject to the requirements of the Code. The Authority must make a determination on whether "Field Completion Date" is *standing data* because clause 4.5 of the Code requires that a *Code participant* must not knowingly permit the *registry* to be materially inaccurate. If it is not clear whether "Field Completion Date" is *standing data*, then it is not possible for Synergy (and WP) (as *Code participants*) to comply with clause 4.5(1). This would also be inconsistent with the *Code objective* to promote access to and confidence in *data* (which includes *standing data*) of parties to commercial *electricity* transactions (clause 2.1(1)(b)).

In Synergy's view, the Authority must also make determination is made on whether "Field Completion Date" is *standing data* because, in Synergy's experience, WP's *standing data* does not always align with what has occurred in the field – for example, a de-energised *meter* that has not actually been de-energised, or vice-versa. Again, without such a determination, the definition is inconsistent with the *Code objective* in clause 2.1(1)(b) of the Code.

If the "Field Completion Date" is *standing data*, then WP's *communication rules* will need to be updated to reflect this. Clause 4.3(3) of the Code states the *communication rules* may remove, modify or add to any requirement in clause 4.3(1) for the *standing data*.

Synergy also considers that WP's proposed definition of "Field Completion Date" is not consistent with clause 6.6(1)(b) of the Code, which requires that a MSLA specify a timeframe, and where appropriate other service levels, for the performance of a *metering service*. The note to clause 6.6(1) provides that a MSLA must, amongst other things, at least specify the service levels (including timeframes) for the provision, installation, operation and *maintenance* of *metering installations* under clause 3.5(1) of the Code. As noted above, the definition of "Field Completion Date" is

unworkable. The definition does not set out the service levels as required by clause 6.6(1)(b) of the Code.

For the reasons set out above, Synergy considers that WP's proposed definition of "Field Completion Date" is inconsistent with clause 6.1(1)(a) of the Code, which requires that a MSLA be consistent with the requirements of the Code.

Synergy considers the Authority must determine this matter.

**Force Majeure** – The proposed definition differed from the definition in the current MSLA, which refers to the definition in place in the *access contract* between WP and the applicable *user*. In Synergy's view, this current approach should be adopted to better align the MSLA with the access bargain struck between the parties. Given the potential for cross-over between performance of obligations under the MSLA and a given *access contract*, if the proposed definition is adopted there is the real likelihood the effect will be to vary the *access contract* in some cases. In Synergy's view, this would be inconsistent with the *Code objective* and the *Access Code objective*.

#### **WP's response**

The proposed definition of "Force Majeure" has been extracted from Western Power's standard access contract to ensure consistency.

Western Power does not propose to amend this definition.

#### **Synergy's further comments**

See also Synergy's further comments on proposed clause 8 ("Force Majeure Expenditure") in Section D, below.

Synergy repeats its September Submissions the current MSLA definition of Force Majeure should be retained – ie Force Majeure means that term as defined in the agreement between WP and the User under which WP agrees to provide access services to the User. That access agreement will be either the model electricity transfer access contract (approved by the Authority under the *Access Code*) or a negotiated access contract between WP and the User, as applicable.

As noted in Synergy's September Submissions, there is a risk that if the definition of Force Majeure does not align with that in the applicable *access contract* between WP and the User, the effect may be to vary that contract. Further, a misalignment of rights/obligations between the two agreements may be practically difficult to implement in certain circumstances.

In Synergy's view, the need to ensure consistency between the MSLA and the applicable *access contract*, outweighs the need to ensure consistency between standard documents – ie the MSLA and the model electricity transfer access contract.

Finally, WP's proposed amendment to the definition of "Force Majeure" does not take into account the *user's* interests in circumstances where the *user* and WP have negotiated a position under an *access contract*. This is inconsistent with clause 6.5(d) of the Code and the objective in the *Access Code* (see section 2.1 of the *Access Code*).

Synergy considers the Authority must determine this matter.

**Indirect Damage** – Synergy's comments in relation to this definition are set out below in relation to Synergy's comments on proposed clause 7 ("Liabilities and damages") of the MSLA.

#### **WP's response**

The proposed approach regarding Indirect Damage is consistent with the existing MSLA and the ETAC, where neither party is liable to the other party for Indirect Damage.

Western Power notes that Indirect Damage is not defined in the existing MSLA (but rather is defined by cross-reference to the User's access contract), and accordingly, included the proposed definition in the new MSLA. The proposed definition of "Indirect Damage" has been extracted from WP's standard access contract.

Western Power does not propose to amend this definition.

#### **Synergy's further comments**

See Synergy's further comments in relation to proposed clause 7 "(Liabilities and damages)", below.

**In Field** – The definition is ambiguous and does not make it clear what a delivery resource is and requires amendment to be clear and precise what the matter relates to and link in with the transaction messages and timelines under the *communication rules*.

#### **WP's response**

In response to Synergy's feedback, Western Power has added additional detail to Schedule 4 to address the items raised by Synergy.

#### **Synergy's further comments**

Despite its response, WP has not addressed Synergy's concern the definition of "In Field" is ambiguous by making it clear what a "delivery resource" is.

In Synergy's view, the additional information that WP has included in Schedule 4 does not make it clear what is meant by "In Field".

For those reasons, WP's proposed definition of "In Field" is not consistent with the requirements in Chapter 6 of the Code, including the requirement in clause 6.6(1)(b) that a MSLA specify a timeframe and, where appropriate other service levels, for the performance of a *metering service*. The note to clause 6.6(1) provides that a MSLA must, amongst other things, at least specify the service levels (including timeframes) for the provision, installation, operation and *maintenance* of *metering installations* under clause 3.5(1) of the Code.

Further, an ambiguous definition does not, nor will not, promote regulatory outcomes that are in the public interest (ie in the interests of end users). In this way, the Authority should determine the definition of "In Field" is not consistent with section 26(1)(a) of the ERA Act.

Any definition of "In Field" needs to be consistent with the *communications rules*.

See also Synergy's further comments at above in relation to the definition of "Field Completion Date".

Synergy considers the Authority must determine this matter.

**Manually Read Interval Meter** – This definition is ambiguous. In effect it permits WP exclusively to determine what a manually read *interval meter* is and choose when a manually read *interval energy data* service will be provided. This is inconsistent with the service requirements under the Code and could potentially be used to continue to prevent the provision of manually read *interval energy data*. Synergy requires this definition to be express and aligned with the requirements contemplated under the Code and as a minimum clarify it could apply to a *Type 1 – 5 meter* (including a *Type 5 meter* programmed as a *Type 6*). Synergy requires this definition to be consistent with the Code and clause 4.8(3) and refer to an *interval meter* where *interval energy data* within the *metering installation* can be obtained locally or manually without the use of a *communications link*. Synergy further notes the concept of a Type 4A meter developed under the “power of choice” is not contemplated in the Code.

#### **WP's response**

Western Power does not propose to amend this definition.

This definition includes reference to an “Interval Meter”, which is defined with reference to the Code.

#### **Synergy's further comments**

Synergy repeats its September Submissions. WP's proposed definition of "Manually Read Interval Meter" is ambiguous and in effect, permits WP to unilaterally determine what a manually read *interval meter* is, and therefore, choose when a manually read interval meter service will be provided.

Any definition should refer to the *Type of metering installation* (as shown in Table 3 in Appendix 1 to the Code).

As noted above, a potential effect of WP's proposed definition of "Manually Read Interval Meter" is that WP is able to unilaterally determine when a manually read *interval meter* service will be provided. Synergy is concerned that this practice may not comply with section 115 of the EI Act which prohibits hindering or preventing access to any services by persons in accordance with the *Access Code*.

**Metering Service or Services** – See comment on definition of "Extended Metering Service".

#### **WP's response**

See comments above regarding “Extended Metering Services”.

#### **Synergy's further comments**

See Synergy's further comments above in relation to the defined term "Extended Metering Services".

Subject to the necessary amendments being made to the definition of "Extended Metering Service", Synergy agrees with the definition of "Metering Service or Services". See further Synergy's comments at, below on the definition of "Service".

**Meter Reading Schedule** – The definition contemplates WP only need to publish this schedule annually. However, there is no requirement to publish the schedule each time WP amends. WP has proposed they may amend the Meter Reading Schedule during the year. However, WP has removed the requirement to consult with Users to ensure billing cycles and customer billing, in particular under the *Code of Conduct*, is not impacted by the change. Synergy requires the schedule to be published each time it is changed in accordance with clause 2.1(c) of the Code to enable Synergy to comply with its billing obligations under Part 4 of the *Code of Conduct*.

#### WP's response

Western Power has updated Schedule 3 of the MSLA to provide for this requested change from Synergy.

#### Synergy's further comments

Synergy notes that WP has made some amendments to items 4.1, 4.2, 4.3 and 4.4 of Schedule 3 to the proposed MSLA in respect of the amendment and publication of the Meter Read Schedule.

However, Synergy notes that those amendments to items 4.1, 4.2, 4.3 and 4.4 of Schedule 3 do not:

- require WP to publish (if amendment is necessary) the Meter Reading Schedule as the drafting uses the discretionary "may"; or
- require the User's agreement to amend the Meter Reading Schedule.

Synergy submits that an appropriate procedure for revision of the Meter Reading Schedule would require WP to consult and agree with the User the amended Meter Reading Schedule and to publish that amended Meter Reading Schedule.

Clause 6.6(1)(f) of the Code requires the *network operator* to specify the procedures by which, and the frequency with which, a meter reading schedule may be revised. Synergy considers that incorporating a procedure as outlined above in the MSLA is consistent with clause 6.5(a) of the Code and the Code objective in clause 2.1(c). This is particularly important in light of Synergy's obligations under the *Code of Conduct*.

Clause 6.5(a) of the Code requires the MSLA to comply with the requirements of the Code. Clause 5.8 of the Code requires a *network operator* to provide the *user* with whatever information the *network operator* has (including *energy data* and *standing data*) that is necessary to enable the *user* to comply with its obligations under the *Code of Conduct*, within the time necessary for the *user* to comply with those obligations. Clause 1.5(5) of the Code provides that to the extent the Code and the *Code of Conduct* are inconsistent, the Code does not operate to the extent of the inconsistency. Finally, the Code objective in clause 2.1(c) is to facilitate the operation of, amongst other things, the *Code of Conduct*.

For example. Synergy has obligations under the *Code of Conduct* to bill customers in accordance with a specified timeline. Any amendments to the Meter Reading Schedule must therefore accommodate and allow Synergy, as a *user*, to comply with its *Code of Conduct* obligations.

Synergy also requests that for consistency with those items of Schedule 3, the definition of "Meter Reading Schedule" be amended to refer to the Schedule being published each time it is amended. This is consistent with clauses 6.6(1)(g) and 6.5(a) of the Code.

Finally, Synergy requests the definition of "User" refer to the definition of that term in the Code (and not the *Access Code*, as WP currently proposes).

**Meter Throughput** – "metering point" used in this definition needs to be a defined term and aligned to the definition of "metering point" under the Code.

#### **WP's response**

Western Power has incorporated this change suggested by Synergy.

#### **Synergy's further comments**

Synergy acknowledges that WP has amended the term "metering point" in the definition of "Meter Throughput" to "Metering Point" (ie a defined term).

However, as noted above in relation to the definition of "Connection Point", Synergy requests the definition of "Metering Point" be amended to refer simply to the defined term under the Code. The words "and includes a point on a Covered Network which is "subject to bi-directional energy flows" under section 3.3A of the Code" should be removed from the definition of "Metering Point".

**Non-AMI Meter** – See comments in relation to the definition of AMI Meter, above.

**Payment Error** – There is no corresponding definition in relation to invoice errors or amounts invoiced that is not permitted to be invoiced under the MSLA.

#### **WP's response**

Western Power has included a definition of "Payment Error", which has been extracted from WP's standard access contract

Western Power does not propose to amend this definition.

The concept of Payment Error does extend to an amount Western Power was not entitled to invoice. It is defined to expressly include incorrect amounts in a Tax Invoice – see definition below:

any error in a Tax Invoice (including the omission of amounts from that Tax Invoice, the inclusion of incorrect amounts in that Tax Invoice, calculation errors in the preparation of a Tax invoice or a Tax Invoice being prepared on the basis of data which is later established to have been inaccurate).

#### **Synergy's further comments**

WP has not addressed Synergy's concerns in relation to errors or amounts invoiced that are not permitted to be invoiced under the MSLA.

Synergy acknowledges that part (b) of the definition refers to the inclusion in Tax Invoices of "incorrect amounts"; however, in Synergy's view, that provision does not explicitly refer to amounts which were not permitted to be charged under the MSLA – an "incorrect" amount is different from an amount which is not permitted to be charged.

Synergy requests the definition of "Payment Error" be amended to specifically refer to amounts that were not permitted to be charged under the MSLA.

In Synergy's view, such an amendment is consistent with clause 2.1(2)(c) of the Code, which is to facilitate the operation of, amongst other things, the *Code of Conduct*, and clause 6.5(d) of the Code (which requires the MSLA to be reasonable).



**Reasonable and Prudent Person** – The definition contemplates there are times, as determined by WP, where WP may not need to act in accordance with “good electricity industry practice” in relation to complying with their obligations. This definition needs to be aligned with the term under the *Access Code* and the words “where applicable” should be deleted. In addition the words “reasonably and” should be inserted before “in good faith”.

#### **WP's response**

This defined term is used in the definition of “Force Majeure”, and has been extracted from WP’s standard access contract.

Western Power does not propose to amend this definition.

#### **Synergy's further comments**

Synergy requests the words “where applicable” are removed from the definition of “Reasonable and Prudent Person”. The inclusion of those words in the definition do not make sense, particularly in circumstances where it is unclear to Synergy when a party would not be required to act in accordance with “Good Electricity Industry Practice”.

WP notes its proposed definition of “Reasonable and Prudent Person” has been extracted from its standard access contract. However, just because a provision that WP is proposing for the MSLA may be consistent with the standard access contract does not mean that a defect or other shortcoming in that provision should go uncorrected (e.g. the shortcoming being it is not clear when a party would not be required to comply with Good Electricity Industry Practice).

**Reconnect** – the definition currently picks up the meaning given in the *Code of Conduct*, but that definition only applies to small use *customers*. For use in the MSLA, the definition of “reconnect” needs to be broadened so as to apply to all *customers*, not just small use.

#### **WP's response**

Western Power has reviewed the proposed definition of “Reconnect” and the definition of “Re-energise” and considers there is not a need for both terms to be used in the MSLA.

Western Power has deleted this definition and revised references throughout the document to use the term “Re-energise” consistently.

#### **Synergy's further comments**

Synergy notes that WP has removed the proposed definition of “Reconnect”.

As with the terms “disconnect” and “de-energise”, there is a difference between the terms “reconnect” and “re-energise”. In Synergy's view, a “reconnection” involves the physical re-attachment of the meter. Synergy suggests that an appropriate definition of “Reconnect” is included in the MSLA, or different terminology (for example, “physical re-attachment”) be used in place of the word “Reconnect” throughout the MSLA.

**Service** – This is not a defined term. This should be defined as the services listed under Schedule 3 of the MSLA as amended from time to time.

#### WP's response

The term "Services" has been defined in the new MSLA. Refer to definition of "Metering Services or Services".

#### Synergy's further comments

Subject to the necessary amendments being made to the definition of "Extended Metering Service" (see Synergy's further comments at, above), Synergy acknowledges, and agrees with, WP's proposed definition of "Metering Services or Services" for the new MSLA.

**Term** – See comment in relation to Commencement Date and clause 2.1 (Term).

**Whole Current Metering** – This definition is not clear and is ambiguous. It is not clear what "connected directly to the Connection Point circuit" legally means. Synergy understands this definition is used in relation to meters, under the Code, that do not use or require a current transformer or voltage transformer to measure electricity production or consumption. If so, the definition needs to be made more explicit.

#### WP's response

Western Power has amended the definition of "Whole Current Metering", as requested by Synergy.

#### Synergy's further comments

Synergy acknowledges that WP has amended the definition of "Whole Current Metering" in response to Synergy's September Submission. However, for clarity, Synergy suggests the words "or a voltage transformer" are added to the end of the definition as follows (amendments in underline):

"Whole Current Metering means a Metering Installation which is connected directly to the Metering Point, measuring the whole current flowing in the primary circuit, as opposed to measurement via a secondary circuit using a current transformer or a voltage transformer."

### Clause 1.2 Interpretation Act applies

In Synergy's view, the MSLA is not a written law within the meaning of the *Interpretation Act 1984* (WA), Synergy therefore suggests adding the words "as if it were a written law as defined in that Act" at the end of clause 1.2 so the provisions of the Interpretation Act can apply to its interpretation. While the Metering Code, being *subsidiary legislation* (see section 39(3) of the EIA) is a "written law", it is less clear if the MSLA is itself a "written law").

#### WP's response

Western Power can see no other interpretation of clause 1.2 other than the provisions of the *Interpretation Act* are to be applied in interpreting the MSLA.

This clause is consistent with Western Power's standard access contract.

Western Power seeks to ensure consistency between its contract documentation, and as such, does not propose to amend clause 1.2 as suggested.

#### Synergy's further comments

Synergy's concern was that clause 1.2 of the MSLA does not actually work to apply the rules of interpretation in the *Interpretation Act* to the interpretation of the MSLA in cases where the drafting of those rules of interpretation is such they are only capable of applying to "written laws".

For example, most if not all of the provisions of the *Interpretation Act* that WP presumably intends should apply to the MSLA as "rules of interpretation" are in fact drafted so they only apply to interpreting "a written law". In Synergy's view, the MSLA is not "a written law" because it does not have legislative effect. So unless (as Synergy has suggested), it is clearly stated in clause 2.1 of the MSLA the rules of interpretation in the *Interpretation Act* are to apply to the MSLA as if references in those rules to "a written law" were references to the MSLA, it would seem likely that those "rules of interpretation" in the Act that refer to "a written law" would not actually apply to or operate in interpreting the MSLA.

WP's point its drafting of clause 2.1 is consistent with its standard access contract does not resolve the apparent defect in the drafting across its contract documentation.

### Clause 2.1 Term

The clause contemplates the MSLA will need to be executed as an agreement before it has legal effect. However, in some cases the MSLA terms are deemed to apply where there is no written agreement or "execution" of it (e.g. see Code clause 5.2). Clause 2.1 therefore needs to be amended to also allow the Term of the agreement to commence where the MSLA is deemed to apply without any execution.

#### WP's response

Western Power believes that such a change is unnecessary given the operation of clause 5.2 of the Code. Western Power does not propose to amend clause 2.1 as suggested.

#### Synergy's further comments

Synergy acknowledges WP's response regarding the operation of clause 5.2 of the Code. However, Synergy maintains its September Submission and requests the reference to the deeming provision in clause 5.2 of the Code be incorporated in the MSLA.

Further to Synergy's suggested amendment to the definition of "Commencement Date" (see above), Synergy suggests the words "date of execution of this Agreement" in clause 2.1 of the proposed MSLA are replaced with "Commencement Date" as follows (amendments in ~~strike through~~ and underline):

#### "2.1 Term

This Agreement commences on the ~~date of execution of this Agreement~~  
Commencement Date and continues until this Agreement is terminated..."

### Clause 3.1 Metering Services

Clause 3.1(b) requires a User to submit a valid Service Order, in accordance with the *communication rules*, to receive a service under the MSLA. However, WP's Build Pack developed under the *communication rules* does not cater for the provision of remote services and does not delineate a remote service from a manually provided service. It also means Users will not be able to reconcile the type of service that has been requested and the charges that would apply.

#### WP's response

Western Power considers the requirement for a Service Order to be submitted to request a Service

does not fundamentally change depending on the method of service delivery.

Western Power considers the reconciliation of services can be completed through the use of standing data attributes and B2B transactions associated with the service order process.

Western Power acknowledges the need for ongoing retailer engagement on AMI services and will seek to implement transitional meetings with retailers and, where relevant, working groups, as part of its transition to AMI services.

### Synergy's further comments

Synergy does not agree with WP's view. The MSLA needs to be drafted such it is clear there is no obligation to pay for Metering Services if WP does not provide Synergy with all the necessary information to reconcile the type of Service that has been requested and the applicable charges under the MSLA. In Synergy's view, WP's proposal is not consistent with:

- *good electricity industry practice*, and is therefore contrary to clause 6.5(c) of the Code;
- the promotion of regulatory outcomes that are in the public interest (contrary to section 26(1)(a) of the ERA Act);
- the long term interests of consumers in relation to price and reliability of metering services (contrary to section 26(1)(b) of the ERA Act);
- the need to promote competitive and fair market conduct by WP (contrary to section 26(1)(e) of the ERA Act); and
- the need to prevent abuse of monopoly or market power by WP (in line with section 26(1)(f) of the ERA Act).

Further, Synergy considers that in order to satisfy clause 6.6(1)(g) of the Code, which requires the MSLA specifies the procedures for a Code *participant* to make a request for *metering services* and the procedures for dealing with a *metering service order* it will be necessary for the Authority to be satisfied the Build Pack referred to in the MSLA is capable of accommodating remote services. At this point, the Build Pack does not accommodate such services.

Synergy considers the Authority must make a determination not to approve the MSLA until such time as there is clarity in relation to the Build Pack such that caters for remote services, transactions and exceptions.

### Clause 3.2 Service Standards

The clause requires WP to provide the services in accordance with the Service Standards in Schedule 4, but does not specify:

What happens if WP does not meet the service standard. In Synergy's view, a User:

- should not be charged for a service if WP does not meet the service standard for that service; and
- should receive a "service standard payment" (liquidated damages) each time WP does not meet the service standard.

See Synergy's September Submissions at Section C, item 5 ("Performance incentive provisions").

Further, where, for example, WP's KPI is to only ensure 95% of service requests are delivered in accordance with service standards – what service standards apply to 5% of the remaining service requests. There is also no express obligation to deliver the outstanding 5% of service requests. This needs to be addressed under the MSLA – such as by service standard payments. See Synergy's submissions at pages 13 - 15, Section C, item 5 ("Performance incentive provisions") of its September Submissions.

Another situation is where WP does not meet a service standard but requests a User to submit a new service notification. For example, Synergy has raised a service request, WP has missed the service standard and instead of completing the existing service WP has cancelled the service notification and requested Synergy to raise a new one before performing the service. If there are legitimate circumstances where this needs to occur the MSLA must specify those circumstances. If not, the practice should be prohibited under the MSLA.

The service standards contemplate the provision of services under clause 3.1 only applies to a portion of service requests and not all service requests. This policy is contrary to the *Code objectives*.

#### **WP's response**

In conjunction with this Western Power has amended clause 3.2 to clarify circumstances when Western Power is not responsible for inability to provide a service – for example Western Power could not get access to a locked property or a property with a dangerous dog.

In response to Synergy's feedback, Western Power has also updated the service standards schedule (Schedule 4) to include additional detail in relation to timing requirements and service standard measurement methodology.

Also see response to Issue No. 6 on penalty and reporting mechanisms in section 4 [of Western Power's Engagement Summary Report (dated 28 September 2017)].

#### **Synergy's further comments**

Refer to Synergy's further comments with respect to performance incentives in Section C, item 5 ("Performance incentive provisions"), above.

##### **(a) WP's proposed amendments to clause 3.2**

With regard to WP's proposed amendments to clause 3.2, WP has not explained why any of the provisions WP is proposing to add to clause 3.2 are necessary or justified under the Code, especially given the MSLA already contains a comprehensive Force Majeure provision (see clause 8).

WP's proposed amendments to clause 3.2 overlap with and potentially undermine the comprehensive Force Majeure provision in clause 8 and create unnecessary uncertainty as to how the two provisions are supposed to interact.

For example, unlike the comprehensive Force Majeure provision, WP's proposed amendments to clause 3.2 do not deal with matters such as notification, mitigation, prevention and overcoming causes nor do they impose the Reasonable and Prudent Person standard of reasonableness.

Synergy is concerned that WP's proposed amendments to clause 3.2 may be used to circumvent and/or undermine the stricter and more comprehensive requirements of the Force Majeure provision.

In addition to being unnecessary, Synergy also considers WP's proposed amendments to clause 3.2 are not reasonable. For example, WP's proposed clauses 3.2(b)(i), (ii) and (iii) are not reasonable because it is not clear:

- what constitutes (and who determines) "appropriate access", "legitimate concern" and "other impediments" in this context; and
- whether these things take into account WP's ability to exercise its legislative powers (including under the *Energy Operators (Powers) Act 1979* (WA)) and whether WP is taking the reasonable actions to comply with their obligations under health and safety law.

(b) Service Standards generally

Synergy reiterates the concerns raised in the September Submission. In particular, WP's proposed service standards are not consistent with clause 6.5(g) of the Code because WP is proposing KPIs that would mean it effectively need not provide connection services in accordance with an enactment, in this case, the *Electricity Industry (Obligation to Connect) Regulations 2005* (WA). However, those regulations are absolute and do not permit WP to provide connection services less than 100% of the time within the timeframes specified in the regulations or to action less than 100% of the requests made by a *user* on behalf of a *customer*.

Synergy is concerned WP has not addressed what happens with respect to outstanding service requests once the relevant KPI level has been reached. Essentially, WP's proposed MSLA does not require WP to contractually action any service requests over the service KPI listed in schedule 4 of the MSLA. For example, if the KPI is 95%, there does not appear to be any express obligation to deliver the outstanding 5% of service requests once the 95% level has been achieved. Synergy is concerned such an apparent loophole is not consistent with the Code (including the *Code objectives*) and is not in the public interest or the long-term interests of consumers and may be used in ways that are not consistent with promoting competitive and fair market conduct or preventing abuse of monopoly or market power (contrary to sections 26(1)(b), (e) and (f) of the ERA Act).

Synergy requires the Authority to determine how these outstanding service requests WP does not action should be dealt with contractually under MSLA giving regard to the *Code objectives*, clause 6.5 of the Code and the matters in section 26(1) of the ERA Act.

Synergy is also concerned that, for some services, WP is now proposing the services is deemed to have been performed if performance has been "attempted". For example, this occurs in the Performance Measurement provisions in Schedule 4 for Meter Provision (on page 69 of the proposed MSLA) and for Meter Data Provision (on page 71 of the proposed MSLA), where "Field Completion Date" (as defined in Schedule 1) allows "attempted" performance of requested work (refer also to Synergy's further comments above concerning the definition of "Field Completion Date"). Synergy also notes the definitions for "Completion of requested work" and "Issuing a Service Order response" in column 2 of the Table in Figure 3 include "or attempted performance" as an alternative to performance.

Synergy is concerned that if attempted performance is classified as actual performance, this will potentially allow WP to achieve Service Standards and KPIs in circumstances where services have not actually been properly performed.

Synergy considers the Authority must determine if such an approach to measuring performance is consistent with the Code and the *Code objectives*, having regard to the requirements of section 26(1) of the ERA Act.

#### **Clause 4 Financial Covenants by User**

Synergy has on occasion withheld payment to WP because WP has been outside of the MSLA. If WP doesn't deliver the service, a User should have the right to withhold payment in.



### WP's response

It is not clear to Western Power what is being requested.

Clause 4.1 provides that: "The User agrees to pay WP the Fees for the Extended Metering Services provided under this Agreement."

It is not clear to Western Power why this statement is problematic.

Also see response to Issue No. 6 on penalty and reporting mechanisms in section 4 [of Western Power's Engagement Summary Report (dated 28 September 2017)].

### Synergy's further comments

Synergy requests that clause 4.1(a) of the proposed MSLA be amended as follows (amendments in ~~strike through~~ and underline):

"The User agrees to pay Western Power the Fees for the Extended Metering Services provided ~~under~~ in accordance with this Agreement."

Further to Synergy's September Submission, such an amendment to clause 4.1(a) makes it clear the Extended Metering Services are to be provided according to the terms of the MSLA.

### Clause 5 Invoices

Synergy requires an obligation (similar to WP's current model ETAC) to the effect that a User's obligation to pay only commences once WP has provided all the necessary data that allows a User to independently reconcile and determine how the charges were derived.

Synergy also requires a carve-out clause (similar to the ETAC) to the effect that WP must not invoice charges in respect of services:

- performed outside of the MSLA
- performed more than 12 months ago
- that have not been completed
- that are the subject of an ombudsman complaint

Clause 5.3(a) of the proposed MSLA (like clause 4.5 of the existing MSLA) requires that a User "must" notify WP of any disputed invoice "prior to the Due Date". There are sometimes situations where a reason for challenging an invoice does not become apparent until after the due date (e.g. because relevant evidence only comes to light at some later date). Synergy does not see why Users should have this arbitrary time limit (which is in effect a form of liability exclusion) imposed on them when it can have unreasonable and inefficient consequences. It should be clarified that, for example, while Users must use reasonable endeavours to give notice of dispute before the due date, any failure to do so does not prevent a User notifying and disputing the invoice at any later time.

To avoid doubt, clause 5.3(a) should also be amended to expressly clarify that a User may withhold payment in respect of the disputed portion of the disputed invoice. Currently this is only implied.

Clause 5.4: Similar to the current MSLA, WP is seeking an 18 month time restriction in relation to claims for payment errors (see MSLA clauses 5.4(d)&(e)).

Further:

- in principle, Synergy does not see why any such time restriction should apply in relation to Synergy receiving an adjusting payment and requires it not apply in such circumstances;
- any such time restriction that is accepted, should not apply in certain cases (e.g. payment errors due to fraud or wilful default); and

- it is not clear what justification WP has in clause 5.4(d) for extending the 18 month period only for underpayments (clause 5.4(e)) and not also for overpayments (clause 5.4(f)). Synergy considers that clause 5.4(d) should be made subject to both clause 5.4(e) and clause 5.4(f).

Further, WP's draft MSLA is seeking that interest be payable on adjusting payments unless the adjusting payment relates to an underpayment resulting from the other party's error (MSLA clauses 5.4(b)&(c)). Synergy is of the view there are other circumstances where interest should not be payable, for example where an underpayment resulted from Force Majeure (not just from the other party's error). Synergy is also concerned to ensure the prescribed interest rate is back-to-back with its other commitments (see our comments on the definition of "prescribed rate" above).

Further, it is not clear what is to happen if a party disputes an adjusting payment. MSLA clause 5.4(a) only requires a "notice" to be given to trigger the obligation to make an adjusting payment. But a "notice" which is not an "invoice" will not allow the "disputed invoice" provisions in clause 5.3 to be invoked. It should be clarified the "disputed invoice" provisions in clause 5.3 also apply to disputed adjusting payments.

In addition, Synergy:

- considers 10 business days (MSLA clause 5.4(a)) is not sufficient to manually fully reconcile the invoices. (Under current transaction volumes and level of data being provided at least 15 business days is required);
- requires separate line items to be provided in the invoice for each service to ensure reconciliation is possible; and
- requires separate SMS line item invoice files from network charges to retain visibility for reconciliation purposes.

## **WP's response**

### **Provision of Data**

The provision of metering services are transactional in nature, meaning that a User is provided with extensive data sets and receipts via B2B transactions, which allow for visibility and reconciliation of services. Western Power considers it would be unreasonable to include provisions which allow a User to withhold payment for services which have been performed, based on the ability of a User to process and analyse these transactions.

### **Service Provision**

Western Power notes the matters described by Synergy relate to:

- services which have been substantially performed, and
- services which have not been performed

Western Power agrees it would be unreasonable for Western Power to invoice charges in respect of services that have not been performed. However, it is not clear to Western Power why Synergy considers Western Power could do this under the MSLA. Clause 4.1 refers to the User paying for services which have been provided.

### **Due Date**

As noted above, Western Power has amended the "Due Date" to 15 Business Days after receipt of the relevant invoice, as requested by Synergy.

### **Withholding and Disputing Invoices**

Certain of Synergy's comments do not appear to accurately reflect the operation of clause 5 as drafted. Clearly the obligation to pay under clause 5.2 is subject to the right to withhold under clause 5.3. Any other reading of the clauses deprives clause 5.3 of any operation. Clause 5.3 makes clear

interest is only payable on an amount withheld and then found to be payable. However to address any residual concerns around ambiguity we have made it clear clause 5.2 is subject to clause 5.3 and there is a right to withhold the disputed amount provided the dispute is notified to Western Power before the due date.

It is not correct to make clause 5.2 subject to clause 11 as despite clause 11 the User must still effect a payment and do it within 15 Business Days. It may “make” the payment by way of set off but it must still ensure this is done within 15 Business Days of the invoice.

As to the way a dispute works, if the User wishes to withhold payment of an invoice it must notify Western Power before the due date. It can still dispute an invoice for up to 18 months after payment under clause 5.4 (and if an amount was incorrectly paid get it refunded with interest).

However to accommodate certain of the concerns underpinning Synergy’s comments Western Power has (by lengthening the Due Date) increased the time limit for notification of an invoicing dispute to 15 Business Days. Western Power emphasises this does not prevent Synergy disputing an invoice after the 15 Business Day period. The only consequence is the invoice must be paid in full if not disputed within 15 Business Days. Clearly withholding payment disrupts Western Power’s cash flow. 15 Business Days (3 weeks) is more than adequate time to review whether there is an error in an invoice and decide whether to withhold part of the invoice.

### **18 month limitation**

The logic for the limitation is readily apparent- to provide some finality around the invoicing process. Western Power considers 18 months more than sufficient time to allow any errors which may not have initially been identified to later become apparent.

In respect of clauses 5.4(e) and (f) these have been deliberately drafted to reflect the specific circumstances of an underpayment or overpayment. For overpayments the 18 months run from when the overpayment was actually made as this is the point in time the User suffered the harm of making an overpayment. For underpayments the period runs from when the funds should have been paid had there been no underpayment – the time when Western Power suffers the harm – which is the due date.

### **Interest on Underpayment**

Western Power does not understand how an underpayment could result from Force Majeure. In any event the payment of interest is entirely appropriate in the case of underpayment. If one party is holding money (and thereby earning interest or otherwise having the benefit of it) which actually should have already been paid to the other party, there seems no reason interest should not be payable so there is a proper accounting for the value of that money.

Also see response to Issue No. 6 on penalty and reporting mechanisms in section 4 [of Western Power’s Engagement Summary Report (dated 28 September 2017)].

### **Clause 5.4**

Western Power does not understand Synergy’s comments on this clause. Clause 5.3 deals with disputes prior to invoice payment and does not make sense if applied to clause 5.4. Clause 5.4 deals with an adjustments post-payment and is self-contained. If there is a dispute as to whether an adjustment should actually be made it will be dealt with under the disputes clause.

### **Clause 5.4(a)**

Western Power can extend this to 15 Business Days. In respect of Synergy’s remaining two points this can be dealt with on a case by case basis when there is a proposed reconciliation. If a party does not consider the other party has provided enough information to justify an adjustment it will just dispute the matter and not make the adjustment payment until such time as sufficient information is provided.

## Synergy's further comments

### (a) Provision of data

The MSLA does not contain an obligation on WP to provide Synergy extensive data sets and B2B transaction data to support invoice reconciliation. Synergy does not agree the Build Pack function is centred around metering invoice reconciliation. This has been an ongoing issue for Synergy and is a barrier to creating an efficient automated reconciliation system that is in place under the *Access Code*. Synergy considers that this is inconsistent with the *Code objective* in clause 2.1(b) of the Code.

### (b) Service Provision

Synergy acknowledges WP's responses that "it would be unreasonable for WP to invoice charges in respect of services that have not been performed". However, further to its September Submission and based on examples of Synergy's past experience with WP, Synergy requests that an express provision be included in the proposed MSLA which requires that WP must not invoice a User in respect of Services performed outside of the MSLA, performed more than 12 months ago, Services that have not been completed, and Services that are the subject of an ombudsman complaint.

### (c) Due Date

Synergy acknowledges that WP has amended the Due Date to 15 Business Days.

### (d) Withholding and Disputing Invoices

Synergy acknowledges WP's response regarding the operation of clauses 5.2 and 5.3. However, see Synergy's comments under the sub-heading "Clause 5.4(a)", below regarding the charging of interest.

However, Synergy does not agree with WP's response it has increased the time limit for notification of an invoicing dispute to 15 Business Days. Synergy cannot see where this amendment has been made in the Post Consultation (mark-up) version of the MSLA (as published on the Authority's website). Synergy requests the time limit is increased to 15 Business Days.

### (e) 18 month limitation

It is still not clear to Synergy why clause 5.4(d) is made subject only to clause 5.4(e). Synergy repeats its September Submission that clause 5.4(d) should be made subject to both clauses 5.4(e) and 5.4(f).

Further, as noted in its September Submission, Synergy considers the 18 month time limitation should not apply in circumstances where a Payment Error has occurred as a result of a party's wilful default or fraud.

### (f) Interest on Underpayment

Synergy does not agree with WP's response that "WP does not understand how an underpayment could result from Force Majeure". A Force Majeure event could, in Synergy's view, result in an underpayment. For example, if WP's system incorrectly billed Synergy, Synergy may underpay WP. If WP claims the billing system problem is as a result of a Force Majeure event, or something else beyond its control, then it is not fair that Synergy should be required to pay interest on the underpayment (even if it is something that is also beyond WP's control).

See also Synergy's comments on the liability for interest under the sub-heading "(h) Clause 5.4(a)", below.

### (g) Clause 5.4

Synergy acknowledges WP's response regarding the operation of clauses 5.3 and 5.4. However, see Synergy's comments under the sub-heading "Clause 5.4(a)", below regarding the charging of interest.

### (h) Clause 5.4(a)

Synergy acknowledges that WP has extended the period for making an adjusting payment to 15 Business Days.

Synergy notes WP's response to Synergy's request for (i) separate invoice line items and (ii) separate Standard Metering Services line item invoice files for network charges. WP notes that "if a party does not consider the other party has provided enough information to justify an adjustment it will just dispute the matter and not make the adjustment payment until such time as sufficient information is provided". However, Synergy notes that in accordance with clause 5.4(b), that adjusting payment will attract interest (from the date of the Payment Error until the date of the adjusting payment). Clause 5.4 does not take into account the situation where a party may not receive all of the necessary information in order to reconcile invoices. To address those circumstances, Synergy suggests that an appropriate procedure be introduced in clause 5.4 which:

- allows time for the party receiving the (late) information to process and consider that information;
- states that interest will not accrue until a specified period (for example, 2-3 business days) after the party receiving the information has processed and considered that information.

Synergy considers that such a provision is reasonable in accordance with clause 6.5(d) of the Code.

## Clause 6 Warranties

Synergy notes the current MSLA does not contain any representations or warranties of the kind provided for in clause 6 of the MSLA but similar provisions are contained in WP's current model ETAC for AA3.

Synergy considers that a provision similar to clause 18.1(a)(i) and clause 18.2(a)(i) should be included in clause 6 of the MSLA, as applicable. Those provisions provide, in summary, that WP and the User respectively represent and warrant to the other party that WP and the User (as applicable) have complied with the AQP and the requirements of the *Access Code* except non-compliance is due to a breach by the other party of the AQP and the *Access Code*.

Synergy considers the parties should be required to represent and warrant compliance with the Code, the *communication rules* and the *metrology procedure*.

### WP's response

Clause 13.1 of the MSLA requires each party to comply with all applicable laws. This obligation covers Synergy's concerns which are essentially seeking an undertaking that applicable laws have been complied with.

Western Power notes the AQP and Access Code are primarily regulatory instruments relevant to the ETAC rather than the MSLA.

### Synergy's further comments

Synergy notes that, while the Code is a law (see section 39(3) of the EI Act) and the *Access Code* is a law (see section 107(2) of the EI Act), the AQP, *communication rules* and *metrology procedure* are probably not laws.

The AQP, *communication rules* and *metrology procedure* are *documents* made by WP. While they must comply with the requirements of the relevant code under which they are required to be made and be approved by the Authority, that does not give them legislative effect.

Accordingly, clause 13.1 of the MSLA does not require compliance with the AQP, *communication rules* and *metrology procedure*.

Synergy considers it important the parties not only comply with applicable relevant laws (including the Code, the *Access Code* and the *Code of Conduct*, all of which are subsidiary legislation), but also with relevant documents made under them which are not themselves laws, but are nevertheless integral to the efficient operation of the MSLA. In this regard, Synergy considers the *communication rules* and the *metrology procedure* made under the Code and the AQP made under the *Access Code* are documents which the MSLA should require the parties to warrant they will comply with. That is because failure to comply with any one of those documents could adversely affect the proper operation of the MSLA in accordance with the Code.

Synergy therefore considers a separate warranty is required for these documents and the Authority determines if the MSLA should contain warranties for compliance with the AQP, *communication rules* and the *metrology procedure*, having regard Code (including the *Code objectives*) and the matters required by section 26(1) of the ERA Act.

## Clause 7 Liabilities and Damages

Clause 7.1 provides for the exclusion of liability for "Indirect Damage"... "however arising" and clause 7.2 seeks to impose liability limitations for the MSLA which are based on a User's liability limit under its access contract.

Synergy is concerned that:

- The definition of Indirect Damage is potentially extremely wide and arguably excludes some forms of direct loss or damage.
- To the extent a liability exclusion or limitation is broad, that is likely to favour WP (as service provider) over Users (as service takers).
- The breadth of the exclusion or limitation of Indirect Damage is inconsistent with WP's and User's relative risk positions under WP's current model ETAC. For example, under clause 3.6(f) of the ETAC, WP must not delete a Connection Point other than in accordance with a notice given by a User under clause 3.6. If WP commits a breach of this obligation in circumstances that constitutes a "wilful default", it is liable to the User and the exclusion of Indirect Damage does not apply.
- Given that supply abolishment is proposed to be an Extended Metering Service under the MSLA, it would seem the dis-application of Indirect Damage would not apply and the MSLA's complete carve-out for Indirect Damage could take priority.
- Users are in any case exposed to certain liabilities to third parties (e.g. to consumers under the Australian Consumer Law) which by law cannot be modified, restricted or excluded.
- Users may be caught in the middle with exposure to their customers and other third parties for matters that are attributable to WP's default but for which, due to the liability limitations in the MSLA, WP is not liable for.
- The use in clause 7.1 of "however arising" would appear to apply the exclusion of indirect damage even for a party's fraud or wilful default or where a party has caused death or personal injury (e.g. to a customer on life support). Similarly, the liability limitations in clause 7.2 do not contain any exceptions.

Synergy in any case considers the exclusion of indirect damage in clause 7.1 and the liability limitations in clause 7.2 should align with the approach approved by the Authority in respect of the ETAC.

Further, Synergy requires:

- clarity in the MSLA to the effect the MSLA does not operate to vary each party's risk position under the respective access contracts between a user and WP; and



- a provision to the effect that WP must pay Users adequate compensation and the liability exclusions and limitations in clause 7 will not apply for certain losses, including:
  - when WP causes *standing data* to be incorrect and Synergy suffers a loss where it has relied on *standing data* information in relation to a supply contract (or for any other purpose); and
  - for consequential losses similar to business damage provision under the ETAC. For example where *standing data* requires re-work when incorrect etc.

#### **WP's response**

The MSLA has been drafted with the intent it be consistent with the ETAC. The same definition of Indirect Damage has been used in each Agreement (which definition has been approved in prior ETAC regulatory reviews).

In terms of liability the provisions have been structured so there is a global cap which applies to the ETAC and the MSLA. This is considered appropriate as together the MSLA and ETAC regulate the service relationship between the parties.

Western Power notes it is accepted practice in the utility industry (as well as the vast majority of unregulated and competitive markets) that service providers are not liable for indirect loss.

Western Power has amended clause 7 to make clear it does not limit liability for fraud or personal injury (to better reflect the ETAC regime) and it does not cut across the limited number of ETAC provisions where the exclusions of liability for indirect damage do not apply.

#### **Synergy's further comments**

Synergy reiterates the concerns expressed in its September Submission and notes that just because a provision WP is proposing for the MSLA may be consistent with the ETAC does not mean that a defect or other shortcoming in that provision should go uncorrected (e.g. the shortcomings identified in the definition of Indirect Damage). Synergy submits that where such a defect or other shortcoming is identified, then both documents should be corrected.

With regard to WP's proposed amendments to clauses 7.3 to 7.5 of the MSLA, Synergy considers these appear generally appropriate. However, it is unclear why (other than for consistency with the ETAC), in the case of fraud (clause 7.4), WP is proposing the overall cap on liability in clause 7.2 should still apply, whereas in the case of personal injury (clause 7.3) it does not. Conceptually, if the clause 7.2 cap on liability is removed for personal injury, why should it not also be removed for fraud?

Synergy considers the Authority must make a determination whether WP's proposed liability exclusions and limitations are consistent with the Code, having regard to the issues raised by Synergy and the matters listed in section 26(1) of the ERA Act.

## Clause 8 Force Majeure Expenditure

Synergy notes:

- clause 8.2(a) would seem not to require notification of Force Majeure (**FM**) until it has continued for at least 2 days. This represents a lower reporting obligation on the part of the Affected Person than is the case under the current MSLA, which requires the Affected Person to notify the other person "promptly". WP has not provided any justification for this. Synergy considers that if a party wishes to rely on FM it must notify the other as soon as reasonably practicable (which in some cases could require immediate notice). This is particularly the case if a Force Majeure Event is likely to be recurring but where it may not meet the 2 day threshold in each instance.
- clause 8.3 – The provision needs to be expanded to also include that an Affected Person is not obliged to incur expenditure if the Force Majeure Event constitutes a breach of the Code by the other party.
- clause 8.4 – The 'only consequence' of failure provided by the clause may not be a strong enough incentive to promote reasonable endeavours under cl 8.2(b)(ii).

### WP's response

This clause is consistent with the "Force Majeure" clause in Western Power's standard access contract.

The reality is a force majeure event affecting the MSLA is likely to also impact the services provided through the ETAC. Western Power therefore considers the same regime should apply to force majeure.

Synergy's concern around clause 8.3 is already covered. Clause 8.3 applies to any non-compliance with the MSLA, clause 13.1 requires compliance with all applicable laws and so clause 8.3 applies to non-compliance with the Code, which is a law.

In respect of clause 8.4 the effect of the clause is the FM Period is reduced. Once the period is expired a party is no longer entitled to any force majeure protection. In Western Power's view this will be more than adequate to promote compliance.

Western Power does not propose to amend this clause.

### Synergy's further comments

Refer also to Synergy's further comments at above in relation to the definition of "Force Majeure".

Synergy acknowledges WP's explanations concerning clauses 8.3 and 8.4 of the MSLA.

Synergy reiterates its concerns expressed in its September Submission on clause 8.2(a) of the MSLA. As regards WP's response, Synergy notes that just because a provision WP is proposing for the MSLA may be consistent with the ETAC does not mean that a defect or other shortcoming in that provision should go uncorrected (e.g. the shortcomings identified in the definition of Indirect Damage). Synergy submits that where such a defect or other shortcoming is identified, then both documents should be corrected.

## Clause 9 Default

Clause 9 only outlines the terms and conditions in relation to a **User's** default in due and punctual payment. Synergy proposes the MSLA should include provisions to the effect that:

- a User is not in default of the MSLA if it does not pay any amount due under the MSLA or does not perform any other obligation under the MSLA because:
  - WP has not complied with the Code;
  - WP has not met the service standards under the MSLA; or
  - WP has not performed any other of its obligations under the MSLA.
- WP is not permitted to suspend services where a dispute is unresolved (regardless of balances withheld). The currently proposed clause 9 would give WP excessive leverage in disputes with Users.

Further, Synergy considers the MSLA should also include provisions setting out meaningful consequences where WP is in default, including for **WP's** default in:

- not complying with the MSLA;
- not complying with the Code;
- not processing requests for services expeditiously and diligently.

#### **WP's response**

Clause 9 only applies if the User is withholding payment when it is not entitled to – if the User disputes an invoice and notifies Western Power within 15 business days it can withhold payment without threat of repercussions (other than the need to repay the amount with interest if the User was incorrect in withholding). Synergy's comments seem misconceived given this.

WP notes that clause 9(b) requires Western Power to continue to provide "Standard Metering Services" in the event that "Extended Metering Services" are suspended in accordance with clause 9(a).

Western Power does not propose to amend this clause.

#### **Synergy's further comments**

In Synergy's view, it is not clear that clause 9 only applies if the User is withholding payment when it is not entitled to. There is no express provision, for example, that clause 9 does not operate in those circumstances, or that clause 9 is subject to clause 7. Synergy requests that an express provision be included to this effect.

The Authority is required to take into account, amongst other matters, those matters in sections 26(1)(a), (e) and (f) of the ERA Act. Synergy considers that, having regard to the matters of the need to promote regulatory outcomes that are in the public interest, the need to promote fair market conduct and the need to prevent abuse of monopoly power, the Authority should determine it is consistent with the *Code objective* in clause 2.1 and it is reasonable (consistent with clause 6.5(d) of the Code) to include provisions to the effect that a User will not be in default where WP:

- has not complied with the Code;
- has not met the Service Standards under the MSLA;
- has not performed any other of its obligations under the MSLA.

Synergy notes WP's response that clause 9(b) requires WP to continue to provide "Standard Metering Services" in the event that "Extended Metering Services" are suspended in accordance with clause 9(a). However, Synergy remains of the view that proposed clause 9(c) will give WP excessive leverage in disputes with Users, particularly as the monopoly service provider.

As a matter of ensuring fair market conduct, consistent with section 26(1)(e) of the ERA Act, Synergy remains of the view the MSLA should include a provision regarding default by WP. Additionally, such a provision could work to reduce the number of disputes under the MSLA (which disputes may be

costly and time consuming).

### Clause 10 Disputes

It is not clear if the provision gives Synergy the ability to resolve a dispute through a different mechanism instead of using the Code. Synergy would like the right to resolve a contractual dispute differently.

#### WP's response

This clause is consistent with the existing MSLA.

Western Power considers it appropriate that disputes arising under the MSLA are dealt with in accordance with the dispute resolution provisions of the Code, as is required by the Code.

Western Power does not propose to amend this clause.

#### Synergy's further comments

Synergy considers there will be occasions where the *dispute* process in Chapter 8 of the Code may not be an efficient process to resolve disputes. It would therefore be inconsistent with the *Access Code* objective (which is to promote the efficient operation and use of networks and services) to require parties to follow the Chapter 8 *dispute* procedures on such occasions. Additionally, if the Chapter 8 *dispute* procedure is not efficient and cost-effective, then requiring parties to follow this procedure will not be in the long term interests of consumers in relation to the price of *metering services* (contrary to section 26(1)(b) of the ERA Act).

Synergy suggests the Authority require clause 10 of the MSLA to allow the parties to agree a different procedure.

### Clause 14.11 – Further Assurance

Synergy considers that this should be expanded to include an obligation to cooperate similar to the ETAC in relation to *Code of Conduct* and *Customer Transfer Code*.

#### WP's response

This clause is consistent with the "Further Assurance" clause contained in the existing MSLA, Western Power's standard access contract. Noting the MSLA requires each party to comply with all applicable laws and given the scope of the Further Assurance clause it is not really clear to WP what else is required.

Western Power does not propose to amend this clause.

#### Synergy's further comments

**(NB: now proposed clause 13.11)**

Synergy repeats its September Submission the Further Assurance clause be expanded to include an obligation for the parties to cooperate in relation to compliance with obligations under the *Code of Conduct* and the *Customer Transfer Code*.

It is correct the MSLA requires each party to comply with all applicable laws. However, a

requirement to comply with applicable laws, is not the same as a requirement for parties to cooperate to assist each other to comply with the laws.

In Synergy's view, amending the provision to require the parties to cooperate with each other in order to allow the relevant party to comply with its obligations under the *Code of Conduct* and/or the *Customer Transfer Code*, is consistent with clause 2.1(1)(c) of the Code. Clause 2.1(1)(c) of the Code provides it is an objective of the Code to facilitate the operation of, amongst other things, the *Customer Transfer Code* and the *Code of Conduct*.

## E. MSLA SERVICES, STANDARDS & FEES (Schedules 2-5)

### PART 1 – ALL SERVICES

Synergy notes that WP has amended section 1 of Schedule 3 to the proposed MSLA. Synergy considers the Authority needs to determine whether section 1 also includes the *mandatory link criteria*, since this is an instrument (like the *metrology procedure*) the MSLA and the proposed services need to be consistent with.

### PART 2 – ANCILLARY SERVICES

#### ASP -1,<sup>27</sup> MDP-13 De-energise (manually and remotely actioned)

Matters raised under Section C, item 3 ("MSLA coverage"), above apply to this section.

#### Service classification

This service should not be an extended metering service nor be dealt with as part of any *metering service*, as it does not relate to metrology. The service relates to the conveyance of electricity and therefore should be dealt with as a reference service. (Synergy by letter dated 8 September 2017 formally requested this to be provided as a reference service).<sup>28</sup>

#### WP's response

Western Power agrees this is a covered service – however considers that due to the non-routine nature of these requests, they should be recovered directly from the User/Customer requesting the service, and not funded by all customers, as consistent with clause 5.2(c) of the Access Code.

Western Power does not consider this service appropriate to be included as a reference service within broader reference tariffs, as this service represents a fundamental decision by retailers, and a clear price signal is required.

#### Synergy's further comments

See Synergy's further comments at above in relation to the definition of "Extended Metering Services".

WP agrees this is a covered service regulated under the *Access Code*. This means the service can only be a:

1. reference service approved by the Authority; or
2. non-reference service subject to negotiation under the *Access Code*.

Synergy, consistent with its *Access Code* rights, has requested this service to be provided as a reference service.

Synergy does not understand the regulatory basis of WP's comments in relation to "a clear price signal" and how this is relevant in respect to Chapter 6 of the *Access Code*.

Therefore, Synergy considers the Authority must determine if this is a reference service and whether it should, legally, be subject to an *access contract* or the MSLA, including the price control mechanism that should apply to this service.

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<sup>27</sup> This proposed service was formerly referred to as "ASP-2" in WP's initial MSLA proposal, and was renamed to "ASP-1" following consultation feedback.

<sup>28</sup> Noted at ID "ASP-2" in Table 1 to the September Submission (page 10 of that document).



## General

Synergy's regulatory position is the reconnection or disconnection of electricity is a "covered service" and can be part of (or could also be a standalone) a reference service. A reconnection or disconnection of electricity is ancillary to the conveyance of electricity on a covered network and is a service which is required by all electricity customers. This is particularly the case when considering the remote reconnection or disconnection where *Type 4 meters* operate to effect or interrupt the conveyance of electricity.

WP has also proposed to provide two different services (ASP-2<sup>29</sup> and MDP-13) that provide the same end value to the User. In Synergy's view there should be only be a single service with different price points. Refer to our comments in relation to this under Table 1 and MDP-9, 10 and 11.

Synergy also notes the service appears to exclude the pole-top and dome de-energisation services. Synergy currently receives these types of de-energisation under current MSLA and requires these services continue to be provided in accordance with clause 5.1 of the Code, relevantly, as covered services.

WP has proposed the service will not be provided to "High Voltage Connection Point" sites. Synergy requires this covered service to be provided to all connection points under a User's ETAC. Further, Synergy requires the definition of high voltage and low voltage to be consistent with the Technical Rules and the information that is requires to be registered in *standing data* in relation to the provision of a covered service. In Synergy's view this is not a value that can unilaterally be determined by WP under a MSLA.

In addition the current proposed disconnection timeframes are not consistent with clause 2.1(c) of the Code as they are more restrictive than the disconnection timeframes prescribed for small use customers under clause 7.6(2)(b) of the *Code of Conduct* (and for customers who are not small use customers there is no reason why these restrictions should apply).

### WP's response

See response at above under the sub-heading "Service classification".

High Voltage Connection Points are intended to be included within the Model. The wording in the Model reflects the complex (and low frequency) nature of High Voltage de-energisations (for example network outage planning) and it is more appropriate to price on application, rather than establish a flat fee.

To ensure transparency, consistency and clarity of the structure of charges for additional services and services subject to 'pricing on application', Western Power has added additional detail to the Fee schedule (Schedule 5), to define the methodology to be used for the basis of charges.

Western Power is not seeking to exclude pole-top and pillar de-energisation and considers the de-energisation service captures the most appropriate method of de-energisation as determined by Western Power.

Regarding disconnection timeframes, Western Power MSLA seeks to ensure compliance with the Code of Conduct.

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<sup>29</sup> Renamed to "ASP-1" following consultation feedback.

Regarding the differentiation between manual and remote de-energisation services, Western Power considers the service should be defined separately to ensure transparency and clarity of services, standards and charges.

#### Synergy's further comments

See Synergy's further comments at above under the sub-heading "Service Classification" in respect of this service "ASP-1".

Synergy notes that WP has added a quotation methodology to Schedule 5.

Synergy considers the Authority must determine the matters raised by Synergy in its MSLA submission being whether:

1. De-energisation (including pole top disconnection) is a valid reference service.
2. For low voltage customers the service should expressly state where required WP will give effect to a pole or pillar de-energisation as required by clause 6.6(1)(b) of the Code.
3. WP's quotation methodology for high voltage customers is consistent with clause 6.6(1)(d) and (3) (noting WP is not disclosing variable charges contemplated under 6.6(1)(d).)
4. WP's disconnection time frames and practice in relation to disconnections are consistent with the *Code of Conduct*.

#### Service Description

Synergy understands it is technically possible for WP to send a completion transaction to the gateway within a matter of minutes. Therefore, where the service is effected remotely Synergy, in accordance with clause 5.1 of the Code, requires Users to be notified within 15 minutes of completion. Further, remotely actioned meters should be an automated transaction with a full turnaround of 15 minutes. However, Synergy recognises some light manual desktop actions may be required for meters on the cellular network. However, successful completion notification should still be no longer than 15 minutes. Similar arrangements should also apply to the re-energise service.

#### WP's response

In response to Synergy's feedback, Western Power has included additional transactional timing requirements to the service standard schedule (Schedule 4). This seeks to ensure clarity of performance measurement.

#### Synergy's further comments

WP has not addressed Synergy's requirement for industry standard notifications of remote services. It appears WP plans to use the same turnaround time frames for (AMI) services as the current manual services which is an economically inefficient outcome of installing AMI.

The information WP has added it appears to create more ambiguity and uncertainty in relation to which *document* under Division 6.1 of the Code should specify the B2B transaction, methods and timing requirements in relation to manual versus remote service provision.

Synergy considers the Authority must determine:

1. the industry standard time frames in relation to (AMI) services, including how WP plans to practically deliver service improvements to *users* and *customers* from this \$209m investment;
2. whether the additional information WP has added to the Schedule 4 of the MSLA is consistent with Division 6.1 of the Code and if this information can prevail over the *communications rules*.

Synergy considers the Authority must determine whether Synergy's 15 minute notification proposal:

1. will better support the operation of the *Code of Conduct*; and
2. is inconsistent with clause 6.5 of the Code and with the long term interests of consumers (consistent with section 26(1)(b) of the ERA Act).

### Eligibility Criteria

Network safety: MDP-13 requires a User to have a current MOU with EnergySafety regarding remote de-energise and re-energise services

Under the West Australian regulatory regime WP has statutory responsibility for safety in relation to approving the connection of equipment to the *network*. This includes the operation of the *network* and the provision of services in respect of the *network*. Therefore, in Synergy's view it is unreasonable that *users* have to procure safety compliance in relation to WP's *meters*, equipment, operations and services. This condition should be removed from the MSLA and WP should provide information on why it has proposed to impose this condition on *users* under a MSLA.

### WP's response

Western Power considers that this clause is consistent with AMI requirements in other Australian jurisdictions.

Western Power considers that all Users have a statutory responsibility to ensure safety of customers. Western Power considers that where AMI remote de-energisations and re-energisations occur, the customer interaction with User's is fundamentally different to the manual service.

For example, where a site is remotely re-energised and a customer's appliance is switched on, then there is potential for safety issues.

Western Power expects that in time, remote arming will become a near-real time service, whereby the retailer will be able to energise a connection point while on a call with the customer.

Western Power expects that handling of these customer interactions by retailer call centres need to consider appropriate safety protocols. Western Power expects this issue to be dealt with as part of AMI transition planning and implementation.

### Synergy's further comments

Synergy notes WP has not provided any regulatory substantiation for its opinion.

If the services to be provided by WP (AMI) equipment is not safe, WP should not be providing the service nor receiving any return or reward for the service.

Further it appears WP is proposing to transfer AMI safety requirements from itself to *network users* under its MSLA. It is entirely inappropriate to require a *user* to be responsible for the safe use of the *network operator's* infrastructure. Further, Synergy questions WP's legal authority to impose this under the MSLA.

Synergy considers the Authority must determine under the WA regulatory framework:

1. who is responsible for *network* safety including equipment connected to the *network*;
2. whether the proposed AMI services in the MSLA are contemplated by clause 6.6(1)(a) of the Code.

## Service standard

Notwithstanding Synergy's position on a non AMI de-energisation service being a covered service Synergy does not consider the proposed response time is consistent with clause 6.5(c) and (d) of the Code. From discussions with NEM metering industry participants Synergy understands network operators typically require a higher service delivery from their service providers than proposed under the MSLA. It is unreasonable for a *network operator* to provide a lower level of service to a *user* than it receives itself.

WP has proposed to provide performance indicator reports on a quarterly basis. However, Synergy, in accordance with clause 5.1 and 5.8 of the Code, requires this report to be provided on a weekly basis in light of the volume of Synergy's weekly metering transactions to support customer requirements and recognising WP's metering services have been performed at levels below the current MSLA.

Further, for manual services Synergy considers the proposed extended timeframe unacceptable due the financial consequences to Users for extended disconnection timeframes and also increased customer debt. Synergy requires the current 1-2 business day metropolitan standard and 5-6 business day non-metro (country) standard to be maintained. It is important to point out that disconnections is a last resort action for Users because of the subsequent effort and costs in reconnecting and establishing supply for the customer. Given this Synergy is concerned, based on its experience, that long disconnection time frames create a negative customer experience.

### WP's response

Western Power reviewed cost drivers for individual services in conjunction with reviewing and benchmarking service standard timeframes on those provided nationally. The result of this exercise was the proposed MSLA, which balanced price relative to service standard timeframes.

Western Power remains open to negotiating a shorter timeframe for these services as an additional service under a negotiated SLA.

Operationally, Western Power has a number of contracts to support the delivery of metering services in the SWIS, where outsourcing represents an efficient delivery option. It is unreasonable to expect a simple pass through of any contract terms that Western Power has negotiated, as Western Power (and not the contractor) is ultimately held accountable for compliance and requires the ability to negotiate any service delivery contractual safeguards it feels necessary to ensure efficient service delivery and compliance objectives are maximised.

Western Power seeks to manage its contracts in order to adequately fulfil its obligations as defined in the MSLA.

### Synergy's further comments

WP has not adequately addressed Synergy's concerns in its September Submission.

Synergy considers the Authority must have due regard to section 26(1) of the ERA Act when considering WP's response and whether it is required to pass through contractual benefits consistent with clause 6.6(e) of the Code – i.e. “...in accordance with *good electricity industry practice*, seeking to achieve the lowest sustainable costs of providing the relevant *metering service*...”.

For manual services Synergy considers the proposed extended timeframe unacceptable due the financial consequences to Users for extended disconnection timeframes and also increased customer debt. Noting that WP has not addressed Synergy's concern (in its September Submission) and the Code requirement, Synergy repeats its September Submission and requires the current 1-2 business day metropolitan standard and 5-6 business day non-metro (country) standard to be maintained.

Synergy considers the Authority must make a determination on the service standard that must apply in relation to de-energising a customer (in particular a small use customer) by taking into account WP's de-energisation performance.

See also Synergy's further comments in respect of performance reporting frequency above under the sub-heading "Service Standard".

### **Fees**

As previously stated above Synergy considers the provision of a non AMI de-energisation service is a covered service and therefore should not be included within the MSLA. Accordingly, the cost of a connection should be included within a reference service and not the MSLA. In that regard Synergy considers the proposed charge within the MSLA appears to be reasonable (although this charge should of course be properly assessed to ensure it meets the relevant regulatory tests, including under clause 6.6(1)(e) of the Code). However, the charge for the manual country service, \$166.61, does not appear to be cost reflective and is potentially two to three times higher than it needs to be. Further, no charges have been proposed for high voltage metering installations and, subject to such charges meeting the relevant regulatory tests (including under clause 6.6(1)(e) of the Code), Synergy considers it is reasonable the MSLA contain these charges where they have been provided to them under their sub-contractor agreements.

However, the charge for the manual country service, \$166.61, does not appear to be cost reflective and is potentially two to three times higher than it needs to be. Further, no charges have been proposed for high voltage metering installations and Synergy considers it is reasonable the MSLA contain these charges where they have been provided to them under their sub-contractor agreements. Synergy considers the \$4.81 charge for the remotely enabled service to be reasonable. Although the charge will need to be properly assessed to ensure it meets the relevant regulatory tests, including under clause 6.6(1)(e) of the Code.

### **WP's response**

See response above under the sub-heading "Service classification".

See response on high voltage above under the sub-heading "General".

Regarding service pricing for the manual country service, Western Power considers it has priced services to reflect the actual costs of delivery. Western Power reviewed cost drivers for individual services in conjunction with reviewing and benchmarking service standard timeframes. The result of this exercise was the proposed MSLA, which balanced price relative to service standard timeframes.

Western Power acknowledges Synergy's position on the reasonableness of proposed AMI charges.

### **Synergy's further response**

See Synergy's further comments at:

- Section C, item 13 ("Metering Expenditure");
- Section C, item 8 ("Service Standards");
- Section C, item 11 ("Fee adjustments");
- Section C, the definition of "Fees"; and

- this Section D under the sub-heading "Service Standard" in respect of this service "ASP-1".

### **ASP-2,<sup>30</sup> MDP-14 Re-energise (manually and remotely actioned)**

Matters raised under Section C, item 2 ("MSLA coverage"), above and the matters raised under ASP-1<sup>31</sup> apply to this section.

Synergy requires this service to be provided as a covered service. In addition, Synergy also requires the following urgent and emergency re-energisation service in relation to servicing small use customers:

- Urgent non-metro- completed within 3 hrs same day
- Urgent County- completed within 24hrs
- Emergency- by a time specified by the User.

#### **WP's response**

Regarding defining 'urgent' and 'emergency' services in the Model SLA, Western Power's experience is that Users have varying requirements (and subsequent protocols) that are better satisfied on a User by User basis in individual agreements.

Synergy can, at any time, request additional services not included in the MSLA and Western Power notes it already provides these services to some Users under negotiated service agreements.

Regarding manual re-energisations being a covered service, Western Power agrees this is a covered service – however considers that due to the non-routine nature of these requests, they should be recovered directly from the User/Customer requesting the service, and not funded by all customers.

#### **Synergy's further comments**

See Synergy's further comments above under the sub-heading "Service Classification" in respect of ASP-1. Synergy notes retailers do not have a legal obligation to negotiate services that are contemplated to be required and regulated under clause 6.6(1)(a) of the Code. For example, it appears WP proposes that if a person claiming life support customer needs to be re-connected urgently the only regulated service and time frame to do this will be the current re-energise services in the proposed MSLA. Therefore, Synergy considers the Authority must determine if the following services are required in respect of customers under the *Code of Conduct* and therefore should be regulated as a covered service in accordance with clause 6.6(1)(a):

- Urgent non-metro - completed within 3 hrs same day
- Urgent County - completed within 24hrs
- Emergency - by a time specified by the User

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<sup>30</sup> This proposed service was formerly referred to as "ASP-3" in WP's initial MSLA proposal, and was renamed to "ASP-2" following consultation feedback.

<sup>31</sup> Now see matters raised under proposed service "MP-1".

## Service standard

Based on Synergy's experience, customer complaints and energy ombudsman enquiries it appears the manual service ASP-3<sup>32</sup> is creating issues for country customers in relation to receiving a prompt service. The 5 business day standard can often result in these customers going without supply for 7 calendar days, before it is restored. Therefore, in order to address this issue Synergy requires the service standard of 5 business days for country to be changed to 5 calendar days.

### WP's response

Western Power notes the service standard timeframes proposed are consistent with the timing points defined in clause 8.2 of the Small Use Customer Code. However, Western Power notes, provision of this service is not limited to small use customers and should consider more complex large use customers.

In responses to Synergy's feedback, Western Power has amended the performance indicator for this service to 99%. Western Power considers the service standard timeframe proposed is a reasonable performance indicator for the purpose of a MSLA, noting the revision to 99% exceeds provisions in the existing MSLA service standards.

Western Power reviewed cost drivers for individual services in conjunction with reviewing and benchmarking service standard timeframes. The result of this exercise was the proposed MSLA, which balanced price relative to service standard timeframes.

Western Power remains open to negotiating a shorter timeframe for these services as an additional service under a negotiated SLA.

### Synergy's further comments

WP has not addressed Synergy's concerns and the requirements of country *customers* and has maintained a 5 business day standard. Synergy considers the Authority must determine if WP's proposed time frame for country *customers* is consistent with clauses 6.5(c) and (d) of the Code.

## Eligibility Criteria

Network Safety: MDP-14 requires User to have a current MOU with EnergySafety regarding remote de-energise and re-energise services

Under the West Australian regulatory regime WP has statutory responsibility for safety in relation to approving the connection of equipment to the network. This includes the operation of the network and the provision of services in respect of the network. Therefore, in Synergy's view it is unreasonable that Users have to procure safety compliance in relation to WP's meters, equipment, operations and services. This condition should be removed from the MSLA and WP should provide information on why it has proposed to impose this condition on Users under a MSLA.

### WP's response

In response to Synergy's feedback, Western Power has removed references to requirements for Electrical Safety Certificates.

Regarding *EnergySafety* requirements, refer previous comments in respect of ASP-2.

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<sup>32</sup> This Service was renamed to ASP-2 following consultation feedback,



#### **Synergy's further comments**

See Synergy's further comments above under the sub-heading "Eligibility Criteria" in respect of "ASP-1".

Synergy notes that WP has removed the references to "Electrical Safety Certificates" in Schedule 3; however, the definition of "Electrical Safety Certificates" has not been removed. Synergy requests the definition be removed.

#### **Service standard**

WP has proposed to provide performance indicator reports on a quarterly basis. However, Synergy in accordance with clause 5.1 and 5.8 of the Code requires this report to be provided on a weekly basis in light of the volume of Synergy's weekly metering transactions to support customer requirements and recognising WP's metering services have been performed at levels below the current MSLA.

The proposed service standard is not consistent with clause 2.1(c) of the Code because clause 8.2(2) imposes an absolute obligation on the timeframes in which WP must connect a customer and not 98% as proposed in the MSLA.

Further, for manual services, Synergy requires the current 1-2 business day metropolitan standard and 3-5 business day non-metro (country) standard to be maintained. This service is particularly important from a customer perspective. In the event a customer has entered into a payment arrangement, there is an energy ombudsman determination, an erroneous disconnection or a potential safety concern it is important that a customer's supply is restored promptly.

#### **WP's response**

Western Power has amended the reporting frequency referenced in the MSLA to monthly.

Western Power considers weekly reporting exceeds the requirements for a MSLA, as it may not be required for all Code participants. Western Power remains open to negotiating additional reporting as an additional service under a negotiated SLA, as already in place with some existing Code participants.

Western Power agrees with the point raised by Synergy in their submission regarding the definition of Re-energise and Reconnect, the MSLA should consider all customers, not just small use.

In response to Synergy's feedback, Western Power has amended the timeframe to 99%.

Regarding timeframes for manual services, Western Power has already proposed a 1-2 business day metropolitan standard for this service and has not proposed a change to the service standard timeframe to that of the existing Model SLA (i.e. they are being maintained).

Western Power's revised proposal represents an uplift in service standard to that of the existing Model SLA.

#### **Synergy's further comments**

See Synergy's further comments in respect of performance reporting frequency below under the sub-heading "Service Standard" in respect of "MP-1".

Further to Synergy's concern in relation to the delivery KPI standard, WP has not fully addressed this concern but has raised the delivery KPI standard from 98% to 99%. Synergy considers the Authority must determine if WP's proposed KPI is consistent with:

1. clauses 2.1(c), 6.5(c) and 6.5(d) of the Code; and

2. clause 8.2(2) of the *Code of Conduct*.

Synergy understands clause 8.2(2) of the *Code of Conduct* imposes an absolute obligation on the timeframes in which WP must connect a customer and not a 99% obligation as proposed in the revised MSLA.

WP has not addressed Synergy's concerns in relation to service standards for regional *customers*. WP has effectively doubled the service standard, raising it from 3-5 business days to 5-6 business days. Synergy queries whether regional *customers* have been informed of this change as part of WP's stakeholder engagement.

Synergy considers the Authority must determine if WP's increased time frame for regional *customers* is consistent with clause 6.5(c) and (d) of the Code.

### **Fees**

As previously stated above Synergy considers the provision of a non AMI de-energisation service is a covered service and therefore should not be included within the MSLA. Accordingly, the cost of a connection should be included within a reference service and not the MSLA. In that regard Synergy considers the proposed charge within the MSLA to be reasonable. However, the charge for the manual country service, \$166.61, does not appear to be cost reflective and is potentially two to three times higher than it needs to be. Further, no charges have been proposed for high voltage metering installations and Synergy considers it is reasonable the MSLA contain these charges where they have been provided to WP under their sub-contractor agreements.

### **WP's response**

See on covered service, high voltage and service classification.

Regarding the country service, Western Power considers it has priced services to reflect the actual costs of delivery. Western Power reviewed cost drivers for individual services in conjunction with reviewing and benchmarking service standard timeframes. The result of this exercise was the proposed MSLA, which balanced price relative to service standard timeframes.

### **Synergy's further response**

See Synergy's further comments at:

- Section C, item 13 ("Metering Expenditure");
- Section C, item 8 ("Service Standards");
- Section C, item 11 ("Fee adjustments");
- Section C, the definition of "Fees"; and
- this Section D under the sub-heading "Service Standard" in respect of "ASP-1".

### ASP - 3<sup>33</sup> Supply Abolishment

Matters raised in Section C, item 2 ("MSLA coverage"), above and the matters raised under ASP-1<sup>34</sup> and ASP-2<sup>35</sup> apply to this section.

Synergy requires this service to be provided as a covered service. The resulting effect or end value of this service to the User is it removes the connection point from the User's ETAC. This is clearly articulated under the current MSLA and needs to be included in the service description.

Further, the service also needs to make it clear, in relation to the User, it only deals with the removal of WP's assets provided to the User under the ETAC and not assets that have been installed in relation to a connection contract between the customer and WP.

#### WP's response

Regarding the inclusion of supply abolishment in the MSLA, Western Power considers it appropriate to continue to include this service and its associated price signal, noting the abolishment of supply represents the fundamental termination of supply at the metering installation, including removal of the meter.

Western Power does not consider this service appropriate to be included as a reference service within broader reference tariffs, as in accordance with clause 5.2(c) of the Access Code. This service represents a fundamental decision by customers, and a clear price signal is required. Western Power considers the inclusion within reference tariffs is inappropriate, as given the termination of supply, no further revenue would be attributed to the connection point, and as such this service would be fully paid for by other users.

Western Power notes the service requires the removal of the meter and the associated cabling in a safe manner, and the existing user should be liable for these removal costs.

Regarding service descriptions, Western Power is seeking to avoid duplication between other instruments and is not proposing to amend the definition.

#### Synergy's further comments

See Synergy's further comments in relation to the definition of "Extended Metering Services" and further comments in this Section D under the sub-heading "Service Classification" in respect of "ASP-1". WP has proposed ASP-3 be a service to abolish a *connection point* under an *access contract*. Therefore, Synergy considers the Authority must determine:

1. whether this service under the MSLA can legally abolish a *connection point* under an *access contract*; and
2. whether the proposal is consistent with the standard ETAC and clause 5.1(3) of the Code.
3. whether the service needs to make clear it only deals with the removal of WP assets installed in relation to the Code.

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<sup>33</sup> This proposed service was formerly referred to as "ASP-4" in WP's initial MSLA proposal, and was renamed to "ASP-3" following consultation feedback.

<sup>34</sup> Now see matters raised under proposed service "MP-1".

<sup>35</sup> Now see matters raised under proposed service "ASP-1".

## Service standard

Synergy considers the proposed services standards will negatively impact *customers* and the operation of the *Code of Conduct* clause 5.7 requiring Synergy to issue adjusted bills in relation to under charges. Synergy requires the current 5 business day metropolitan and 10 business day non-metro standards to be retained.

### WP's response

Western Power considers the Code of Conduct clause 5.7 defines situations where customers vacate a premises, and not the permanent disconnection of a supply.

Supply abolishment requires the removal of the meter and the associated cabling in a safe manner and Western Power often needs to liaise with electrical contractors to schedule this service. The timeframe specified in the current MSLA was often not sufficient to allow effective coordination with customers and electrical contractors to complete the service.

### Synergy's further comments

WP's explanation has not addressed Synergy's concern and the impact on its customers. WP has dramatically increased the service standard for this service and has not provided a reasonable explanation why its practices to coordinate works have become less efficient.

Therefore, Synergy considers the Authority must determine if WP's increased time frame for all *customers* is consistent with clauses 6.5(c) and (d) of the Code as well as facilitating the operation of the *Code of Conduct* (consistent with the *Code objective* in section 2.1(1)(c) of the Code).

## Fees

Supply abolishment fees were the same for country and metro installations and both charges have increased substantially between 40% and 80%. Synergy considers the metro price to be reasonable however, the charge for the country service does not appear to be cost reflective. Further substantiation will need to be provided to understand the proposed country charges. In relation to supply abolishment for other supplies - Synergy considers it is reasonable the MSLA contain these charges where they have been provided to WP under their sub-contractor agreements.

### WP's response

Regarding pricing, Western Power considers it has priced services to reflect the actual costs of delivery. Western Power reviewed cost drivers for individual services in conjunction with reviewing and benchmarking service standard timeframes. The result of this exercise was the proposed MSLA, which balanced price relative to service standard timeframes.

### Synergy's further response

See Synergy's further comments at:

- Section C, item 13 ("Metering Expenditure");
- Section C, item 8 ("Service Standards");
- Section C, item 11 ("Fee adjustments");
- Section C, the definition of "Fees"; and
- this Section D under the sub-heading "Service Standard" in respect of "ASP-1".

Synergy considers the Authority must determine WP's actual costs and how and whether WP has

## PART 3 METER PROVISION SERVICES

### MP-1<sup>36</sup> Meter installation and energisation

Matters raised in Section C, item 2 ("MSLA coverage") and in Section C, item 6 ("Access to interval data"), above apply to this section.

#### Service descriptions

In Synergy's view a critical element of the service description under a contract is it must state what deliverable or value is being provided to the *user*. The current service descriptions do not make it clear what the value or deliverable to the *user* is.

The provision and establishment of the *connection point* is a function of the AQP. Therefore, Synergy's regulatory position is the connection of electricity, under the AQP, is a "covered service" and can be part of (or could also be a standalone) a reference service. An electricity connection is an essential ancillary service to the conveyance of electricity on a covered *network* and is a service which is required by all electricity *customers*. The primary purpose of a new connection service is to provide for the conveyance of electricity to new premises not the accurate metering of electricity production and consumption or promoting access to and confidence in data of parties to commercial electricity transactions<sup>37</sup>. Provision of *energy data*, under the Code, occurs subsequent to the establishment of a connection service.

Therefore, this should not be a Standard Metering Service. In effect this service is the installation of a new meter at a new *connection point* and is already covered by the installation service contemplated under MP-2.

The MSLA also does not explain in any detail what an AMI and Non-AMI Meter means under the Code (ie in the absence of a description how will parties know whether a meter falls into either category) and *metrology procedure* and how this metrology and non-metrology services are affected. This includes making clear what is meant by: "telecommunications network" in relation to *communications link* and the *mandatory link criteria* under the Code and what is meant by "available" and "not available" in relation to a "telecommunications network".

Synergy also notes the level of detail provided in the current MSLA has been omitted – and is not clear what under the proposed MSLA regulates the installation of a *Type 1-6 meter* under Code. This lack of detail favours the service provider and gives WP an opportunity to use excessive power in a manner that is inconsistent with the *Code objectives*. Therefore, Synergy requires this clarity to be added back to this service under the MSLA including updating the *metrology procedure* to align with the Code and if applicable WP's AMI proposal.

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<sup>36</sup> This proposed service was formerly referred to as "ASP-1" in WP's initial MSLA proposal, and was renamed to "MP-1" following consultation feedback.

WP has also made comments under the MSLA in relation to whole of current metering. In Synergy's view it is not appropriate to raise technical constraints under a contract for services when the Code has contemplated these matters need be dealt with and approved by the Authority under the *metrology procedure*.

Further, similar to the description in the current MSLA the service needs to also specify the provision of timely *standing data* forms an integral part of the service. There will be significant issues if WP completes the service<sup>38</sup> but does not align this with the provision of *standing data* as required by the Code. Synergy understands WP still has some way to go to align its field work activities with timely updating and provision of *standing data* and therefore it is important the MSLA highlights this requirement where it is critical to the end value or deliverable to the *customer*. Delay's in *standing data* provision directly affects the timeliness of service provision to the end *customer*.

The final reason why ASP-1 should not be approved by the Authority is because at WP's discretion, it could give rise to an inadvertent scheme of shared augmentation costs for network connection that is not consistent with the "causer pays" approach taken by the Authority in recent years.

Because it is proposed that ASP-1 which is proposed to include connection point establishment is a standard metering service, WP's costs associated with the provision of that metering service would be recovered under reference tariffs. While WP proposes the connection point meets the relevant connection requirements including "customer funded works – terms and conditions" it is not clear whether this will actually mean customer contributions for network connection will be sought, because WP has broad discretion under the customer funded works – terms and conditions to forego customer contributions. This could give rise to a circumstance where, at WP's discretion, costs for network connection for individual or classes of customers could be recovered under reference tariffs.

If there is to be a shared augmentation approach to connection costs of the kind that applies to certain connection points in the NEM, then it should be considered as a formal part of the Access Arrangement approval process and not inadvertently adopted under the MSLA.

This service represents a significant departure from the current meter installation service (Establishment of and Energisation of a Metering Connection Point). The new service characterises itself as comprising the establishment of a *connection point* and the associated *metering installation*. New connections (and the "connection assets" required to provide them) should be dealt with under the Access Code and AQP, not the Code. Once a connection point is established, a User may then require the establishment of an associated metering installation.

#### **WP's response**

Regarding the service description, see response on Issue No. 3 on service descriptions in section 4.

Regarding the proposed naming convention for ASP-1, Western Power had sought to rename service no.1 from the existing MSLA, related to installation of a meter at a new site, to improve clarity for users of the document.

Western Power is not seeking to fundamentally change the existing service no.1.

In response to Synergy's feedback, Western Power has amended the naming convention to 'Meter Installation and Energisation'. This naming convention is aligned to B2B transactional references and equivalent services in the National Electricity Market.

Western Power considers the identification of AMI and Non-AMI meters from a transactional perspective to be a matter for the SWIS Communication Rules and associated Build Pack, not the MSLA.

As part of its AMI transitional planning, Western Power expects to review B2B Procedures, the Metrology Procedure and the Mandatory Link Criteria, as required, in consultation with Code participants.

Regarding the new references such as “Standard Supply”, Western Power had sought to improve clarity and operational usability of the document by adding common industry references. Western Power is not proposing to amend any concept of network supply (standard or otherwise) as part of this MSLA update.

In response to Synergy’s feedback, Western Power has removed references to Standard Supply and customer funded terms and conditions from the MSLA, acknowledging these are fundamentally dealt with in other instruments (i.e. eligibility criteria within the Reference Services).

### Synergy's further comments

WP has not adequately addressed Synergy's concerns.

As part of its AMI transitional planning, WP now advises it will review B2B Procedures, the *metrology procedure* and the *mandatory link criteria*, as required, in consultation with *Code participants*. This highlights Synergy’s concerns the proposed MSLA may not be (and has not been demonstrated to be) consistent with the Code *documents* under Division 6.1.

In Synergy's view, the MSLA cannot and should not be driving changes to the *documents* under Division 6.1 of the Code.

Therefore, Synergy considers the Authority needs to determine if the MSLA can be approved without seeing the proposed changes to B2B Procedures, the *metrology procedure* and the *mandatory link criteria*. Including whether this sequencing issue is:

- consistent with the Code;
- promotes regulatory outcomes that are in the public interest (section 26(1)(a) of the ERA Act);
- is in the long-term interests of consumers in relation to the price, quality and reliability of metering services (section 26(1)(b) of the ERA Act);
- promotes fair market conduct (section 26(1)(e) of the ERA Act);
- prevents abuse of monopoly or market power (section 26(1)(f) of the ERA Act).

This is necessary so Synergy can determine its business and *customer* impacts of the proposed changes holistically prior to them being approved. For example depending on what B2B changes occur this can have significant SAP billing implications for Synergy.

Synergy considers the Authority must determine if each of the service descriptions under the MSLA needs to expressly include, as part of the service, the corresponding *standing data* updates and notifications under the Code, in order to be consistent with clause 5.8, 6.6(a) and (b) of the Code.

This includes determining whether it would be reasonable for retailers to transact with *customers* on the basis of the service descriptions in the MSLA. For example, charge *customers* for services WP consider have been delivered under the MSLA. Notwithstanding the regulated information that has been provided to the retailer in *standing data* is not up to date.



## Service classification

While Synergy acknowledges that new *metering installations* are presently provided by WP as a standard metering service, Synergy considers that a *user* who requests a *metering installation* at a customer's request at a new *connection point* should be required to request an MP-2 meter exchange (which we suggest is renamed "meter installation - customer"), i.e. an extended metering service and not a standard metering service. From a conceptual point of view, Synergy queries why installation of a new *meter* at new premises is any different to a *customer* requesting a new *meter* at existing premises. They should be treated consistently as regards cost recovery, margin and charging via extended metering service in order to avoid over-recovery or double - recovery in accordance with the *Code objectives*.

### WP's response

In response to Synergy's feedback, WP has amended the naming convention to 'Meter Installation and Energisation'.

Western Power considers this service to be a standard metering service and does not propose to amend the existing service classification.

See response to Issue No. 2 on service classification in section 4.

### Synergy's further comments

WP has not adequately addressed Synergy's concerns.

Synergy considers the Authority must determine if WP proposed service MP-1 (formerly ASP-1) is an Extended Metering service subject to a price cap, having regard to the matters raised in Synergy's September Submission.

## Eligibility Criteria

West Australian Electrical Requirements (WAER). It is not clear why this is a contractual restriction under the MSLA. Synergy notes, relevantly, the covered services under the ETAC requires customers to comply with a number technical compliance requirements including the WAER before WP will provide a *connection point* and a covered service. Therefore, the Code requires WP under Division 3.2 to provide a *metering installation* when WP has approved a connection, provided a *connection point* and covered service under the AQP.

Further WP does not specify what exactly the *customer* must do to obtain this service in relation to the WAER. In Synergy's view this criteria should be similar to the current MSLA and require the customer to provide the necessary completion notice in accordance with the *Electricity Licensing Regulation 1991* (WA). However, as mentioned above it is unnecessary because the access arrangement does not permit the establishment of a *connection point* or the provision of a covered service unless the site complies with the WAER.

West Australian Distribution Connection Manual (WADCM). The WADCM is a commercial guideline document and does not have legal effect under the Code or *Access Code*. Further, this WP commercial document is not subject to regulatory oversight and therefore cannot be used to restrict the operation of regulated instruments such as the MSLA and the Technical Rules.

This matter was discussed previously at the Technical Rules Committee in 2011/12. In Synergy's view if WP requires the WADCM to impose conditions under a contract approved by the Authority then the WADCM needs to form part of the MSLA and be subject to review by the Authority. WP also has not provided any explanation why the provision of metering services under the Code now requires customers to comply with this commercial document. Including whether the *arbitrator* needs to give

regard to the WADCM in relation to a dispute under the Code. Synergy would also like to understand how WP currently procures customer compliance to the WADCM.

#### **WP's response**

In response to Synergy's feedback, Western Power has removed these links, acknowledging these are fundamentally dealt with in other instruments. Western Power initially included these links for clarity and operational usability.

#### **Synergy's further comments**

Synergy understands WP, based on Synergy's September Submission, intended to remove references to the WAER from the MSLA. However, Synergy notes it is still being retained in the MSLA as a defined term.

WP has not adequately addressed Synergy's concerns and comments in relation to the WADCM.

Therefore, Synergy considers the Authority must make a determination whether WP can use the WADCM to impose conditions or restrict services in the MSLA, including whether the Authority needs to review this document to confirm it:

1. is consistent with the Code;
2. promotes regulatory outcomes that are in the public interest (section 26(1)(a) of the ERA Act);
3. is in the long-term interests of consumers in relation to the price, quality and reliability of metering services (section 26(1)(b) of the ERA Act);
4. promotes fair market conduct (section 26(1)(e) of the ERA Act);
5. prevents abuse of monopoly or market power (section 26(1)(f) of the ERA Act);
6. is consistent with section 115 of the EI Act; and
7. is amended in a manner that requires review and approval by the Authority.

Synergy notes that WP still prepared for the WAER reference to be retained as a defined term under the MSLA.

#### **Service Orders**

The service does not specify which Service Order must be used under the *communications rules* – this is required so Users know the *communications rules* can give effect to this service request. It is not sufficient to make an ambiguous reference to a Service Order. This has been an issue with the current MSLA because it is not clear which transaction should be used and WP can change their mind from time-to-time in relation to which Service Order and codes should be used for a service under the MSLA.

The lack of clarity in this area of the MSLA causes Service Orders to be rejected with no clear reason why creating unnecessary work, expense and substantial delays in relation to customers receiving their services. Further, Synergy requests the Service Order requirements under the Build Pack need to be updated to align with the new MSLA. This work has yet to be completed.

#### **WP's response**

In response to Synergy's feedback, Western Power has added a reference to the service order type used for each service defined in the MSLA.

Western Power considers the Communication Rules to be explicit in terms of the service order types and codes that should be used for the purpose of B2B communication and requesting services. Western Power notes the Communication Rules provide for the efficiency of market transactions between Code participants and define circumstances where Code participants must reject transactions due to the incorrect protocol, code or service order type being used.

### Synergy's further comments

WP, based on Synergy's September Submission, has added a reference to the Build Pack service order type that must be used to request the relevant service in the MSLA. However, given the time available to make submission Synergy has not had an opportunity to confirm the proposed service orders:

- are fit-for-purpose;
- are not currently subject to any known issues, defects and workarounds;
- do not requires an amendment to the Build Pack.

Synergy considers that this analysis and industry consultation must be done prior to approving the MSLA. Synergy now understands from WP's response, to Synergy's submission, WP intend to do this consultation and amendment after the MSLA has been approved. If this is the case then there will be a contractual and compliance issue because users in complying with the MSLA will not be able to comply with the other instruments as required by clause 6.1(2) of the Code.

Therefore, Synergy considers the Authority must confirm users can comply with clause 6.1(2) of the Code if WP's proposed MSLA is approved.

### Service standard

Notwithstanding Synergy's position on a connection service being a covered service Synergy does not consider the proposed response timeframe is consistent with clauses 6.5(c) and (d) of the Code. From discussions with NEM metering industry participants Synergy understands network operators typically require 100% service delivery from their service contractors.

It is unreasonable for a *network operator* to provide a lower level of service to a *user* than it receives itself. Further the service standard is not consistent with clause 6.5(g) of the Code. The timeframes contained in the *Electricity Industry (Obligation to Connect) Regulations 2005* (WA) to connect a *customer's* premises are absolute. The regulations do not permit a *network* service operator to provide connection services 95% within the timeframes specified in the regulations or only action 95% of the requests made by a *user* on behalf of a customer.

WP has proposed to provide performance indicator reports on a quarterly basis. However, Synergy, in accordance with clauses 5.1 and 5.8 of the Code, requires this report to be provided on a weekly basis in light of the volume of Synergy's weekly metering transactions to support *customer* requirements.

### WP's response

In response to Synergy's feedback, Western Power has amended this service standard to 99%. Western Power considers this a suitable performance indicator for the purpose of the Model SLA, noting this in no way diminishes Western Power's obligations under the Code and associated Regulations.

Western Power has also amended the reporting frequency referenced in the MSLA to monthly.

Western Power considers weekly reporting exceeds the requirements for a Model SLA, as it may not be required for all Code Participants. Western Power remains open to negotiating additional reporting as an additional service under a negotiated SLA, as already in place with some existing Code participants.

### Synergy's further comments

WP has not addressed Synergy's concern and requirement in accordance with the Code. Synergy considers the Authority must make a determination on the service standard that must apply to reconnect a *customer* (in particular a small use *customer*), specifically whether the Authority can

approve a contractual service standard which is lower than that prescribed in the *Code of Conduct* and whether by doing so this actually facilitates the operation of the *Code of Conduct*.

Synergy further considers the Authority must make a determination on the performance reporting frequency that must be provided under the MSLA. Giving regard to the matters raised in the September Submissions, the volume of services Synergy is requesting and the importance of the services to customers especially those who consume less than 50MWh/annum, clauses 5.1 and 5.8 of the Code and the challenges of negotiating with a monopoly service provider.

WP has not adequately addressed Synergy's concerns.

### **Fees**

As previously stated above Synergy considers the provision of new connection is a covered service and therefore should not be included within the MSLA. Accordingly, the efficient cost of a connection should be included within a reference service and not the MSLA.

### **WP's response**

Western Power notes it has clarified and amended the new connection service to fundamentally represent the meter installation component.

### **Synergy's further comments**

Based on how services are defined under the Code and *Access Code*, Synergy has proposed this service should be a fixed priced fee for service offered under a reference service. It is reasonable for Synergy's *customers* who build new premises pay up front for a *metering installation* and not funded through a revenue cap mechanism.

See Synergy's further comments in Section D on the definition of "Extended Metering Services".

Synergy considers the Authority must determine how this service should be offered and whether it is consistent with the regulatory regime to treat a new *metering installation* as a "common service" under the *Access Code*.

### **MP-2<sup>39</sup> Meter Installation Repair (meter Installation – operational)**

Matters raised under Section C, item 2 ("MSLA coverage"), above and under MP-1 and ASP 1 to 4 apply to this section.

#### **Service classification**

Synergy agrees this service is a standard *metering service*.

Synergy considers the service is retitled to "meter installation – operational".

Synergy requests this service under clause 5.1 of the Code should be extended to require a *meter* to be replaced in a situation where there have been 9 consecutive months of no *meter* access for the purpose of WP obtaining a *meter* reading. This request is consistent with clause 2.1(c) of the Code as it will facilitate the operation of the *Code of Conduct* by:

- obviating the need to disconnect customers in accordance with clause 7.4;

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<sup>39</sup> This proposed service was formerly referred to as "MP-1" in WP's initial MSLA proposal, and was renamed to "MP-2" following consultation feedback.

- reducing the number of estimated bills (clause 4.8 of the *Code of Conduct*) and billing adjustments (clauses 4.9 and 4.19 of the *Code of Conduct*);
- redrafting the service description to reflect upgrades for meter compliance purposes.<sup>40</sup>

#### WP's response

Regarding the service title, the Code defines that Western Power must provide a “metering repairs” service.

In terms of meter access, Western Power recognises there are opportunities using AMI to ensure ongoing compliance – however, typically the threshold issue of access will remain the same for a meter exchange or scheduled read. In addition, typically once an access issue is resolved, the risk of re-occurrence is low.

Western Power considers that introducing an obligation in regards to meter exchange linked to reading dates would be operationally inefficient.

Western Power notes it has mirrored compliance requirements to the retailer in regards to actual reads – and as such is incentivised to either, find ways to get access or use AMI as an alternative solution.

Regarding “redrafting the service description to reflect upgrades for meter compliance purposes.” Western Power has re-instated the meter upgrade service as MP-3 (meter upgrade) to ensure clarity and differentiation between the meter replacement drivers. This service is consistent with the current MSLA.

#### Synergy's further comments

The meter upgrade service is not a service that *users* use. It is specifically a compliance function WP must perform to ensure its *meters* are compliant with clause 3.9(3) of the Code. This is similar to the compliance function WP also performs under clause 3.11A of the Code. Synergy notes WP, sensibly, is not specifying a service for its obligation under clause 3.11A of the Code.

Therefore, Synergy considers WP’s obligation and this service under clause 3.9(3) of the Code should be treated similarly to the functions required under clause 3.11A.

Therefore, Synergy considers the Authority must determine whether Synergy’s request, under clause 5.1, of the Code:

1. is consistent with clauses 2.1(c) and 6.5(c)-(e) of the Code;
2. better achieves the *Code objectives* under clause 2.1(2) of the Code, noting the impact on *customers* and WP’s compliance obligations to read the *meter* under clauses 5.3 and 5.4 of the Code.

Further Synergy considers the Authority must determine whether the functions WP performs under clause 3.11A should be a service specified under the MSLA in accordance with clause 6.6(1)(a)(i) of the Code.

#### Service description

Synergy requires this service to be provided as a SMS.

<sup>40</sup> See ID "MP-1" of Table 1 to the September Submission (at page 10 of that document).

The Code, under several provisions, contemplates WP must make repairs to *metering installations* in accordance with the applicable service level agreement. WP has classified services under the MSLA as either a Standard Metering Service or Extended Metering Service. However, while WP have labelled this as a "Standard Metering Service", the footnote indicates a *meter* exchange fee may be levied in certain circumstances, where repair or replacement of a *meter* is required due to deliberate or accidental damage to or tampering with the *meter*. However, the Code makes it clear the *meters* on the *network* are WP's property and the regulatory regime provides sufficient powers for WP take action against persons who damage their property. In Synergy's view, as WP is the owner of the *meters*, WP (not the *users*) should also own the risk of damage to them caused by third parties.

The service description proposes that a *user* would request this *meter* repair service "following completion of a test, audit or investigation" which would seem to imply that a *user* may have first had to request and pay for an MP-6 or MP-3 service (both of which are EMS) before it can request and pay for this MP-1 service. However, this appears to be inconsistent with clause 3.5 and 3.11 of the Code. The Code, under clause 3.5 and 3.11, contemplates that WP must keep its *meters* maintained and in good working order and correct any non-compliances. Therefore, it is not reasonable for a service provider to charge a User for a compliant service and charge them again to rectify a non-compliance. In addition, under the Code a *user* may request for a *meter* test or audit and if a non-compliance is found it is WP responsibility to rectify the non-compliance. The Code also requires WP to test *meters* in order to proactively replace meters that have become non-compliant or are likely to become non-compliant.

WP has also proposed it may levy a *meter* exchange fee, presumably on the *user*, if a person causes deliberate or accidental damage to a meter. It is unreasonable for a *user* to be made liable for another person including WP's contractors unlawfully damaging WP's property. This fee should not be imposed on the *user*. WP has the necessary powers and needs to take legal action against the person that has caused damage to its property in accordance with its statutory powers. It is not reasonable for a *user* to pay for someone else causing damage to WP's property especially if WP is reluctant to use its statutory powers in this matter. Synergy considers the requirement is inconsistent with clause 6.5(g) of the Code in relation to section 67A of the *Energy Operators (Powers) Act 1979* (WA).

However, if WP provides a *user* local access to the *meter*, under clause 4.8 of the Code, and the *user* damages the meter then it would be reasonable for the *user* to pay for the *meter* to be repaired or replaced in accordance with the Meter Exchange Service MP-3. It is important to note that this would be a reasonable outcome if WP provided *users* with an *energy data* validation service under the MSLA that is consistent with clauses 4.8(3), 5.16 and 6.6(1)(a)(i). Synergy has previously requested local access under clause 4.8(3) and WP has refused to provide this access or service.

There are also circumstances where WP cannot get access to the *meters* on its *network* and has chosen not to exercise its statutory rights under section 46 of the *Energy Operators (Powers) Act 1979* (WA) in this regard. Therefore, under these circumstances Synergy requires where WP cannot read a *meter* for a period exceeding 9 months it must install a *Type 4 meter*. The cost of this exchange should be treated similarly to other SMS. Further the service needs to make it clear that deliverable to the *user* is the *meter* must be installed and configured in accordance with the *user's* service requirements.

#### **WP's response**

Based on Synergy's feedback, Western Power has:

- Removed the requirement for a User to pay a meter exchange fee in certain circumstances
- Amended the service description to ensure it is explicit and aligned to the Code
- Amended the service description for meter test and investigation services to make it clearer as to how these 3 services interact



### Synergy's further comments

Synergy acknowledges the changes WP has made. However, further change is required to be consistent with clause 3.5(9) of the Code.

The current drafting of the service requires a customer to request, through its retailer, a test or audit and does not cover circumstances where WP becomes directly aware under clause 3.5(9) of the Code. That is, according to the MSLA Synergy cannot accept a simple notification by the customer and can only raise the matter with WP if the customer agrees to be bound by the terms and conditions of the meter test or audit.

Synergy considers the Authority must determine whether the service description needs to be expanded to include a notification from a customer (for example where the meter has been vandalised or damaged by lightning) under clause 3.5(9) of the Code. That is, circumstances that do not include a billing query under the *Code of Conduct*. In Synergy's view any person should be able to notify WP directly if their equipment is faulty – this is similar to what occurs with streetlights and what is contemplated under clause 3.5(9) of the Code. In Synergy's view, this would be a more efficient and practical outcome for customers than currently exists under current arrangements.

Synergy has previously requested local access under clause 4.8(3) to: (a) address meter access issues, (b) obtain *interval energy data* from *Type 5 meters* WP has registered as *accumulation meters* and (c) reduce the number of instances of *customers* receiving estimated bills. WP has declined to provide this access or service. Therefore, Synergy seeks the Authority to determine whether:

1. Synergy is entitled to receive an *energy data* validation service under the MSLA, in accordance with clauses 4.8(3), 5.16 and 6.6(1)(a)(i) of the Code.
2. the MSLA, in order to be consistent with clause 6.6(1)(a), needs to provide a service in relation to clause 4.8(3) of the Code.

### MP-3 Meter upgrade

Matters raised under Section C, item 2 ("MSLA coverage"), above and under ASP-1 to 4 and MP-1 apply to this section.

Proposed metering provision service "MP-3" was not contained in WP's consultation draft of the MSLA.

Synergy notes the *meter* upgrade service is not a service that retailers use. It is specifically a compliance function WP must perform to ensure its *meters* are compliant with clause 3.9(3) of the Code. In Synergy's view, it must be treated in the same manner as any compliance function, rather than being characterised as a specific *metering service* required by *users*.

### MP-4 Meter Exchange (meter installation - customer)

Matters raised under Section C, item 3 ("MSLA coverage"), above and under ASP-1 to 4 and MP-1 apply to this section.

#### Service classification and name



Synergy recommends the service is retitled to “meter installation – customer” to reflect the meter is being installed at the request of the customer. As per our comment on ASP-1<sup>41</sup> Synergy also requests under clause 5.1 of the Code the service is extended to a meter installation at new premises and at a new connection point.<sup>42</sup>

#### WP's response

Western Power disagrees with the recommendation to amend the naming convention, as the name is aligned with the terminology defined in the B2B procedures and existing market systems.

#### Synergy's further comments

Regarding the naming conventions, Synergy's view is the new MSLA uses service names and service codes that are not aligned with the *communication rules* and Build Pack. Synergy considers the proposed MSLA requires consequential amendments to the *communication rules* or the Build Pack under the Code, but notes that WP has not confirmed its view in relation to these matters.

WP has not addressed Synergy's service request nor has explained why a *metering installation* at new premises is any different from a *metering installation* at an existing premises. A single *metering installation* service will reduce the administrative burden of supporting two processes and managing *standing data* in for two processes that deliver the same end outcome to the *customer*.

Synergy considers the Authority should determine whether it is consistent with clauses 6.6(c) - (e) of the Code to have two different services that deal with *metering installations*. Synergy's view it is more efficient to have just one.

#### Service Description

The service needs to be clarified that this is a User initiated service request (on behalf of its customers) to install a new meter at a new site or exchange an existing meter at an existing site. Further the service needs to make it clear that deliverable to the User is the meter must be installed and configured in accordance with the User's service requirements and that WP must update the *Registry* accordingly.

Synergy also understands there may be technical limitations in certain sites where WP may not be able to install its proposed new *Type 4 meter*. For example, sites where WP has deployed plug in meters. Synergy requires clarity under the MSLA for the circumstances where a meter cannot be exchanged for a new *Type 4 meter* unless the customer pays for the works. The MSLA needs to specify what will be installed in these circumstances.

#### WP response

Based on Synergy's feedback, Western Power has amended the new connection service proposed to define a meter installation service. This is separate from the meter exchange service – the installation service relates to new sites, whilst the exchange service relates to existing sites.

Western Power has also added detail to the service descriptions regarding B2B service requirements and procedures as well as the technical limitations of this service.

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<sup>41</sup> See now the comment in relation to proposed service "MP-1".

<sup>42</sup> See ID "MP-2" of Table 1 to the September Submission (at page 10 of that document).

### Synergy's further comments

Synergy requires clarity under the MSLA as to the circumstances where a *meter* cannot be exchanged for a new *Type 4 meter* unless the *customer* pays for the works. *Customers* paying metering charges are a sensitive issue; therefore if there is greater MSLA clarity then there will be less likelihood of payment disputes.

Therefore, Synergy the Authority must determine:

1. what WP legally means by "... a Metering Point arrangement that is inconsistent with WA Distribution Connection Manual...";
  2. what legal effect the WA Distribution Connection Manual has in relation to a *metering installation* and a request for service under the Code;
  3. what *meter* WP must legally install at a *connection point*;
  4. whether WP's restriction that prevents a User "...to replace an AMI Meter with a Non-AMI Meter..." is consistent with the Code and section 115 of the EI Act; and
5. whether WP's use of the WADCM is consistent with section 115 of the EI Act.

### Service standard

Synergy considers the proposed service standards are excessive and requires the current metropolitan 5 business day and non-metro 10 business day standards to be maintained. These service standard needs to be viewed from a customer perspective and based on Synergy's experience customers expect and demand a prompt meter exchange service. For example, customers who are installing PV systems, batteries or sign up for benefits under a new retail offering. A further, increased delivery time in this area also creates a risk in relation to Synergy reliably being able to comply with the *Code of Conduct* clause 4.12

### WP's response

Western Power reviewed cost drivers for individual services in conjunction with reviewing and benchmarking service standard timeframes. The result of this exercise was the proposed MSLA, which balanced price relative to service standard timeframes.

Western Power considers the proposed 10 business day (metro) and 15 business day (non-metro) timeframes to be appropriate.

### Synergy's further comments

Synergy considers the Authority should review WP's supplier contractual arrangements and performance to determine whether the extended timeframes is warranted.

Further Synergy the Authority must determine if WP's substantially increased time frame with a 95% delivery:

1. is consistent with clauses 5.8, 6.5(c) and (d) of the Code; and
2. allow *users* to comply with clause 4.12 of the *Code of Conduct*.

In Synergy's experience, extending the timeframes will be contentious with *customers*.

## Fees

Synergy considers WP's proposed charges in relation to meter installations and exchanges to be reasonable. However, greater transparency is required in relation to whether these charges apply to all *Type 1–4 meters*. Synergy notes that WP's charges for new connection *Type 1-4 meters* will be covered by the fixed \$30/year charge.

### WP's response

Western Power acknowledges Synergy's agreement on proposed charges.

### Synergy's further comments

Synergy considers the Authority must determine which of the *meters* under clause 3.9(1) and Appendix 1 of the Code the charges apply to.

## MP-5<sup>43</sup> Meter Investigation

Matters raised under Section C, item 2 ("MSLA coverage"), above and under ASP-1 to 4 and MP-1 to MP 2 apply to this section.

### Service Description

The service needs to reflect what is currently provided for under the current MSLA. That is the service is to investigate meter issues including crossed meters, meter irregularities, locating metering points, tampering, general investigation.

In addition, the service needs to also make it clear, consistent with the Code, it is a service must be provided if the *user* (and not the *customer*) requires an investigation. Synergy also notes the service includes audits in relation to *standing data*. Therefore, the service needs to be expanded to align with clause 5.21 of the Code – i.e. must cover investigations in relation to accuracy, *energy data* issues or *standing data* issues.

The service needs to also specify the test or audit required to be conducted in accordance with the *metrology procedure* in accordance with 5.21(4) of the Code. This means the *metrology procedure* will need to be updated to reflect the process that will apply to WP's proposed AMI infrastructure.

The service needs to permit a User to witness the test or audit in accordance with 5.21(4) of the Code. There also needs to be more clarity in relation to the service deliverable. It needs to clearly specify what form the advice will be in and how it will be provided. Synergy, in accordance with clause 5.1 and 3.5(9)(a) of the Code, requires the advice to be provided in the form of a report recognising that Synergy will need to rely on the advice in relation to fulfilling its regulatory obligation.

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<sup>43</sup> This proposed service was formerly referred to as "MP-3" in WP's initial MSLA proposal, and was renamed to "MP-5" following consultation feedback.

Verbal or telephone advice is not an adequate means of notification or advice in relation to this service. The service also needs to detail what actions WP will take under clause 5.21(11) of the Code if a non-compliance is discovered. These actions are an integral part of the end value or deliverable that a *user* and *customer* require under the MSLA. However, the MSLA also needs to ensure the investigation report is not delayed if the test or audit reveals omissions by the *network operator*.

Synergy also requires WP, in accordance with clause 5.1 of the Code, to provide a bulk meter investigation service to deal with the systemic and multiple cross meter issues in relation to meter installations in apartment buildings, shopping centres or residential complex. In these circumstances it is unreasonable and impractical to request a meter investigation in relation every meter installation at the site. In Synergy's view inadequate inspection and supervision of bulk meter installations, by persons registered under Division 3.6 of the Code, have created significant issues for customers and the current service and WP processes creates significant delays in relation to the remedial actions.

Synergy notes the charging policy under this service is not consistent with the Code and needs to be amended to make it clear that a test or audit charge will not be imposed under any circumstance if the results reveal a non-compliance with the Code.

Further, in Synergy's view the cost of this service may be higher than it needs to be and therefore inconsistent with clause 6.6(1)(e) of the Code because it is not reflective of the effort in relation to the majority of investigation scenarios. Synergy requests this service was split into two types – Meter Investigation (Technical) and Meter Investigation (Non-Technical).

Technical Investigations are typically conducted at multi-residential dwellings where multiple meters are mounted on the same panels. To ascertain which *meter* belongs to which dwelling, it's not uncommon for electricians or linesmen to be required to disconnect sites from the network, remove *meter* panels to check the wiring behind them, perform de-energisation testing etc. These types of investigations are expensive but relatively rare. Non-Technical Investigations in relation to *standing data* are typically non-technical field personnel checking *meter* numbers against street addresses etc. They can often be quicker to complete than check readings and are more common.

#### WP's response

Based on Synergy's feedback, Western Power has added additional detail to the service description to address the matters raised.

Regarding alignment to clause 5.21 of the Code, 3 services in the MSLA are used to meet these requirements:

- meter investigation
- meter test
- verify meter data

Regarding Code requirements, Western Power is seeking to avoid duplication with other instruments, and considers the requirements of the Code are implicit.

#### Synergy's further comments

WP has not addressed the material issues raised by Synergy in its September Submission including addressing the Code requirements cited.

Synergy considers the Authority must determine the following matters giving regard to the issues raised in Synergy's September Submission:

1. **Reporting method not specified:** Whether it is consistent with the Code for WP to provide a verbal "report" or whether it should be a written report Users can legally rely on. Synergy, in accordance with clauses 5.1 and 3.5(9)(a) of the Code, requires binding written report recognising that Synergy will need to rely on the advice in relation to fulfilling its regulatory

obligation. Such written advice is required for example when responding to the *customer* queries/complaints and Energy & Water Ombudsman requests for advice.

2. **Applicable Procedure:** Whether the MSLA services must specify the procedure WP must follow in relation to providing the service (e.g. as required under clause 5.21(4) of the Code). Including whether the *metrology procedure* must be updated to reflect WP proposed AMI implementation.
3. **Witnessing:** Whether the MSLA should provide a provision for Users to witness test or audits in respect of an investigation in accordance with clause 5.21(4) of the Code (as an exception but not the rule).
4. **Data corrections:** Whether the MSLA should specify the details in relation to correction of *energy data* as required by clauses 5.21(11)(c), 6.5(a)-(e) and 6.6(1)(b).
5. **Bulk meter investigation:** Whether the MSLA should provide a bulk meter investigation service to deal with the systemic and multiple (simultaneous) cross meter issues in relation to *metering installations*. Common examples include apartment buildings, shopping centres and residential complex. Noting customers in a residential complex will each need to pay (and currently do pay) to have the systemic issue investigated. The Authority should give regard to the impact on customers and the requirements under clauses, 2.1(b), 3.27, 5.1 and 6.5(a)-(e) of the Code.

Synergy considers the Authority must determine, giving regard to the matters raised in Synergy's September Submission, whether;

1. the cost to *customers* of this service may be higher than it needs to be and therefore inconsistent with clause 6.6(1)(e) of the Code because it is not reflective of the effort in relation to the majority of investigation scenarios;
2. this service should be split into two types – Meter Investigation (Technical) and Meter Investigation (Non-Technical), having regard to the costs *customers* need to pay to determine a problem caused by incorrect *network* installation or practices that allow *standing data* to be materially incorrect and affect a *customer's* bill.

### Service standard

WP has proposed a service standard of 10-11 business days metropolitan and 15-16 business days non-metro. Synergy considers the proposed extended service standard excessive and puts Users at risk of not being able to comply with the *Code of Conduct* clause 4.16 within the time necessary. Therefore, Synergy requires the service standard of 5 business days metropolitan and 10 business days non-metro to be maintained.

### WP's response

Western Power considers the proposed 10 business day (metro) and 15 business day (non-metro) timeframes to be appropriate. Further, Western Power consider the service standard timeframe proposed provides adequate time in the context of retailer Code of Conduct obligations, recognising the majority of the time input to this service is the field activity to conduct the investigation, not the retailer administration time.

### Synergy's further comments

Synergy considers the Authority must determine, giving regard to the matters raised in Synergy's September Submission, whether WP proposed time frames are consistent with clause 5.8 of the Code

(including the time frames in relation to the *customer* having to wait for the investigation report and correction of *standing data* before their billing concerns can be resolved).

## Fees

There has been a substantial increase in this charge. Synergy considers WP's proposed charges in relation to meter investigations appear to be on the higher side however, they do not appear to be unreasonable. Synergy considers further substantiation is needed for the country service charge, \$257.46.

## WP's response

Regarding country pricing, Western Power reviewed cost drivers for individual services in conjunction with reviewing and benchmarking service standard timeframes. The result of this exercise was the proposed MSLA, which balanced price relative to service standard timeframes.

## Synergy's further comments

See Synergy's further comments at:

- Section C, item 13 ("Metering Expenditure");
- Section C, item 8 ("Service Standards");
- Section C, item 11 ("Fee adjustments");
- Section C, the definition of "Fees"; and
- this Section D under the sub-heading "Service Standard" in respect of "ASP-1".

Synergy considers the Authority must determine whether WP has sought to achieve the lowest sustainable costs in accordance with clause 6.6(1)(e) of the Code by reviewing its service provider contracts and engaging with the AER in relation to NEM distributor costs.

## MP-6<sup>44</sup> Communications installation

Matters raised under Section C, item 2 ("MSLA coverage"), above and under ASP-1 to 4 and MP-1 to 3 apply to this section.

### Service Description

The service output and the function of the communication link are not clearly defined in this service and therefore not consistent with clause 6.6(1)(b) of the Code. Synergy, in accordance with clauses 3.6, 3.11 and 5.1 of the Code, requires the service to be the installation, operation and maintenance of a communication link, in accordance with the *mandatory link criteria*, to provide:

- Remotely collected energy data; or
- Remotely enabled services specified in the MSLA.

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<sup>44</sup> This proposed service was formerly referred to as "MP-4" in WP's initial MSLA proposal, and was renamed to "MP-6" following consultation feedback.

The *mandatory link criteria* under the Code clause 3.6 and 3.16(2) specifies the circumstances a *communications link* will be installed including the technical requirements and specifications of the link. This needs to be amended to cater for WP's proposed *Type 4 meter* roll out. WP must also update the *registry* accordingly.

In addition, given WP's AML proposal to install *Type 4 meters* as the standard this service will become redundant if the existing *meter* is not compatible with WP's proposed communication framework. Synergy understands a non-compatible *meter* can be normally determined as a desk top analysis when the service request is made. Therefore, Synergy in accordance with clause 6.6(g) of the Code, requires that if a request is made in relation to a non-compatible meter WP should automatically cancel the request and only then should a *meter* exchange request be raised.

Not having information hinders Users ability to request services under the Code. Further in relation to remotely enabled services Synergy requires WP to disclose, under the MSLA again consistent with clause 3.20(1), 6.6(1)(b) and (e) of the Code, all the non-metrology functionality that will be provided in relation to remotely enabled services provided via *communications link* so that Users may request services under clause 5.1 of the Code and do not have to pay for a different behind the meter solution, in effect paying twice. Synergy notes that this is the case in relation to the meters deployed as part of WP's Perth solar city initiative.

#### **WP's response**

Based on Synergy's feedback, Western Power has amended the service description to provide explicit reference the maintenance of a communications link is a standard metering service.

Western Power has also added reference as to how the SWIS Communications Rules, Build Pack and B2B procedures interact with the MSLA.

#### **Synergy's further comments**

Synergy notes WP changes. However Synergy considers the Authority must determine what function the *communications link* is required to legally perform under the Code and whether WP's proposed communication infrastructure is consistent with this or goes beyond this (including whether the function of the *communications link* needs to be reflected in the service to be consistent with clauses 6.6(1)(a) and (b) of the Code).

Synergy considers the Authority must determine if the *mandatory link criteria* needs to be amended to cater for WP's proposed *Type 4 (AMI) meter* roll out.

Synergy considers the Authority must determine if WP must disclose, consistent with clauses 3.20(1), 6.6(1)(b) and (e) of the Code, all the non-metrology functionality that can be provided in relation to remotely enabled services via the *communications link* so that Users may request services under clause 5.1 of the Code and do not have to pay for a different behind the meter solution. Synergy considers the Authority should also give regard to section 115 of the EI Act.

Synergy cannot form a view on the above matters as WP has yet to publish its full *Type 4 meter* specification nor release details on its preferred communications technology.

#### **Eligibility Criteria**

The service does not specify what meter Types this service applies too including what meter models, in *standing data*, can use this service. Synergy requires this information, consistent with the Code clauses 5.1 and 3.20(1), to be described in the MSLA consistent with clause 6.6(1)(b) of the Code.



### WP's response

In response to Synergy's feedback, Western Power has added reference as to how the SWIS Communications Rules, Build Pack and B2B procedures interact with the MSLA.

### Synergy's further comments

WP has proposed that Users request a *communications link* installation through a *meter* "...Reconfigure Service Order...".

Therefore, Synergy considers the Authority must determine if the proposed Service Order under the Build Pack is consistent with clauses 2.1(b), 2.1(c) and 6.7(1)(ab) of the Code, including whether the *communication rules* and Build Pack need to be amended to cater for the various transactions that deal specifically with effecting the operation of an existing or new *communication link* (e.g. including switching on the device or installing an antenna).

Synergy considers the Authority must determine if the MSLA should specify what happens if there is an inconsistency between:

1. the *communication rules*/Build Pack and the MSLA.
2. the *communication rules*/Build Pack and the *Code of Conduct*.
3. the *communication rules*/Build Pack and section 115 of the EI Act.

### Fees

The *communications link* installation charges have substantially reduced from the current MSLA. Synergy understands this reflects the reduction in cost of technology. Synergy considers these charges are slightly on the higher side, probably to cater for labour contingencies, but not unreasonable. It appears this service and charge applies to existing legacy meters. However, Synergy understands that communications chips can be purchased at an attractive cost, for existing meters to work with WP's proposed remote communication infrastructure. Synergy requires these prices and options to also be provided in the MSLA.

### WP's response

In response to Synergy and Perth Energy feedback, Western Power has amended the upfront fee to align for all user driven capex services (e.g. *meter* exchange).

This provides a simplified fee structure for users, where upfront fees for changes to metering arrangements are the same regardless of the existing metering characteristics at the site.

### Synergy's further comments

See Synergy's further comments at:

- Section C, item 13 ("Metering Expenditure");
- Section C, item 8 ("Service Standards");
- Section C, item 11 ("Fee adjustments");
- Section C, the definition of "Fees"; and
- this Section D under the sub-heading "Service Standard" in respect of "ASP-1".

WP has not addressed the issues raised in Synergy's September Submission. Further, it is important to note cost effective *interval energy data* is the most important service a *user* requires from an AMI

solution. Considering that AMI value added services can already be obtained by a number of behind the meter solutions, WP has not substantiated why it requires replacing existing meters with its new meter when a communications link can be cost effectively added to the existing Type 5 meters.

Therefore Synergy considers the Authority must determine whether existing meters that can work with WP proposed communication infrastructure should be replaced with an "AMI Meter", including whether this is consistent with the Access Code and clause 6.6(1)(e) of the Code.

Synergy considers it the Authority must determine WP's actual costs in relation to providing remote interval energy data from existing meters and how it has sought to achieve the lowest sustainable costs in accordance with clause 6.6(1)(e) of the Code.

Synergy considers the Authority must determine whether WP AMI communication solution is also designed to work with and maximise the use of existing assets.

### MP-7<sup>45</sup> and MP-8<sup>46</sup> Meter Test

Matters raised under Section C, item 2 ("MSLA coverage"), above and under ASP-1 to 4 and MP-1 to 4 apply to this section.

#### Service Description

Synergy requires, in accordance with clause 5.1 of the Code, the service specify that testing must be carried out by a NATA accredited laboratory. Consistent with clause 6.6(1)(b) of the Code, the service deliverable needs to specify the User will receive a detailed NATA report and the service deliverable must require WP, if required, to provide replacement energy data in accordance with the Code. WP does not always provided replacement data in accordance with the Code of non-compliant metering installations and this is problematic in relation Synergy fulfilling its obligations under Part 4 of the Code of Conduct to provide an adjusted bill consistent with clause 2.1(c) of the Code. A legally binding report and replacement data where required is essential so that Users can reasonably address customer complaints in relation to their meter and bill. Customers also seek a definitive and binding report when they pay for the meter test.

It is not clear what WP mean by "compensation to the customer", if the test requires WP to provide replacement data then WP must provide the data and Users are required to adjust a customer's bill in accordance with clause 4.19 of the Code of Conduct.

MP-5 and MP-6 state that where "discrepancies" are discovered WP will complete a metering installation repair (MP-1). It needs to be clarified that if a User is to pay for this, then it should have some say about whether such a repair is done, given that not all "discrepancies" will necessarily be material. For example, it may be a cheaper option to replace the meter rather than repairing it.

#### WP's response

Based on Synergy's feedback, Western Power has amended the service description with consideration to the matters raised.

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<sup>45</sup> This proposed service was formerly referred to as "MP-5" in WP's initial MSLA proposal, and was renamed to "MP-7" following consultation feedback.

<sup>46</sup> This proposed service was formerly referred to as "MP-6" in WP's initial MSLA proposal, and was renamed to "MP-8" following consultation feedback.

### Synergy's further comments

Synergy notes WP proposes to provide itself the discretion to replace or repair the *meter*. Synergy considers the Authority must determine whether this discretion should be subject to clause 6.6(1)(e) of the Code and whether it is the lowest cost option for the customer.

### Fees

As a whole the range of *meter* test charges proposed by WP is not unreasonable. However, Synergy considers country charges for laboratory and on-site testing appear to be substantially more than they need to be, giving regard to travel considerations. Further, Synergy considers the laboratory testing charges is slightly higher than it needs to be and there are efficiency gains in relation volume testing that can be passed through. Synergy understands that WP operates its own NATA accredited test laboratory and considers it is worth benchmarking these costs against other NATA electrical test laboratories.

### WP's response

Western Power considers it has priced services to reflect the actual costs of delivery. Western Power reviewed cost drivers for individual services in conjunction with reviewing and benchmarking service standard timeframes. The result of this exercise was the proposed MSLA, which balanced price relative to service standard timeframes.

Western Power notes that historical volumetric demand for this service in the SWIS is low.

### Synergy's further comments

Synergy considers the Authority must determine if WP has sought to achieve the lowest sustainable costs in accordance with clause 6.6(1)(e) of the Code by reviewing its service provider contracts and engaging with the Australian Energy Regulator (**AER**) in relation to NEM distributor costs.

## MP-9<sup>47</sup> Manual Meter Reconfiguration

Matters raised Section C, item 2 ("MSLA coverage"), above and under ASP-1 to 4 and MP-1 to 6 and MDP-12 apply to this section.

### Fees

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<sup>47</sup> This proposed service was formerly referred to as "MP-7" in WP's initial MSLA proposal, and was renamed to "MP-9" following consultation feedback.

While all charges should of course be properly assessed to ensure they meet the relevant regulatory tests, including under clause 6.6(1)(e) of the Code, Synergy expected the country charge of \$137.05 would be in the range of \$100 - \$110 and considers further substantiation is required for the country charge.

#### **WP's response**

Western Power reviewed cost drivers for individual services in conjunction with reviewing and benchmarking service standard timeframes. The result of this exercise was the proposed MSLA, which balanced price relative to service standard timeframes.

#### **Synergy's further comments**

See Synergy's further comments at:

- Section C, item 13 ("Metering Expenditure");
- Section C, item 8 ("Service Standards");
- Section C, item 11 ("Fee adjustments");
- Section C, the definition of "Fees"; and
- this Section D under the sub-heading "Service Standard" in respect of "ASP-1".

Synergy considers the Authority must determine WP's actual costs and how WP has sought to achieve the lowest sustainable costs in accordance with clause 6.6(1)(e) of the Code by reviewing its service provider contracts and engaging with the AER in relation to NEM distributor costs.

### **MP-10<sup>48</sup> Enablement of Signal Pulse Outputs**

#### **Service Description**

This is a legacy service that is still used by a significant number of *customers*. Therefore, Synergy requires the same service description and standards, service 22, under the current MSLA to be reproduced without omission under the proposed MSLA consistent with clause 6.6(1)(b) of the Code.

The service description says that User "or" Customer will be provided with technical information however, it is not clear who decides which entity receives the information, nor why both entities should receive the information. Synergy requires the matter to be clarified in the MSLA.

#### **WP's response**

In response to Synergy feedback, Western Power has amended the service description to address the matters raised.

#### **Synergy's further comments**

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<sup>48</sup> This proposed service was formerly referred to as "MP-8" in WP's initial MSLA proposal, and was renamed to "MP-10" following consultation feedback.

Synergy acknowledges the changes that WP has made but notes the service offering has changed. The current MSLA service provides for "...a one off basis, with the customer funding the full capital cost of the signals, and paying a full cost recovery rate for any signal board failure. The customer can opt for the daily charge, which includes the ongoing maintenance of the signal board".

Therefore, it not clear how these legacy customers should be legally treated. For example, is WP proposing that *customers* who have previously selected the "one-off" option will now get the maintenance provided for free under the proposed MSLA.

Synergy considers the Authority must determine how the new terms and conditions for this service will apply to existing customers who have selected the "one-off" option or the "daily charge" option, giving regard to:

- clause 6.5 of the Code;
- the requirements of the Code of Conduct; and
- matters the Energy Ombudsman would consider in relation to a complaint.

## Fees

There has been a substantial increase in the charge of this legacy service. Further, the daily maintenance previously provided is no longer available. Charges have increased by up to 64% and Synergy considers further substantiation is required to understand the increase. Synergy would have expected a moderate increase in labour cost offset by a decrease in the hardware cost.

### WP's response

In response to Synergy feedback, Western Power has amended the service description to clarify it includes maintenance.

Western Power's proposed pricing for this service represents a 16% increase in metro and 8% increase in country, noting that maintenance has also been included as a standard metering services (where it was historically a separate, additional charge).

Additionally, the pricing proposed represents pricing that is between 12% and 18% lower than an associated CPI increase.

### Synergy's further comments

See Synergy's further comments at:

- Section C, item 13 ("Metering Expenditure");
- Section C, item 8 ("Service Standards");
- Section C, item 11 ("Fee adjustments");
- Section C, the definition of "Fees"; and
- this Section D under the sub-heading "Service Standard" in respect of "ASP-1".

Synergy considers the Authority must determine WP's actual costs and how WP has sought to achieve the lowest sustainable costs in accordance with clause 6.6(1)(e) of the Code by reviewing its service provider contracts and engaging with the AER in relation to NEM distributor costs. Synergy considers the Authority should give regard that this is a legacy service and other alternative "behind the meter" solutions and technology are now available to *customers*.

## MP-11<sup>49</sup> Remove a redundant meter

Synergy assumes a redundant *meter* is *meter* that is not required to be installed under the Code or a *meter* that is not compliant with the Code. Synergy would like an explanation why WP has proposed that Users and customers may require this service including the circumstances that result in redundant *meters* being installed in relation to a *connection point*. Further Synergy considers it is unlikely customers would choose or agree to pay to remove a redundant *meter*.

### WP's response

This service is already provided by Western Power to Code participants, following requests from User's for access to such a service.

The scenarios that this service contemplates are largely removal of a second meter where a NMI has two or more meters attributed. Removal of these meters occurs where a customer identifies they no longer require the additional meter, and wish to no longer pay for the associated ongoing charges that are attributed.

Western Power considers that all Code participants may have a requirement for access to this service, therefore Western Power has included in the Model SLA.

Western Power has included this in the Model as the service can be defined in a standardised manner relevant to all Users, and therefore should be included in the Model SLA.

### Synergy's further comments

Synergy acknowledges WP's explanation, but Synergy still does not understand the regulatory rationale underpinning WP's comments.

Is WP suggesting the "second meter":

1. is not a *Revenue Meter* under the Code;
2. must only be a *Check Meter* under the Code;
3. material changes have occurred in respect of the *connection point* such the requirements of clause 3.13 of the Code no longer apply?

If this is the case Synergy considers the proposed service description does not meet the requirements of clauses 6.5 and 6.6 of the Code.

Therefore, Synergy considers the Authority must determine the regulatory basis that underpins this service and whether the proposed service is consistent with the Code.

### Fees

Synergy considers the country charge of \$204.27 appears to be slightly higher than expected but not unreasonable.

### WP's response

Western Power did not provide a response to Synergy's September Submission.

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<sup>49</sup> This proposed service was formerly referred to as "MP-9" in WP's initial MSLA proposal, and was renamed to "MP-11" following consultation feedback.

## PART 4 – METER DATA PROVISION SERVICES

### MDP-1 Scheduled Bi-Monthly Meter Reading (Accumulation Data)

#### Service Description

In Synergy's view a critical element of the service description under a contract is it must state what the measurable deliverable or end value is – which is being provided to the User. The current service descriptions do not always make it clear what the end value or deliverable to the User is and are therefore not consistent with clause 6.6(1)(b) of the Code. This is a consistent theme in relation to Synergy's comments on MDP-1 the current service descriptions are inadequate.

The service needs to make it clear that this is a metrology service under the Code. Therefore, the delivery of the service needs to make it clear that it will also be governed by the *metrology procedure* and the *communication rules*. These *documents* must also be reflected as a service standard in relation to the provision of the service. Therefore, there will also need to be an update to the *metrology procedure* and *communications rules* to align with the approved reference services and WP's AMI proposal.

The current drafting is silent in relation to who selects the service. Therefore, giving regard to clause 3.9(3A) of the Code, the service description also needs to make it clear that this is an *accumulated energy data* service which the User may select in relation to the covered service nominated in respect of the *connection point*. The means a *meter* should not be registered as an "accumulation meter" if the service delivered is contrary to the metrology service required by the User for example in the provision of *interval energy data*.

Synergy also notes the service omits several key operational requirements and conditions that form part of the current service in the MSLA. The following requirements, consistent with the Code, from the current MSLA must be retained within that instrument:

- To consult and get agreement on changes to meter reading schedules. These schedules directly affect the compliant billing of customers and the unilateral changes that have been made in the past are problematic for the customer and costly in relation to complaints and remedial actions.
- *Meter* read frequency to be based on a 42 business day cycle.
- Any bulk estimations of readings will be done in consultation with the User.
- A site cannot be estimated for more than 365 days – keeping in line with the Code and Code of Conduct requirements.
- *Data* accuracy service standard requirements to continue to be applied to all metrology services.
- The provision of key performance indicator reports.

Synergy also notes the current monthly based *accumulated energy data* service has been removed. Synergy currently has approximately 900, 000 customers, with *accumulation meters*, being billed on a monthly basis and therefore, requires this service<sup>50</sup> to be added to the proposed MSLA. Removing this service will impact the end customer, especially customers who require more frequent billing to manage their budget.

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<sup>50</sup> -Service 10 under the current MSLA



The current MSLA, schedule 2, specifies the meter read frequency by the meter type. This information is not available in the current MSLA. Synergy considers it is important that this information is updated and provided in the proposed MSLA and *metrology procedure* so Users have transparency in relation to how the read frequency will affect billing frequency.

The service states that when a connection point is established WP will assign a meter reading day number in the meter reading schedule. However, the service needs to further specify the rules that will apply in relation to modifying the reading day number. These rules need to be transparent and should be included in the MSLA and *metrology procedure* because changes to the reading day number affect the compliant billing of customers.

Users need to be aware when this information can change, how it is changed and how notices will be provided prior to making the change. WP has contemplated that meter reading schedule may change in the interest of “Meter Reading Optimisation”. However, this term is not defined and the MSLA does not specify what the benchmarks are and what outcomes must be delivered before a change is warranted. The current drafting means WP can unilaterally change the Meter Reading Schedule without any clear explanation or demonstrated benefit to the Users or customers.

In fact the MSLA potentially contemplates that changes made in the interest of “Meter Reading Optimisation” can potentially override the interest or the rights of Users and customers in relation to the *Code Objectives*. For example, currently where changes are made in the interest of “Meter Reading Optimisation” this can be problematic when a User receives and bills on estimated data – and then receives actual data 2 to 5 days later – causing a rebill. In Synergy’s view this is not efficient, a poor customer experience and contrary to the *Code Objectives*. Therefore, where the MSLA proposes to optimise or improve something it must clearly state what it is improving, by how much and for whose benefit.

The Code also specifies the circumstances where substitution and estimation energy data can occur. Sometimes there is the view in industry that substitution and estimation is subject to the network operator’s convenience. Therefore, it is important the service specify that substitution or estimation will be conducted where permitted or required by the Code and *Metrology Procedure*. This is an important requirement to be reflected in the MSLA so Users can respond to customer complaints in relation to the MSLA requirement for the provision of metering data for billing.

The service does not specify how the energy data will be formatted and provided to the User. This is an important service requirement. The service is not really complete if it does not deliver the data to the User in a usable format. Therefore, Synergy considers the service specifies the relevant provision under the *communications rules* and *Build Pack* the service needs to comply with. At the very least there needs to be an express provision that makes it clear this service will comply with the requirements of the *metrology procedure*, *communications rules* and *Build Pack*.

Synergy also requests the service includes a mandated service standard on skipped read (estimates) and erroneous reads. More transparency is required before an accurate assessment can be made in relation to the new bundled costs especially in terms of:

- Cost to service impacts around increase in AMI meters and decrease in field service labour.
- Timing impacts around the transition from manual to AMI.

#### **WP's response**

Western Power notes that Standard Metering Services are required for all connection points to meet the minimum requirements of the Code and the function of the electricity market. Western Power considers the nomination of a Reference Service by a User ultimately defines the Standard Metering Service for a connection point.

In response to Synergy’s feedback, Western Power has amended the service description to:

- Include reference to the SWIS Communication Rules and Metrology Procedure
- Western Power has also amended the description to include provisions the User must be consulted prior to changes being made to the meter reading schedule.

Western Power acknowledges the SWIS Communications Rules and Metrology Procedure closely interact with the Model SLA. Western Power will be seeking to review relevant components of B2B procedures, in consultation with retailers, as part of managing the transition to AMI services. Western Power is currently developing a detailed engagement plan that identifies its approach to engagement of the market on AMI implementation.

### Synergy's further comments

See Synergy's further comments above under the sub-heading "Service Descriptions" in respect of "ASP-1" relating to proposed modifications to Code documents to align with the proposed MSLA.

WP has not addressed the material matters raised in Synergy's submission.

WP considers the nomination of a Reference Service by a User ultimately defines the Standard Metering (data) Service for a *connection point*. However, at the same time WP, under the Standard ETAC, has also proposed to use the AMI meter infrastructure to restrict the Reference Service a User may use (including removing the right of the User or customer to choose the Reference Service).

Therefore, Synergy considers the Authority must determine the following matters giving regard to the matters Synergy has raised in its September Submission:

1. **Users right to choose energy data service:** Can WP use a reference service (for the conveyance of electricity) to legally limit a *user's* requirement for *energy data* including *interval energy data* services under the MSLA and Code.
2. **User Agreement required prior to changing meter reading schedule:** In Synergy's experience WP's view is that an obligation to consult only requires notification of changes and does not require agreement. This has created billing and compliance issues for Synergy. The Authority should determine if WP's proposal to consult and change the Meter Reading Schedule without a User's agreement is consistent with clause 5.8 of the Code and *the Code of Conduct*, including whether the MSLA needs to make it clear the consultation needs to be consistent with clause 5.8 of the Code.
3. **Meter read frequency:** The current MSLA specifies a meter read frequency of 42 business days. This is required to ensure *customers* can be billed in accordance with the required timelines under the *Code of Conduct*. The Authority should determine whether the meter read frequency should be reinstated in the proposed MSLA, including whether the proposed read frequency or cycle is consistent with the billing time frames under the *Code of Conduct*.
4. **Time limit for estimations:** The current MSLA makes it clear it is a contractual condition of the service that "...A site cannot be estimated for more than 365 days: the Code requires that an attempt must be made to obtain a reading once within the 365-day period". WP has removed this contractual requirement from the proposed MSLA. Therefore, the Authority should determine if this requirement should be reinstated under the proposed MSLA in order to be consistent with 6.1(a)(i) and 6.1(b)(i) of the Code.
5. **Interval data accuracy standard:** WP has removed *interval energy data* accuracy requirements from the current MSLA. *Interval energy data* accuracy refers to the ratio of actual intervals to estimated intervals. It is important to note this fundamental specification is also not listed in the amended *metrology procedure*. However, because of its impact on billing the *Code of Conduct* now specifies an accuracy requirement to make it clear when *interval energy data* bills can be determined to be actual and when they must be determined to be estimated. Therefore, the Authority should determine if the MSLA must contain an *interval energy data*

accuracy standard to be consistent with clauses 2.1, 6.6(1)(a)(i) and 6.6(1)(b)(ii) of the Code. The Authority should also determine how the MSLA will operate with the *Code of Conduct* accuracy requirements when interval data is provided to retailers on a daily basis.

6. **Monthly billing for customers:** Synergy also notes the current monthly based *accumulated energy data* service has been removed. Synergy currently has *customers*, with *accumulation meters*, being billed on a monthly basis. The Authority should determine if Service 10 under the current MSLA should be reinstated into the proposed MSLA.
7. **Meter reading optimisation:** The Authority should determine what is meant by “Meter Reading optimisation” and how it is legally consistent with clauses 2.1, 5.8 and 6.1(b) of the Code. It has been Synergy’s experience WP’s meter reading optimisation initiatives have resulted in outcomes that were contrary to clause 2.1(b), 2.1(c) and 5.8 of the Code.
8. **Estimating energy data:** The Authority should determine whether the MSLA and *metrology procedure* are sufficiently clear when estimations can be conducted. Including the matters that may be agreed under method 64 and 74 under the Code.
9. **Type 7 energy data:** The MSLA does not provide a service for *Type 7 connections points*. This appears to be inconsistent with clauses 6.1, A2.4, A2.9, and A3.6 of the Code. The Authority should consider whether the MSLA, to be consistent with the Code, is required to include services in respect of *Type 7 connection points* or whether *users* are required to negotiate these services and service standards.
10. **Regulatory oversight on energy data format:** Clause 2.1 of the Code contemplates that *energy data* must be provided to *users* in a **useable**, consistent and reliable format. Synergy receives, under the current MSLA, receives *energy data* for metered connection points in NEM12 and NEM13 as defined under the Build Pack. The format for *Type 7 energy data* is not defined in the Build Pack. It is important to note these formats in the SWIS currently may not align with the NEM. However, under the proposed MSLA WP is proposing to change the formats to align with the NEM. If this were to occur the *energy data would not be useable* by Synergy’s billing system. The Authority should determine if the NEM formats proposed in the MSLA is consistent with what is in the Build Pack, including whether the proposed MSLA can legally require WP to change the NEM formats in the Build Pack if the proposed MSLA is approved. Further, the Authority should determine whether the format for *Type 7 energy data* needs to be defined to be consistent with the clause 2.1 of the Code. In Synergy’s view, in order to ensure regulatory certainty, the definitions for NEM12 and NEM13 must reference the format in the Build Pack used in the SWIS.
11. **Skipped reads:** Synergy also requests the service includes a mandated service standard on skipped read (estimates) and erroneous reads. There are circumstances where WP chooses to skip reading a meter for convenience or as part of a meter read optimisation initiative to reduce opex (as opposed to an access issue). The Authority should determine whether this practice is permissible under the MSLA and whether it requires a service standard to be specified in accordance with clauses 2.1(b) and 6.1(b) of the Code.

## MDP-2 Scheduled Manual Interval Meter Reading (Interval Data)

Matters raised under Section C, item 2 ("MSLA coverage"), above and MDP-1 apply to this section.

### Service Description

The service specifies that WP will determine if this service is provided monthly or bi-monthly basis. Synergy requests, in accordance with clause 5.1 and 6.6(1) of the Code, the User select the frequency in relation to this service provision to align with customer billing requirements consistent with clause 5.1 of the Code.

The service specifies that new meters will be added to the meter reading schedule. In addition, the service should also specify that includes amending the meter reading schedule for meters/connection points that have been removed/abolished.

The manual interval meter reading service currently creates significant billing issues for Synergy and its customers. This is because WP processes and provides the energy data from a manual interval read, based on a 24 hour cycle, starting from 12 noon to 12 noon the next day. This means the period from 12am to 12 noon in relation to a customer's billing period is provided as estimated *energy data*. In addition, it also triggers a significant number of adjusted bills and subsequent *customer* complaints. Therefore, to address this issue Synergy requires, in accordance with the Code clause 2.1(1)(a), 2.1(1)(b) and 5.3, WP to conduct a manual interval read after the date for a scheduled meter reading.

#### **WP's response**

In response to Synergy feedback, Western Power has amended the service description to:

- Include reference to the SWIS Communication Rules and Metrology Procedure
- Western Power has also amended the description to include provisions the User must be consulted prior to changes being made to the meter reading schedule.

Western Power is open to reviewing operational issues such as the data timing issue described by Synergy, however Western Power does not consider this a matter that needs to be contemplated by the Model SLA.

#### **Synergy's further comments**

Synergy's billing frequency is established under its supply contract with customers. WP has proposed under the MSLA it will unilaterally determine the meter read cycle and therefore the billing cycle for interval metered customers. This is contrary to clause 5.8 of the Code. Synergy considers the Authority must determine whether WP, under the MSLA, can determine the meter read and billing cycle and provide energy data that is not consistent with a customer's supply contract (noting the *user's* obligations under clause 5.17, 2.1(c) and 2.1(2) of the Code).

Clause 5.22(5)(b) of the Code requires that *energy data* is required to be estimated if it cannot be obtained within the required time frame. Clause 5.22(5)(b) does not permit *energy data* to be estimated as a matter of operational convenience – this would be contrary to clauses 2.1(1) and 2.1(2) of the Code. Further, clause 5.3 of the Code also permits WP to read a *meter* no later than 2 business days after the date for a scheduled *meter* reading. Therefore, Synergy considers the Authority must determine if the WP's practice for the provision of manually obtained *interval energy data* is consistent with clauses 2.1(1) and 2.1(2) of the Code. Synergy requests the Authority have regard to the matters raised in Synergy's September Submission and the need for customers to receive a bill mainly based on actual *interval energy data*.

WP has proposed that data service descriptions "...should be read in conjunction with the Code, Metrology Procedure, and the Communications Rules, which incorporates the Build Pack...". Synergy's recent conversations with WP IT teams indicate that substantial changes are planned for these documents following approval of the MSLA. Noting that WP has previously maintained that no regulatory changes are required to these instruments - Synergy considers the Authority must determine if it can approve the proposed MSLA without considering the changes WP is contemplating to the other documents regulated under Division 6.1 of the Code.

#### **Eligibility Criteria**

Matters raised under Section C, item 10 ("Governance Arrangements"), above apply to this service standard eligibility criteria.

Manually Read Interval Meter: This criteria and the associated definition in effect allows WP to determine which *meters* are manually read *interval meters*. Synergy requests consistent with clauses 5.1 and 6.6(1) of the Code the MSLA MDP-2 service criteria specifies the service it applies to a *Type 5 meter*. Further, Synergy requests the service applies to interval energy data are provided under this service where a *Type 4 or 5 meter* has been registered as an *accumulation meter*.

#### WP's response

See response at above on access to interval data.

#### Synergy's further comments

See Synergy's further comments above under the heading "Service Descriptions" in respect of "ASP-1" relating to proposed modifications to Code documents to align with the proposed MSLA.

Giving regard to the matters raised in Synergy's September Submission, Synergy considers the Authority must determine whether WP can:

1. propose a data service contrary to Synergy's request under clauses 5.1 and 3.9(2)(3A) of the Code; and.
2. legally apply clause 3.2(2) of the Code when it is contrary to a *user's* request under clause 5.1 and the *Code Objectives*.

#### Fees

WP has proposed that *energy data* provision service required under the Code will be included as part of the SMS charge. WP has proposed that this will be approximately \$30/year and Synergy considers this to be reasonable. Further, Synergy considers WP should also offer an ad-hoc read service. Synergy considers it is reasonable the MSLA contain charges for ad-hoc reads that are commensurate to what has been provided to WP under their sub-contractor agreements.

#### WP's response

Western Power's proposal already includes 3 ad-hoc reading services, services MDP-9, MDP-10 and MDP-11.

Regarding sub-contractor agreements and price pass-through, Western Power considers that, in accordance with Clause 6.6 of the Metering Code, the pricing of this service provide only for the recovery of efficient costs.

#### Synergy's further comments

Refer to Synergy's further comments at below under the sub-heading "Service Description" in respect of "MDP-9" in relation to a "Required By" read date to minimise customer impacts.

Synergy has previously requested WP to explain what it means by "...recovery of efficient costs". However, Synergy has not received a response from WP.

In Synergy's views the "...recovery of efficient costs" must be at least:

1. consistent with what WP incurs under its sub-contract agreements including any liquidated damages for non-performance in accordance with contractor KPIs.
2. consistent with clause 6.6(1)(e) of the Code, which requires WP to seek to achieve the lowest sustainable cost

Therefore, Synergy considers the Authority must determine if the charges for MDP-9, MDP-10 and MDP-11 are:

1. consistent with the charges and conditions WP has negotiated under its sub-contract agreements.
2. based on WP seeking to achieve the lowest sustainable cost under its sub-contract agreements.

### **MDP-3 and MDP-4 Scheduled Remote Meter Reading - AMI Meter (Interval Data)**

Matters raised under Section C, item 2 ("MSLA coverage"), above and MDP-1 and MDP-2 apply to this section.

#### **Service Description**

Synergy reiterates its earlier views in this submission it is important to delineate the metrology functions of a *meter* from its non-metrology features. Therefore, the non-metrology AMI functionality should not impact or govern the provision of metrology services under the Code. Synergy understands WP's AMI meter is a *Type 4 meter* under the Code with certain value added features. Therefore, this service should be consistent with the provision of remotely obtained *energy data* for *Type 1-4 meters* as is currently required by Code, *metrology procedure* and *communications rules*. Synergy does not understand why there is a need for this differentiation and the regulatory basis for this differentiation in services. In particular Synergy would like to understand the difference in relation to *energy data* provision for current *Type 4 meters* and WP's proposed new AMI Type 4 meters.

In its public forums WP has committed to providing Users with *interval energy data* on a daily basis. This is not reflected in the proposed MSLA instead, WP is proposing it will determine the frequency of provision and it will only be on a monthly or bi-monthly basis.

Further, WP has proposed "where available" actual values will be provided to the User daily. Synergy does not understand how this would be possible if the meters are being read on a daily, monthly and bi-monthly schedule. It is also not clear why actual values would not be available. Therefore, this highlights the need to have the appropriate regulatory oversight, governance and controls in place in relation to a mass AMI deployment including when services will be available for use or have contractual effect under the MSLA..

Consistent with WP's public AMI commitments Synergy requests under clause 5.1 of the Code the ability to request daily provision of remote interval data as a standard metering service in addition to monthly or bi-monthly.

#### **WP's response**

Western Power reiterates its commitment to providing daily interval data from communicating AMI meters.

However, Western Power recognises it is unlikely that users will seek to bill customers daily, and it is therefore considers it important to continue to define a reading day number linked to billing frequency.

Western Power acknowledges the SWIS Communication Rules and Metrology Procedure closely interact with the Model SLA. Western Power will be seeking to review relevant components of B2B procedures, in consultation with retailers, as part of managing the transition to AMI services. Western Power is currently developing a detailed engagement plan that identifies its approach to engagement of the market on AMI implementation.



### Synergy's further comments

See Synergy's further comments in Section C, item 8 under the sub-heading "Service descriptions", in Section C, item 2 under the sub-heading "Response to: Service Classifications", in Section D in relation to the definition of "Extended Metering Service" and in this Section E under the sub-heading "Service description" in relation to "MP-2".

It is widely accepted a key benefit AMI provides retailers is daily *interval energy data* to support retail offerings and customer choice. For example, retail offerings based around mobile apps so customers can choose when they consume and what they pay. It has been well established that *meter data* provided on a monthly or bi-monthly basis is not sufficient (and is a barrier) to meet the retail product offerings of the future – especially offerings designed around combined PV, battery and EV solutions.

This is why the provision of daily interval data is a standard service in the NEM. Synergy is concerned WP has stepped away from its public commitments in relation to this matter and reinforces the need for regulatory oversight and binding commitments in the relation to WP's AMI proposal.

Further, Synergy questions the need for an AMI investment if it is not going to deliver service benefits. The monthly and bi-monthly service proposed by WP can already be provided by existing *Type 4* and *Type 5 meters*.

Synergy has experienced dysfunction in negotiating and obtaining interval data from WP and wishes for an approach that is based on regulatory scrutiny rather than good faith negotiation.

Synergy requires the daily interval data service, provided by WP's regulated asset base, to form part of the services and prices reviewed and approved by the Authority.

Therefore, Synergy considers the Authority must determine:

1. whether the daily provision of *interval energy data* must form part of the MSLA services, approved by the Authority, in accordance with clauses 5.1 and 5.17(1)(a) of the Code.
2. whether WP's reluctance to provide a regulated daily *interval energy data* service is consistent with:

- the promotion of promoting regulatory outcomes that are in the public interest (section 26(1)(e) of the ERA Act);
- the long-term interests of consumers in relation to the price, quality and reliability of goods and services (section 26(1)(b) of the ERA Act);
- the need to promote competitive and fair market conduct (section 26(1)(e) of the ERA Act);
- the need to prevent abuse of monopoly or market power (section 26(1)(f) of the ERA Act);
- the need to promote transparent decision-making processes that involve public consultation (section 26(1)(g) of the ERA Act).

### Eligibility Criteria

Applicable Meter Types: The eligibility criteria need to specify the meter types the service will apply to under the Code consistent with clause 6.6(1)(b) of the Code. The terminology used to describe an AMI and remotely read interval meter is ambiguous and does not allow a User to understand how it aligns with the requirements of *metrology procedure*, *communications rules* and *Build Pack*. The MSLA contract needs to sufficiently clear and detailed so Users and customers can understand how it will operate in relation to the various supply and metering arrangements in the SWIS and to avoid costly protracted disputes.



**WP's response**

Western Power considers the definition of AMI Meter is appropriate and that this differentiation promotes transparency and clarity of services, standards and charges.

Western Power notes that Standard Metering Services are required for all connection points to meet the basic requirements of the Code and the function of the electricity market. Western Power considers the nomination of a Reference Service by a User ultimately defines the Standard Metering Service for a connection point. In response to Synergy's feedback, Western Power has amended the service description to include reference to the SWIS Communication Rules, Build Pack and Metrology Procedure.

Western Power acknowledges the SWIS Communication Rules and Metrology Procedure closely interact with the Model SLA. Western Power will be seeking to review relevant components of B2B procedures, in consultation with retailers, as part of managing the transition to AMI services. Western Power is currently developing a detailed engagement plan that identifies its approach to engagement of the market on AMI implementation.

**Synergy's further comments**

See Synergy's further comments above at Section D in relation to the definition of "AMI Meter" and above in this Section E under the sub-heading "Service Descriptions" in relation to "ASP-1".

**MDP- 5 Scheduled Customer Meter Reading - (Accumulation Data)****MDP – 15 (New) Customer / User Self Read Meter Data Validation**

Matters raised under Section C, item 2 ("MSLA coverage"), above and MDP-1 to 4 apply to this service.

**MDP-5 Scheduled customer meter reading**

Synergy considers there should not be a fee for this service. If a customer or a User elects or agrees to provide a self-read then WP has not incurred a meter reading cost. Accordingly a User should not be charged a meter reading fee when WP itself has not incurred a meter reading cost. Synergy recognises WP will incur a cost to receive a self-read and validate the data. However, this cost should be imposed under a separate and new meter data provision service "customer / User meter reading validation".

Further Synergy questions WP's legal authority to oblige a customer to self-read their meter without the customer's consent. Clause 5.1 of Synergy's ERA approved standard form contract reflects a customer must consent to provide a self-read. Further clause 4.6(1)(b) of the Code of Conduct specifies WP must consent to a customer self-reading a meter. The Code does not grant WP the authority to instruct a customer to self-read a meter.<sup>51</sup>

**WP's response**

Western Power validates all meter readings used for the purpose of billing and settling the market. Western Power does not consider it reasonable to charge self-read customers the validation costs that are otherwise provided as a standard metering service.

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<sup>51</sup> See ID "MDP-5" of Table 1 to Synergy's September Submission (at page 11 of that document)

### Synergy's further comments

WP's response mischaracterises Synergy's concerns. Synergy requests the Authority considers Synergy's September Submission.

WP is essentially charging customers for *meter* reading and data validation in circumstances where WP should not be recovering ready costs. It would be un-reasonable and potentially unlawful to charge customers:

1. for services they are already paying for under a regulated tariff;
2. contrary to the statutory framework;
3. where WP has not exercised its regulatory powers in relation to meter access.

WP has not explained how it could legally "charge self-read customers the validation costs that are otherwise provided as a standard metering service".

### Fees

Synergy considers there should not be a fee for this service. If a customer or a User elects or agrees to provide a self-read then WP has not incurred a meter reading cost. Accordingly a User should not be charged a meter reading fee when WP itself has not incurred a meter reading cost. Synergy recognises WP will incur a cost to receive a self-read and validate the data. However, this cost should be imposed under a separate and new meter data provision service "customer / User meter reading validation".

Further Synergy questions WP's legal authority to oblige a customer to self-read their meter without the customer's consent. Clause 5.1 of Synergy's Authority approved standard form contract reflects a customer must consent to provide a self-read. Further clause 4.6(1)(b) of the *Code of Conduct* specifies WP must consent to a customer self-reading a meter. The Code does not grant WP the authority to instruct a customer to self-read a meter.

### WP's response

Western Power has not proposed a fee for this service.

Western Power validates all meter readings used for the purpose of billing and settling the market. Western Power does not consider it reasonable to charge self-read customers the validation costs that are otherwise provided as a standard metering service.

In response to Synergy's feedback, Western Power has amended the service description with consideration to the matters raised.

### Synergy's further comments

Synergy considers the Authority must determine:

1. Whether WP can legally require a *customer* to read a *meter* without the *customer's* consent.
2. Whether WP incurs any *meter* read costs from its contractors when a *customer* reads the meter.
3. What the *customer* read meter-validation costs are, and whether this should be reflected in a separate service under the MSLA to be consistent with clauses 2.1(C), 5.1 and 5.16 of the Code and clauses 4.6(1)(b) and 4.7 of the *Code of Conduct*.

4. Whether the web portal arrangement for *customers* to provide their *meter* readings needs to be subject to regulatory oversight under the MSLA in order to be consistent with clauses 4.6(1)(b) and 4.7 of the *Code of Conduct*.
5. Whether WP must provide in the MSLA a “User self-read meter data validation service”, in accordance with clauses 2.1(c), 5.16 and 6.6(1)(a)(i) of the Code, and clause 4.7 of the *Code of Conduct*.

### Service Description

Synergy questions WP’s legal authority under the MSLA to compel and enforce a customer to self-read their meter without the customer’s consent. Synergy understands the current regulatory regime does not permit WP to mandate that a customer must read a meter. If WP does have such authority, there should at least be an obligation imposed on WP to act reasonably and in good faith when exercising its discretion to designate.

However, in the event a customer or a User agrees or elects to provide to self-read a meter, the MSLA needs to specify what constitutes:

- a geographically remote area, under the AQP, where WP has approved the installation of a connection point in relation to a covered service.
- a site access restriction in circumstances where WP has approved the installation of a connection point.

This clarity and the regulated basis is important to Users when responding to *customer* complaints in relation to WP mandating a *customer* read the meter or determining the *customer’s connection point* is non-compliant in some way in relation to WP fulfilling its meter read obligations.

The proposed MSLA also needs to details how Users and customers will provide meter readings to WP (if they agree or elect), so the data can be used to issue a bill. Synergy, consistent with the Code clause 5.1 requests requires a new *customer / user* self-read meter data validation service to replace WP’s proposed MDP-15 defined to cater for the requirements of clause 5.16 of the Code. In effect Synergy is seeking a new data validation service MDP-15 – that is where a *user* or a *customer* provides *energy data* to WP and receives the corresponding validated data for billing purposes. Further, Synergy notes the *communication rules* and Build Pack do not specify how this data will be provided and will need to be updated accordingly to reflect the approved MSLA.

Further Synergy’s request for a customer /User self-read validation service is consistent with clause 2.1(c) of the Code by facilitating the operation of clause 4.7 of the *Code of Conduct*.

Synergy notes that WP, outside of the *communications rules*, provides a web portal for customers to enter their meter reading. In Synergy’s view this arrangement and process needs to have regulatory oversight under the MSLA and *communication rules* - including the ability for Users to efficiently provide bulk data, under clause 5.16 of the Code, under a Build Pack B2B transaction.

### WP's response

In response to Synergy’s feedback, Western Power has amended the service description with consideration to the matters raised.

Western Power validates all meter readings used for the purpose of billing and settlement of the electricity market and considers the amended service descriptions meet the requirements described by Synergy. Western Power considers a separate ‘data validation’ service is unnecessary, given data validation is an inherent requirement of the meter data services which are already included in Western Power’s proposal.

Western Power notes the requirements and purpose of the Communication Rules, as defined by the Code, relate to communication protocols between Western Power and

Code Participants, not Western Power and customers.

The Communication Rules and the associated change control requirements for documents under control of the rules (i.e. the Build Pack), provide sufficient flexibility to allow progressive improvement to communication protocols and to react to changes in a dynamic and evolving market.

Western Power is open to reviewing any reasonable requests from Code participants in relation to requirements that are not currently contemplated by the Communication

Rules. Western Power considers this to be distinct from its MSLA proposal.

Western Power also notes the Communication Rules are subject to regulatory oversight, under the Code.

#### **Synergy's further comments**

See Synergy's further comments at above under the sub-heading "Fees" in respect of this service "MDP-5".

WP has not addressed the regulatory matters raised in Synergy's submission to WP nor has it provided a regulatory substantiation for its position.

#### **Eligibility Criteria**

Applicable Meter Types: The eligibility criteria need to specify the meter types the new service will apply to under the Code. The terminology used to describe an AMI and remotely read interval meter is ambiguous and does not allow a User to understand how it aligns with the requirements of *metrology procedure*, *communications rules* and Build Pack. The MSLA contract needs to be sufficiently clear and detailed so Users and customers can understand how it will operate in relation to the various supply and metering arrangements in the SWIS.

#### **WP's response**

Western Power considers the definition of AMI Meter is appropriate and that this differentiation promotes transparency and clarity of services, standards and charges.

Western Power notes that Standard Metering Services are required for all connection points to meet the minimum requirements of the Code and the function of the electricity market. Western Power considers the nomination of a Reference Service by a User ultimately defines the Standard Metering Service for a connection point.

In response to Synergy's feedback, Western Power has amended the service description to include reference to the SWIS Communication Rules, Build Pack and Metrology Procedure.

Western Power acknowledges the SWIS Communication Rules and Metrology Procedure closely interact with the Model SLA. Western Power will be seeking to review relevant components of B2B procedures, in consultation with retailers, as part of managing the transition to AMI services. Western Power is currently developing a detailed engagement plan that identifies its approach to engagement of the market on AMI implementation.

#### **Synergy's further comments**

See Synergy's further comments in Section C, item 9 under the sub-heading "Service descriptions", in Section C, item 2 under the sub-heading "Response to: Service Classifications", at in Section D in relation to the definition of "Extended Metering Service" and in this Section E in relation to "MP-1".

See Synergy's further comments above at Section D in relation to the definition of "AMI Meter" and above in this Section E in relation to "Service Descriptions" for "ASP-1".

See Synergy's further comments under the sub-heading "Service Description" in relation to Service "MDP-2".

## **MDP- 6 Standing Data Provision**

Matters raised under Section C, item 2 ("MSLA coverage"), above and MDP-1 to 5 are relevant to this metrology service.

### **General Comment**

*Standing data* is fundamental to giving effect to a range of important commercial transactions between the WP, User and customers. However, the information WP has provided in relation to this service is sparse. It does not detail the important service outcomes and obligations in relation to *standing data* requirements. The various requirements for *standing data* can be divided into two categories:

- Where mandated under the Code in relation to changes to metering installation on the network.
- Where requested by the User, in accordance with the Code clause 5.13 and 5.14, to give effect to certain billing and customer transfer transactions. Including the provision of bulk standing data.
- The current MSLA details the various requirements when *standing data* and bulk standing data is required to be provided to a User including the timings that apply in relation to specific requests for *standing data*.

This important information, timelines and accuracy standards have been omitted from the service inconsistent with clause 6.6(1)(b). This information is particularly important where a User makes a request for *standing data* under the *Customer Transfer Code*. The level of information currently provided for this service is insufficient to determine and ensure it will satisfy the objectives under clause 2.1 of the *Customer Transfer Code*.

It is important to note that where a service requires field work or system activities – it is not enough for these activities to be completed without the provision of timely and correct *standing data*. Therefore, the end service required by the User and customer is timely and correct notification of *standing data*. There have been occasions where WP has viewed the timely and correct provision of *standing data* secondary to the completion of a field or system activity. It is essential that this perception is addressed in the proposed MSLA –to recognise Users and customers cannot finalise certain transactions including billing arrangements until updated *standing data* has been provided. For example, Synergy's systems are unable to issue a bill that complies with the *Code of Conduct* if the *energy data* provided under the *communication rules* is not aligned with the *standing data*.

Synergy reiterates its comments earlier in this submission that each service description within the MSLA must specify the key individual components that constitute the service (including *standing data* updates) so Users can determine when the service provision is complete, measurable and payable. The proposed MSLA is consistently deficient in that regard.

### **WP's response**

In response to Synergy's feedback, Western Power has included additional transactional timing and data provision requirements to Schedule 4. This seeks to ensure clarity of performance measurement.

Western Power notes the existing MSLA was drafted and approved prior to establishment of the SWIS Communication Rules, which define requirements for transactional detail, B2B protocols and system interaction. Further, the Code defines attribute and timing requirements for the provision of standing data. As such, Western Power has sought to avoid duplicating these requirements in the MSLA.

In response to Synergy's feedback, Western Power has also amended Schedule 3 to include detail in relation to how the MSLA and Communication Rules interact.

#### Synergy's further comments

WP's changes to Schedule 4 of the proposed MSLA does not address Synergy's concerns.

Giving regard to the matters raised in its September Submission, - Synergy considers the Authority must determine whether :

1. the MSLA must provide the detailed description of the services and timelines for the services contemplated under clauses 5.13 and 5.14 of the Code;
2. the MSLA must provide the detailed description of the services and timelines for mandated *standing data* provisions in relation to changes to the *metering installation*; and
3. compared to the proposed MSLA, the services described in the current MSLA better achieves the *Code Objectives* and clauses 6.5 and 6.6(1) of the Code.

#### Eligibility Criteria

Service Orders: In relation to *standing data* requests and *bulk standing data request* the service does not specify which Service Order must be used under the *communications rules* – this is required so Users know that *communications rules* can give effect to this service request. It is not sufficient to make an ambiguous response to a Service Order. This has been an issue with the current MSLA because it is not clear which transaction should be used and WP can change their mind from time-to-time in relation to which Service Order should be used for a service under the MSLA.

#### WP's response

In response to Synergy's feedback, Western Power has added a reference to the service order type used for each service defined in the MSLA.

Western Power considers the Communication Rules to be explicit in terms of the service order types and codes that should be used for the purpose of B2B communication and requesting services. Western Power notes the Communication Rules provide for the efficiency of market transactions between Code participants and define circumstances where Code participants must reject transactions due to the incorrect protocol, code or service order type being used.

#### Synergy's further comments

See Synergy's further comments above in Section D in relation to the definition of "AMI Meter" and in this Section E in relation to "Service Descriptions" for "ASP-1".

### MDP- 7 Historical Interval Energy Data Provision

Matters raised under Section C, item 2 ("MSLA coverage"), above and MDP-1 to 6 are relevant to this service.

### Service Description

WP contrary to the Code, *Code of Conduct* and *Customer Transfer Code* has assumed it only needs to provide historical *interval energy data* and there is no requirement or obligation to provide historical *accumulation data*. This is an error under the current MSLA that needs to be corrected.

Under the *Code of Conduct* retailers are required to review a customer's bill. Therefore, retailers reasonably require historical *accumulation data* to perform this function. It is important to note that, under the Code clause 4.8, WP owns all the *energy data*. In addition, clause 4.9 of the Code requires WP to retain historical accumulation and interval *energy data*. Therefore, it is unreasonable and inefficient for bill reviews to be delayed when Users have to convince WP to provide historical *accumulation energy data* stored in the *metering database* each time a small use customer requests a bill review. Synergy understands the Code requires *accumulated energy data* to be stored in the *metering database* and considers it is important the MSLA also reflects this requirement.

In addition to the requirements of the Code and *Code of Conduct*, the *Customer Transfer Code* clause A4.2 also requires WP to provide accumulation energy data if interval data is not available. Therefore, Synergy requests under clause 5.1 of the Code this service must provide for both *accumulation energy data* and *interval energy data* in order to be consistent with the Code clauses 2.1(c) and 6.6(1)(a).

The current MSLA also details the scope of the service including the timelines for the provision of data. Synergy requires this information and timelines to be reinstated into the proposed MSLA as per clauses 5.1 and 6.6(1)(b) of the Code.

Further, Synergy understands that this service must be provided in accordance with the methods defined under clause 3.1 of the *communication rules*. Therefore, the MSLA also needs to clearly specify this including which requests a User can use in relation to each of the methods specified under the *communication rules*.

It is also important that data is provided in a useable format consistently and the format is not subject to change from time-to-time without consultation. Therefore, it is also important the service also specifies what format the data will be provided in referencing the necessary provision under the *communication rules* and *Build Pack*.

### WP's response

In response to Synergy's feedback, Western Power has amended the naming convention and description for this service to reflect it is not limited to an interval data service.

### Synergy's further comments

Synergy acknowledges that WP has addressed Synergy's request that this service provide energy data (not just interval energy data) but notes that WP has not addressed Synergy's concern the service specify what form the data will be provided in by referencing the necessary provision in the *communications rules* or the *Build Pack*.

Synergy re-states its concern that WP's proposed approach breaches the Code requirements detailed above.

Synergy considers the Authority must determine whether WP's approach is consistent with the Code, or whether Synergy's position is correct.

### Eligibility Criteria



Service Orders: The service does not specify which Service Order must be used under the *communications rules* – this is required so Users know the *communications rules* can give effect to this service request. It is not sufficient to make an ambiguous response to a Service Order. This has been an issue with the current MSLA because it is not clear which transaction should be used and WP can change their mind from time-to-time in relation to which Service Order should be used for a service under the MSLA.

Meters: As outlined above the service needs to apply to the provision of accumulated and interval energy data and the meter restriction in relation to the provision of *accumulated energy data* need to be removed.

#### **WP's response**

In response to Synergy's feedback, Western Power has added a reference to the service order type used for each service defined in the MSLA.

Western Power considers the Communication Rules to be explicit in terms of the service order types and codes that should be used for the purpose of B2B communication and requesting services. Western Power notes the Communication Rules provide for the efficiency of market transactions between Code participants and define circumstances where Code participants must reject transactions due to the incorrect protocol, code or service order type being used.

Western Power has also amended the naming convention and description for this service to reflect it is not limited to an interval data service, as suggested by Synergy.

#### **Synergy's further comments**

See Synergy's further comments above at Section D in relation to the definition of "AMI Meter" and above in this Section E in relation to "Service Descriptions" for "ASP-1".

#### **Fees**

This service has been unbundled from the standard metering service charge and WP will now charge for a service as part of an extended metering service (MDP-7). Synergy considers the charge reasonable, although it should of course be properly assessed to ensure it meets the relevant regulatory tests, including under cl 6.6(1)(e) of the Code). Clause 10.7(2) of the *Code of Conduct* specifies a small use customer's entitlement to receive historical consumption data. Consistent with clause 2.1(c) of the Code the MSLA should reflect a User should not pay the MDP-7 fee when they are acting on behalf of a small use customer consistent with clause 10.7(2) of the *Code of Conduct*.

#### **WP's response**

In response to Stakeholder feedback, Western Power has amended the service classification for this service to define it as a Standard Metering Service.

Western Power notes that clause 10.7 of the Small Use Customer Code relates to provision of data to a Customer, as opposed to provision to a User.

#### **Synergy's further comments**

By treating this as a Standard Metering Service WP, in effect, has created a cross subsidy between retailers. Further, the service is principally used in connection with *customer* change from one retailer to the next. It is unclear why *customers* who do not wish to, or cannot, transfer to a new retailer should subsidise those who can or will churn. The propose approach is not consistent with

economically efficient principles and cost allocations. WP has not substantiated how this approach or the feedback receive is consistent with the *Access Code* or the Code.

Giving regard to the matters raised in its September Submission, Synergy considers the Authority must determine whether:

1. it is consistent with the *Access Code* and the Code for this service to be funded under a revenue cap mechanism, giving regard to the potential cross subsidy it creates which financially benefits some retailers over others; and
2. the retailer can act as agent of the *customer* and whether WP can charge a *customer* or an agent of a *customer* for a data request made under clause 10.7(2) the *Code of Conduct*.

## MDP- 8 Verify Meter Data

The matters raised under Section C, item 2 ("MSLA coverage"), above 3 and MDP-1 to 7 is relevant to this service.

### Service Description

This metrology service is contemplated by clause 5.20 of the Code and provides for a re-validation of the energy data without the need to perform a field visit. Further clause 5.20(3) provides a *user* may request verification of *energy data* if it reasonably believes that:

- there is, or is potentially, an error in the *energy data*; or
- the *network operator's* response to a previous request has not resolved its query.

This scope is not reflected in the proposed MSLA and Synergy requires it be reflected. WP's proposed scope is too narrow and contrary to the Code because the service description is inadequate. In addition, Synergy also requires the MSLA to specify what notification is provided to the User including the notification, under the Code clause 5.20(4)(b), must be provided no later than 5 business days after receiving the User's request. Synergy notes under the current MSLA WP will verify the data

WP has also contemplated with validation of actual values however estimation or substitution will not be completed. It is not clear what WP means by this provision but it appears to be contrary to the requirement of the Code. Synergy's understanding of the Code is that this service must apply to all *energy data* and WP must where required provide replacement *energy data* under the Code in accordance with clause 5.24.

### WP's response

In response to Synergy's feedback, Western Power has amended the service standard for this service to align to Clause 5.20 of the Code.

Western Power agrees the provisions of Clause 5.24 of the Code are applicable to this service.

### Synergy's further comments

Synergy notes WP has amended the service standard from 6 business days to be 5 business days but has only proposed it will meet 98% requests.

WP has not addressed the other matters raised by Synergy irrespective of *meter* data verification performance standards. Further, Synergy continues to have issues where WP does not consistently provide replacement *energy data* following the detection of errors in *energy data*. Noting WP's obligation under clause 5.8 of the Code, Synergy cannot legally adjust the *customer's* bill, in accordance with clause 5.17 of the Code, unless it is provided with replacement *energy data*.

Giving regard to the matters raised in its September Submission, Synergy considers the Authority must determine whether:

1. it is consistent with the Code and *Code of Conduct* to comply with the notification time of 5 business days 98% of the requests;
2. it is consistent with the Code and *Code of Conduct* for there to be no compliance requirement for the remaining 2% of service requests under the MSLA;
3. it is consistent with clause 5.20(3)(a) of the Code for the service not to address an error in *energy data* (as opposed to a file format issue);
4. it is consistent with clause 5.20(3)(b) of the Code for the service not to address the circumstance where the WP has not resolved the query;
5. the service under the MSLA must specify what form of notification is provided to the User in order to be consistent with clauses 5.20(4)(b) and 6.6(1)(a) and 6.6(1)(b) of the Code; and
6. the service under the MSLA must specify what WP must do if the *energy data* fails verification, including whether the service must specify what replacement data will be provided to the User in order to be consistent with clauses 5.8, 5.20(4)(b) and 6.6(1)(a) and 6.6(1)(b) of the Code.

### **Eligibility Criteria**

Service Orders: The service does not specify which Service Order must be used under the *communications rules* – this is required so Users know the *communications rules* can give effect to this service request. It is not sufficient to make an ambiguous response to a Service Order. This has been an issue with the current MSLA because it is not clear which transaction should be used and WP can change their mind from time-to-time in relation to which Service Order should be used for a service under the MSLA.

### **WP's response**

In response to Synergy's feedback, Western Power has added a reference to the Service Order Type used for each service defined in the MSLA.

Western Power considers the Communication Rules to be explicit in terms of the service order types and codes that should be used for the purpose of B2B communication and requesting services. Western Power notes the Communication Rules provide for the efficiency of market transactions between Code participants and define circumstances where Code participants must reject transactions due to the incorrect protocol, code or service order type being used.

### **Synergy's further comments**

See Synergy's further comments above at Section D in relation to the definition of "AMI Meter" and at above in this Section E in relation to "Service Descriptions" for "ASP-1".

### **Service standard**

It is important to point out that data verification can trigger other investigations in relation to a bill review. Therefore, it is important Synergy receives this information promptly. Synergy considers the proposed service standards puts Users at risk in relation, to complying with the *Code of Conduct* clause 4.16, to review a customer's bill and therefore, requires the current service standard of 2 business days to be maintained for both metropolitan and non-metro customers.

#### **WP's response**

Clause 4.16 of the Code of Conduct provides 20 days for a User to review a bill. Western Power considers the 5 days proposed by Western Power to verify meter data provides adequate time for the User to meet their obligations under this provision.

#### **Synergy's further comments**

Synergy notes WP has amended the service standard from 6 business days to be 5 business days but has only proposed it will meet 98% requests.

WP has not Synergy's concerns raised in its September Submissions. Giving regard to the matters raised in its September Submissions, Synergy considers it important the Authority determine whether the:

1. timeline of 5 business days (98%) proposed by WP for a desktop/system verification in the MSLA is consistent with clauses 5.8 and 6.5 of the Code; and
2. current MSLA service better achieves the *Code Objectives* and clause 6.5 of the Code compared to the proposed MSLA.

#### **Fees**

There has been a 236% increase in this charge for an essentially automated system driven service. Synergy considers this price to be too high and would have assumed that WP would implement process and system efficiencies to perform the verification service. In light of the upgrades to WP's metering ICT systems Synergy expected significant reduction in system dependent services.

#### **WP's response**

Western Power reviewed cost drivers for individual services in conjunction with reviewing and benchmarking service standard timeframes. The result of this exercise was the proposed MSLA, which balanced price relative to service standard timeframes.

#### **Synergy's further comments**

Giving regard to the matters raised in its September Submission, Synergy considers the Authority must determine whether the 236% increase in charges (and increase in timelines) is consistent with clause 6.6(1)(e) of the Code and what WP has done in order to seek to achieve the lowest sustainable cost.

### **MDP-9, 10, 11 Non-Scheduled Special Meter Reading**

The matters raised under Section C, item 2 ("MSLA coverage"), above and MDP-1 to 7 is relevant to this service.

#### **Service Description**

WP appears to have defined different services in effect to provide the same outcome. Synergy understands that this approach has been taken to show that three different prices may apply in relation to how WP acquires the *energy data* and the infrastructure that is installed at the metering installation. It also appears WP under these services is contemplating new categories of *meters* that are not aligned with the Code and *metrology procedure*.

This is concerning because it creates regulatory uncertainty in relation to how the Code and various documents of the Code will operate holistically and cohesively in relation to metering and covered services. For example, under the Code a *Type 4 meter* is a remotely read meter and the regulatory requirements do not differentiate whether the *meter* is read by a 4G network or a radio mesh network.

In Synergy's view the single service context and deliverable defined in the current MSLA is necessary and WP needs to deal with the price differential under the pricing schedule using sub-product codes to delineate the pricing. The meter change service, Service No. 3 under the current MSLA and MP-2, is a good example of how this should be implemented – where there is one service but seven different prices depending on the information provided in the service order request under the *communication rules*.

Synergy also notes that WP has changed the service from the current MSLA to now not provide estimated or substituted *energy data*. It is not clear how WP contemplates a User can provide a final bill under the *Code of Conduct* in the circumstances where WP cannot provide an actual value.

In Synergy's view this is contrary to the Code and *Code of Conduct*, in particular clause 5.8 under the Code. It is important to note that this service is used when a customer wants to move out of a premise or finalised their account. Therefore, there are circumstances where estimated energy data needs to be provided to provide a final bill under the *Code of Conduct*. This can and does occur for example if the meter has been damaged, access is restricted or there is a timing issue in relation to when WP can attend the site to obtain the reading.

Therefore, Synergy in accordance with clause 5.1 of the Code requires the provision under the current MSLA to be added back to the service – requiring WP to provide estimated or substituted energy data in consultation with the User consistent with clause 6.6(1)(b) of the Code. Further, Synergy requires the current *energy data* accuracy provision under the current MSLA to be added back to this service for the same reason.

The check and final read will continue to be important sub-types of this service. Synergy understands this will continue to be reflected under the *communications rules*. However, Synergy based on its experience considers the service should go further to delineate this service to align, in particular, with small use customer requirements. For example, some customers want their check/final read to be conducted as soon as possible, as long as their request is completed by a certain date. These could be classified as 'Required By' where turning up on a specific day is not necessary. Other customers want their read or bill finalised on a specific date, especially in final read scenarios – turning up a day or two early is just as bad as turning up late for billing purposes.

Where the *customer* has provided the lead notice time, the task should be classified as 'Nominated Day'. Finally, there are some *customers* who need a timed appointment (day and time), this should be provided if enough notice is provided. These could be classified as 'By Appointment'. In Synergy's view these jobs should be priced (and charged) accordingly – recognising that remotely read meters will also make these arrangements easier.

#### **WP's response**

Regarding the differentiation between services, Western Power considers that this promotes transparency and clarity of services, standards and charges.

References to energy data included within the service description are consistent with the requirements of the Code and reflect current B2B processes between Western Power and Code participants, including Synergy.

Western Power considers the Code is explicit as to when Western Power must, where necessary, substitute or estimate energy data and where the User should be consulted. Western Power considers it unnecessary and inappropriate to duplicate these requirements, or create misalignment to these obligations, in the MSLA.

Western Power also notes the drafting of service standards in Schedule 4 contemplates the nomination of a 'requested date' by the User, consistent with the SWIS Communication Rules.

### Synergy's further comments

Giving regard to the matters raised in its September Submission, Synergy considers the Authority must determine whether:

1. a multiple non-scheduled meter read service better achieves the Code Objectives and clause 6.5 of the Code compared to a single service delineated by different prices;
2. the provision of estimated *energy data* for a final bill is consistent with clauses 2.1, 5.8, 5.24 and 6.5 of the Code and the billing and customer complaint requirements under the *Code of Conduct*;
3. the current service under the MSLA better achieves the *Code Objectives* and clause 6.5 of the Code, compared to the proposed MSLA; and
4. the *Code Objectives* and clause 6.5 of the Code are better achieved by providing a "Required By" and "Nominated Day" options as proposed by Synergy.

### Eligibility Criteria

Service Orders: The service does not specify which Service Order must be used under the *communications rules* – this is required so Users know the *communications rules* can give effect to this service request. It is not sufficient to make an ambiguous response to a Service Order. This has been an issue with the current MSLA because it is not clear which transaction should be used and WP can change their mind from time-to-time in relation to which Service Order should be used for a service under the MSLA. Including what codes the User should enter in the service order. This may require the *communication rules* to be updated to reflect new codes that relate to WP's proposed AMI metering infrastructure.

There should be an additional eligibility criterion the meter is a Non-AMI Meter.

### WP's response

In response to Synergy's feedback, Western Power has added a reference to the service order type used for each service defined in the MSLA.

Western Power considers the Communication Rules to be explicit in terms of the service order types and codes that should be used for the purpose of B2B communication and requesting services. Western Power notes the Communication Rules provide for the efficiency of market transactions between Code participants and define circumstances where Code participants must reject transactions due to the incorrect protocol, code or service order type being used.

Western Power acknowledges the SWIS Communication Rules and Metrology Procedure closely interact with the Model SLA. Western Power will be seeking to review relevant components of B2B procedures, in consultation with retailers, as part of managing the transition to AMI services. Western Power is currently developing a detailed engagement plan that identifies its approach to engagement of the market on AMI implementation.

Western Power has also amended the eligibility criterion for this service as suggested by Synergy.

### **Synergy's further comments**

See Synergy's further comments above at Section D in relation to the definition of "AMI Meter" and at above in this Section E in relation to "Service Descriptions" for "ASP-1".

### **Service standard**

Synergy has strict obligations under the *Code of Conduct* clause 5.7 in relation to billing and facilitating a customer vacating a premise. The proposed service standard and KPI is not aligned with *user* obligations under the *Code of Conduct*. Therefore, Synergy requires the current service standard of 3 business days metropolitan and 5 business days non-metro to be maintained.

### **WP's response**

In response to Synergy's feedback, Western Power has amended the service standard to align to provisions for vacating a supply address in the Code of Conduct.

Western Power notes the service standard for metropolitan areas exceeds the requirements of these provisions.

### **Synergy's further comments**

Synergy acknowledges WP's amendment but has identified subsequent to the September Submission the *Code of Conduct* refers to 3 to 5 days, rather than business days, which is the measure set out in the MSLA. In order to facilitate the operation of the *Code of Conduct*, in accordance with clause 2.1 of the Code, Synergy requires that all references to performance standards and KPIs in the MSLA should be sufficient such that Synergy can perform its obligations under the *Code of Conduct*.

Synergy considers the Authority must, in order to achieve the Code objective and particularly clause 2.1(1)(c) of the Code, require there is alignment between service standards and KPIs under the MSLA and the *Code of Conduct*.

### **Fees**

These charges are essentially fixed and subject to them being properly assessed to ensure they meet the relevant regulatory tests (including under clause 6.6(1)(e) of the Code), they should be commensurate to what has been provided to WP under their sub-contractor agreements. Synergy considers that further substantiation is required in relation to these charges, including the \$32.45 charge for the non-metro (country) service.

### **WP's response**

Western Power considers it appropriate for pricing for this service to be cost reflective and that this price is a reflection of the cost of provision. Western Power's pricing review identified that, due to pricing being held constant for over 10 years, this service which is largely based on labour cost drivers, had become subject to cross subsidisation by standard metering services charges. Western Power has sought to remove this cross subsidisation as part of its proposal.

Western Power considers that over time, moving to AMI remote meter reading will make this service increasingly redundant and that Code participants will receive the benefits of lower cost AMI fees.

### **Synergy's further comments**



Giving regard to the matters raised in its September Submission, Synergy considers the Authority must determine whether the charges (and timelines) is consistent with clause 6.6(1)(e) of the Code and what WP has done in order to seek to achieve the lowest sustainable cost.

### Rationale for MDP-10

Synergy questions the need for this service given WP's public commitments that remote interval special meter reading data will be provided daily as part of a standard metering service.

#### WP's response

Western Power reiterates its commitment to providing daily interval data from communicating AMI meters.

Western Power notes that other Australian jurisdictions, where AMI (and daily data feeds) is more prevalent, still have a requirement for a non-scheduled special meter reading services. Western Power has included this service for alignment to industry standards.

#### Synergy's further comments

See Synergy's further comments above under the sub-heading "Service Description" in relation to proposed Service "MDP-3".

Synergy notes WP is not providing a daily interval data service under the proposed MSLA.

### MDP-12 Meter Reconfiguration

The matters raised under Section C, item 2 ("MSLA coverage"), above and MDP-1 to 10 are also relevant to this service.

#### Service Description

WP has classified this as a meter data provision service however this is not a metrology service. Synergy considers it is important to distinguish metrology services, covered services and work that needs to be done in relation to a *metering installation*.

Therefore, this service needs to clarify the specific activities in relation to a configuration of the metering installation and ensure the provision of Standing Data. Synergy currently has the following reconfiguration requirements in relation to a metering installation:

- Tariffs or time bands programmed in the meter installation is changed to meet the User's requirements. These time bands are described in WP's meter model list. However, consideration should be given whether, consistent with the Code, these metrology time bands should be reflected in the *metrology procedure*.
- The meter installation is enabled for bi-directional flows in accordance with the Code clause 3.3C, 5.1 and the Users covered service requirements.

Synergy does not understand what WP means by reconfiguring the *registry* to the configuration requested. In Synergy's view the Code makes it clear what WP needs to do in relation to keeping the *registry* accurate, updating and providing *standing data*.

Further, Synergy understands that where a *meter* records *interval energy data* no reconfiguration is required in relation to the *metering installation* for WP to provide the *interval energy data* in accordance with the Code.

WP has also proposed to delineate services (MP-7 and MDP-12) that provide the same end value to the User. In Synergy's view there should only be a single service with different price points. Refer to our comments in relation to MDP-9, 10 and 11.

Not having information hinders Users' ability to request services under the Code. Synergy, in accordance with clause 3.20(1) and 5.1 of the Code, requests WP provide visibility in relation to other configurable service that are available to Users. Synergy understands that WP has entered into an arrangement to purchase new meters that will form part of their AMI deployment proposal. These meters contain a number of (non-metrology) enhanced technology features. At this stage WP has not provided Users with visibility of these additional features or configurable services. Synergy requires this information to be added to the MSLA and *metrology procedure, mandatory link criteria* and Build Pack where required to be consistent with the Code.

#### **WP's response**

In response to Synergy's feedback, Western Power has amended service descriptions for clarity.

This service meets the Code definition of a metering service, which is ancillary to the network reference service. Disaggregation of metrology and non-metrology functions is not relevant.

Western Power has aligned service classifications and groupings to those across other Australian jurisdictions. In the NEM, the reconfiguration of an AMI meter is considered a function of the Meter Data Provider, as it is a service that can be provided remotely and relates to the reconfiguration of meter data streams.

Western Power considers defining the custom requirements of a single Code participant exceeds the requirements for a Model SLA, as it may not be required for all Code participants. Western Power remains open to providing additional metering services as required by Code participants and notes that Synergy can at any time request additional services not included in the MSLA.

Western Power considers the amended reconfiguration service description meets Synergy's described reconfiguration requirements.

Western Power agrees with Synergy's view the Code defines requirements associated with updating the Registry and providing standing data. As such Western Power has sought not to duplicate these requirements in the MSLA service description.

Western Power considers that differentiation between MP-7 and MDP-12 is necessary as the services have fundamentally different cost inputs, given one is a manual service requiring a site visit and one is conducted remotely using the AMI. Western Power considers it appropriate to reflect the cost of providing the service, such that retailers and their customers can receive the benefits offered by AMI.

In relation to the inclusion of enhanced technology services, Western Power has conducted an unprecedented amount of stakeholder engagement activities, including Generator, Retailer and Customer town hall forums to understand the service requirements of Code participants. Additionally, Western Power has conducted fortnightly meetings with Synergy, across an extended period, in order to understand their position and requirements on inputs to Western Power's proposed MSLA.

Western Power is committed to working with retailers to ensure the installation of advanced metering on the SWIS delivers a broad range of benefits, as well as those that emerge over time. It is impossible for Western Power to contemplate and define every possible service and associated retailer-specific requirement the market may request during AA4.

Western Power considers that, in accordance with Clause 6.6 of the Metering Code, the MSLA seeks to address the services that Western Power considers Code Participants will require. This is no way diminishes the ability of Code participant's to request additional services beyond those defined in the Model, without having to go through the regulatory change process.

Western Power is open to any additional services that Code participants may require, in accordance with the Metering Code. For example, Western Power currently has Service

Level Agreements for additional metering services that have been negotiated with Code participants.

Western Power acknowledges the SWIS Communication Rules and Metrology Procedure closely interact with the Model SLA. Western Power will be seeking to review relevant components of B2B procedures, in consultation with retailers, as part of managing the transition to AMI services. Western Power is currently developing a detailed engagement plan that identifies its approach to engagement of the market on AMI implementation.

### Synergy's further comments

See Synergy's further comments in Section C, item 8 under the heading "Service descriptions", in Section C, item 2 under the sub-heading "Response to: Service Classifications", in Section D in relation to the definition of "Extended Metering Service" and under the sub-heading "Service description" in this Section E in relation to "MP-2"

Synergy has not proposed any custom requirements in relation to this service that will be provided to small use customers under the *Code of Conduct*.

WP has not addressed Synergy's concerns and it is not clear what this service will deliver including which *meter Types* under the Code it will apply to. Further WP has not explained what it means by "reconfigure the Registry" and the legal effect of reconfiguring the *registry*.

In Synergy's view a *user* may not legally use this service to request WP reconfigure the meter at a *customer's* premises for bi-directional flows. The proposed MSLA does not provide for this service.

Giving regard to the matters raised in its September Submission, Synergy considers the Authority must determine:

1. what WP's proposed service will legally and contractually deliver in respect to a reconfiguration request made to facilitate a *customer's* request under the *Code of Conduct* (e.g. when the customer installs a PV and selects a different retail offering);
2. how WP and the service described will facilitate the operation of the *Code of Conduct* under clauses 2.1(c), 6.6(1)(a)(i) and 6.6(1)(b).
3. whether a *user* can legally use this service to request a meter is reconfigured for bi-directional flow;
4. what WP means by "reconfigure the Registry" and if the practice being proposed is consistent with the Code and *Access Code*; and
5. If the charges to "reconfigure the Registry" are consistent with clause 6.6(1)(e) of the Code.

### Eligibility Criteria

Service Orders: The service does not specify which Service Order must be used under the *communications rules* – this is required so Users know the *communications rules* can give effect to this service request. It is not sufficient to make an ambiguous reference to a Service Order. This has been an issue with the current MSLA because it is not clear which transaction should be used and WP can change their mind from time-to-time in relation to which Service Order and codes should be used for a service under the MSLA. Including what codes and comments the User should enter in the service order. This may require the *communication rules* to be updated to reflect new codes or comments that relate to WP's proposed AMI metering infrastructure.

Meter Data Streams: WP is seeking to establish an agreement with the User as a condition and prior to providing this service. It is not clear what WP is seeking here and what is required in relation to providing an agreement in relation to data stream configurations. Synergy for its customers requires Energy Data to be provided in NEM12 and NEM13 formats in accordance with the Code. This includes *energy data* in relation bi-directional flows as contemplated by clause 3.3C of the Code.

#### **WP's response**

In response to Synergy's feedback, Western Power has added a reference to the service order type used for each service defined in the MSLA.

Western Power considers the Communication Rules to be explicit in terms of the service order types and codes that should be used for the purpose of B2B communication and requesting services. Western Power notes the Communication Rules provide for the efficiency of market transactions between Code participants and define circumstances where Code participants must reject transactions due to the incorrect protocol, code or service order type being used.

Western Power acknowledges the SWIS Communication Rules and Metrology Procedure closely interact with the Model SLA. Western Power will be seeking to review relevant components of B2B procedures, in consultation with retailers, as part of managing the transition to AMI services. Western Power is currently developing a detailed engagement plan that identifies its approach to engagement of the market on AMI implementation.

In relation to meter data streams, Western Power is seeking to provide a service that retailer's may require, including the reconfiguration of data streams to accommodate the measurement of bi-directional flows, in accordance with the Code.

#### **Synergy's further comments**

See Synergy's further comments above at Section D in relation to the definition of "AMI Meter" and at above in this Section E in relation to "Service Descriptions" for "ASP-1".

WP has not addressed the concerns Synergy has raised in the September Submission.

WP has sought to restrict a User's rights and regulatory oversight on certain matters through the eligibility criteria for the MSLA services. WP has not explained the reasons for these restrictions. For example, under the eligibility criteria WP has restricted Users and customers from requesting and receiving *accumulated energy data* under the Code.

Giving regard to the matters raised in its September Submission, Synergy considers the Authority must determine if the matters and effects proposed by WP under MSLA eligibility criteria are:

1. consistent with, and legally permissible under, the Code and *Access Code*.
2. consistent with section 115 of the EI Act.

#### **Fees**

Synergy considers this charge reasonable (subject to it being assessed as meeting the relevant regulatory tests (including under clause 6.6(1)(e) of the Code), but would like to understand why a remotely enabled de-energisation or re-energisation costs \$4.81 but a remotely enabled reconfiguration costs \$20.02. Synergy assumes the cost of remotely reconfiguration can be more cost reflective once there is more clarity on the specific reconfiguration activities WP is contemplating.

### WP's response

Western Power considers system automated functionality will form a large component of the de-energisation and re-energisation process for AMI, with administrative oversight underpinning the \$4.81 charge, hence Western Power is able to provide this service at a much lower cost to services which require higher labour inputs. Western Power advises there is typically additional administration requirements where AMI reconfigurations are required, as there are elements of this service that cannot be automated. This results in a requirement for additional operational input to complete, hence a higher cost of provision.

### Synergy's further comments

Giving regard to the matters raised in its September Submission, Synergy considers the Authority must determine whether the charges are consistent with clause 6.6(1)(e) of the Code and determine what WP has done in order to seek to achieve the lowest sustainable cost.

## CANCELLATION SERVICE

### Cancellation Process

WP has provided for a quasi-cancellation service under the MSLA (see "Cancellation Fees" on page 65 of the MSLA) however, there is certain practical information missing in relation to how the service will be requested and used under the *communication rules*. Further, Synergy requires in accordance with clause 5.1 of the Code the MSLA specify the time frames where WP can guarantee a cancellation at no cost – this should especially apply to remotely enabled services. The MSLA also does not provide transparency in relation to what is meant by “allocating a service order”. Including providing the criteria for Users to know whether a service order has been allocated or not.

### Cancellation Fee

Based on WP's proposal, there should be no cancellation fee in relation to remote controlled services. Further Synergy considers there needs to be a more comprehensive definition of what is meant by “Customer Prevented”. The customer is not a party to the MSLA contract and should have no right to vary the contractual instructions between a User and WP (especially if WP intends to hold the User financially liable for any consequence that results). Further, WP is not required to adequately explain to the customer the possible consequences of allowing the customer to effectively vary the User's instructions to WP by providing WP instructions or requests in respect of the MSLA (including if any fees charged by WP to the User may then be passed onto the customer).

Noting WP's position in relation to indirect damages, Synergy requires transparency and substantiation in relation to the terms and the charges. These terms and charges should be aligned, for the applicable services, to what has been provided to WP under their sub-contractor agreements.

### WP's response

In response to Synergy's feedback, Western Power has:

- amended Schedule 3 of the MSLA to incorporate references to the Communication Rules;
- amended Schedule 4 to provide transparency of timing points and timing periods; and
- amended Schedule 5 to provide additional transparency of how fees will be applied.

Western Power also notes the drafted provisions align to those already in place under an executed negotiated (additional) service level agreement with Synergy.

Western Power considers the detailed transactional items raised are matters for the Communication Rules and Build Pack (B2B Procedures) not the Model SLA.

Western Power considers cancellation provisions more relevant to manual services, than remote services. Although Western Power is not seeking to exclude the ability of a User to cancel a service, in practice, due to the timing points for remote services (i.e. the service is typically completed in a shorter timeframe), Western Power expects this will almost completely eliminate the need for a User to cancel a requested service.

Western Power has defined “Customer Prevented” in Schedule 1 and does not propose to amend this definition.

### **Synergy's further comments**

WP has not addressed Synergy's the concerns Synergy has raised in its September Submission.

It is not clear whether WP is proposing a cancellation service under clause 6.6 of the Code (and contemplated under the *communication rules* or Build Pack) or whether it is proposing to impose contractual terms and liabilities that will be required to be contractually passed through to customers. and its application under the MSLA.

Giving regard to the matters raised in its September Submission, Synergy considers the Authority must determine whether:

1. WP's proposed cancellation terms and charges are consistent with the Code, in particular, clause 6.5;
2. the *Code of Conduct* contemplates it would be reasonable for small use customers to pay these charges under the terms proposed by WP;
3. WP's proposal is reflective of the actual or real contractual risk (or perceived risk), including whether it is consistent with the good faith and cost provisions under clause 6.6(1)(e) of the Code; and
3. the proposal is consistent with:
  - the promotion of regulatory outcomes that are in the public interest (section 26(1)(a) of the ERA Act);
  - the long-term interests of consumers in relation to the price, quality and reliability of goods and services (section 26(1)(b) of the ERA Act);
  - the need to promote competitive and fair market conduct (section 26(1)(e) of the ERA Act);
  - the need to prevent abuse of monopoly or market power (section 26(1)(f) of the ERA Act); and
  - what is currently proposed under the Build Pack (including the legal effect of what is currently in the Build Pack).

***Electricity Industry (Metering) Code 2012 (WA)***

(Extracts from the Code, excluding footnotes)

**1.5 Inconsistency with other enactments**

- (5) To the extent that this *Code* and the *Code of Conduct* are inconsistent, this *Code* does not operate to the extent of the inconsistency.

**2.1 Code Objectives**

- (1) The *Code objectives* are to:
- (a) promote the provision of accurate metering of *electricity* production and consumption;
  - (b) promote access to and confidence in *data* of parties to commercial *electricity* transactions;
  - (c) facilitate the operation of Part 8 and Part 9 of the Act, the *Customer Transfer Code* and the *Code of Conduct*.

**5.1 Network operator to use reasonable endeavours to provide access to metering services**

- (1) A *network operator* must use all reasonable endeavours to accommodate another *Code participant's*:
- (a) requirement to obtain a *metering service*; and
  - (b) requirements in connection with the negotiation of a *service level agreement*.
- (2) Without limiting clause 5.1(1), a *network operator* must:
- (a) expeditiously and diligently process all requests for a *service level agreement*; and
  - (b) negotiate in good faith with a *Code participant* regarding the terms for a *service level agreement*; and
  - (c) to the extent reasonably practicable in accordance with *good electricity industry practice*, permit a *Code participant* to acquire a *metering service* containing only those elements of the *metering service* which the *Code participant* wishes to acquire.
- (3) This clause 5.1 does not limit the *Access Code*, and, in the event of any conflict or inconsistency between this clause 5.1 and a provision of the *Access Code*, the latter is to prevail.



- (4) The information to be submitted by a *Code participant* to a *network operator* when requesting a *metering service* from the *network operator* is detailed in Appendix 4.

## 6.5 Requirements for all documents

A *document* must:

- (a) comply with this Code; and
- (b) not impose inappropriate barriers to entry to a market; and
- (c) be consistent with *good electricity industry practice*; and
- (d) be reasonable; and
- (e) be consistent with the *Code objectives*; and
- (f) be consistent with the *market rules*; and
- (g) unless this *Code* requires otherwise, be consistent with other enactments.

## 6.6 Requirements for model service level agreement

- (1) A *model service level agreement* must at least:

- (a) specify the *metering services* the *network operator*:
  - (i) must provide (which must include at least all the *metering services* that this *Code* and the *Customer Transfer Code* require the *network operator* to provide); and
  - (ii) may provide,  
to other *Code participants* on request, and
- (b) for each *metering service* referred to in clause 6.6(1)(a), specify:
  - (i) a detailed description of the *metering service*; and
  - (ii) a timeframe, and where appropriate other service levels, for the performance of the *metering service*,

and
- (c) subject to clause 5.21(9), specifies the maximum *charges* the *network operator* may impose for each *metering service* referred to in clause 6.6(1)(a); and

- (d) if any of the *charges* specified under clause 6.6(1)(c) is variable, provides details of the methodology and cost components that will be used to calculate the variable *charge* including (where applicable) hourly labour rates, distance-related costs and equipment usage costs; and
- (e) provide the *charges* which may be imposed under a *service level agreement* may not exceed the costs that would be incurred by a *network operator* acting in good faith and in accordance with *good electricity industry practice*, seeking to achieve the lowest sustainable costs of providing the relevant *metering service*; and
- (f) requires the *network operator* to *publish*, annually, a list setting out for each *metering point* on the *network* either:
  - (i) each *date for a scheduled meter reading* in the coming year; or
  - (ii) the *reading day number* to apply for the current year, and specifies the procedures by which, and frequency with which, this list may be revised; and
- (g) specify the procedures for a *Code participant* to make a request for *metering services* ("**metering service order**") and the procedures for dealing with a *metering service order*.

[Note: Without limiting clause 6.6(1), a *model service level agreement* must, at least:

- (a) specify service levels (including timeframes) under clause 3.11(2);
- (b) specify test and audit service levels under clause 5.21;
- (c) contain a mandatory charging provision under clause 5.21(9);
- (d) specify the service levels (including timeframes) for the provision, installation, operation and *maintenance* of *metering installations* under clause 3.591);
- (e) specify a time limit for the purposes of clause 5.13(2);
- (f) specify service levels (including timeframes) for *metering* repairs.]

- (2) The paragraphs of this clause 6.6 do not by implication limit each other.

### 6.11 Consultation with Code participants

- (1) This clause 6.11 does not apply in respect of a proposed *registration process* or proposed *mandatory link criteria*.
- (2) Before seeking the *Authority's* approval under clause 6.2, a *network operator* must:
  - (a) give *Code participants* a reasonable opportunity to make submissions to the *network operator* concerning the proposed *document*; and

- (b) take into account any submissions received from *Code participants* in developing the proposed *document*.
- (3) Before seeking the *Authority's* approval under clause 6.2, a *network operator* must provide a report to the *Authority* that:
  - (a) identifies the process through which the proposed *document* was developed, including details of consultation with *Code participants* under this clause 6.11; and
  - (b) describes how the proposed *document* complies with the criteria set out in clauses 6.5 to 6.9 (as applicable); and
  - (c) describes how the *network operator* took into account any submissions received from *Code participants*; and
  - (d) include copies of submissions received by the *network operator* from *Code participants*.
- (3A) The *network operator* must *publish* the report it provides to the *Authority* under clause 6.11(3).
- (4) The *Authority* must not approve a proposed *document* unless the *Authority* is satisfied that the *network operator* has complied with clauses 6.11(2) and 6.11(3).

#### **6.14 Requirements for approval by Authority**

The *Authority* must not approve a proposed *document* unless it is satisfied the proposed *document* meets the criteria set out in clauses 6.5 to 6.9 (as applicable).

#### **6.15 "Code objective" from Access Code to be taken into account**

- (1) Without limiting clause 6.14, in considering whether to approve a *model service level agreement* under this Division 6.2, the *Authority*:
  - (a) must take into account; and
  - (b) may give priority to,

the "Code objective" as defined in the Access Code.
- (2) Clause 6.15(1) does not limit the matters the *Authority* must or may take into account under this Code.

### ***Economic Regulation Authority Act 2003 (WA)***

## **26. Authority to have regard to certain matters**

(1) In performing its functions, other than the functions described in section 25(c) and (d), the Authority must have regard to –

- (a) the need to promote regulatory outcomes that are in the public interest;
- (b) the long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets;
- (c) the need to encourage investment in relevant markets;
- (d) the legitimate business interests of investors and service providers in relevant markets;
- (e) the need to promote competitive and fair market conduct;
- (f) the need to prevent abuse of monopoly or market power;
- (g) the need to promote transparent decision-making processes that involve public consultation.

### Table of resolved MSLA issues

Set out in the table below are the issues raised by Synergy in the September Submission in respect of which Synergy and WP have been able to agree. Subject to possible re-opening resulting from sequencing (see "key issues" section above), Synergy considers these issues closed.

Item	Issue (outline of September Submission)	Outline of WP's response to September Submission	Synergy's further comment
1.	<u>Definition of "Customer"</u> Needs to specify the definition of "customer" in section 3 of the EI Act (not the definitions used in sections 47 or 78) and also to customers of Users that are not loads but that own, operate or control generation facilities. This is important so the defined term is not confined to small use customers or loads.	WP has amended the definition of "Customer" as suggested by Synergy.	Synergy acknowledges that WP has, in response to Synergy's September Submission, amended the definition of Customer.
2.	<u>Definition of "Customer Funded Works – Terms and Conditions"</u> This definition is used in the MSLA in circumstances where WP contracts directly with the customer in relation to the provision of services (for example, contributions with respect to network augmentation that is not, at WP's discretion, complex or major works). Synergy is	Western Power agrees to delete this definition and references to "Customer Funded Works – Terms and Conditions" throughout the MSLA.	Synergy acknowledges WP has deleted the definition of, and references to, "Customer Funded Works – Terms and Conditions".

Item	Issue (outline of September Submission)	Outline of WP's response to September Submission	Synergy's further comment
	<p>concerned its use in eligibility criteria could have a number of unintended consequences, particularly because there does not appear to be any approval process for these terms and conditions, nor to Synergy's knowledge are their subject matter specified in any regulatory or legislative instrument.</p> <p>In Synergy's view, this arrangement is inconsistent with the <i>Code objectives</i> because it gives WP the ability to use its monopoly position in an unconstrained manner. Given they are effectively incorporated into the MSLA, Synergy considers they should, at a minimum, be provided to the Authority for its approval and consideration (and that any later proposed changes should be similarly monitored and controlled).</p> <p>Synergy understands WP may contract with any party in relation to services under the Access Code. However, the MSLA approved by the Authority applies only to services provided to a <i>user</i> by a <i>network operator</i> under the Code. This definition and its use in the MSLA appear to implicate a <i>user</i>. In Synergy's view this is beyond the scope and function of the MSLA. That is, the MSLA and a <i>user's</i> liability under the MSLA does</p>		

Item	Issue (outline of September Submission)	Outline of WP's response to September Submission	Synergy's further comment
	<p>not apply in relation to circumstances where WP has directly contracted with a customer for services – providing the contract for services does not contravene applicable law or the <i>user's</i> ETAC. Therefore, this definition, its contractual effect and process implications under the MSLA needs to be amended.</p> <p>In terms of process this is a significant change to the existing MSLA where the User requests a quote for the works. However, the works is still performed under MSLA terms and conditions. We also make comment in relation to this term in relation to proposed standard metering service ASP - 1, below.</p>		
3.	<p><u>Definition of "Due Date"</u></p> <p>Synergy, based on its current transaction volume and clause 5.1 of the Code, requires the due date to be amended to give Users 15 Business Days to reconcile and pay the invoice. In Synergy's view 10 Business Days would be reasonable if WP provided a B2B arrangement for reconciliation and payment.</p>	<p>Western Power has amended the definition of "Due Date" as suggested by Synergy.</p>	<p>Synergy acknowledges that WP has amended the definition of Due Date to refer to "15 Business Days" as per Synergy's request.</p>



Item	Issue (outline of September Submission)	Outline of WP's response to September Submission	Synergy's further comment
4.	<u>Definition of "Electronic"</u> This definition needs to be consistent with the definition in the Code.	Western Power has amended the definition of "Electronic" as suggested by Synergy.	Synergy acknowledges that WP has amended the definition to reflect the definition of "Electronic" in the Code.
5.	<u>Definition of "Re-energise"</u> The definition currently picks up the meaning given in the <i>Code of Conduct</i> , but that definition only applies to small use customers. For use in the MSLA, the definition of "re - energise" needs to be broadened so as to apply to all <i>customers</i> , not just small use.	Western Power has amended the definition of "Re-energise", as suggested by Synergy.	Synergy notes that WP has, in response to the September Submission, amended the proposed definition of "Re-energise". Synergy does not take issue with WP's proposed amended definition.
6.	<u>Definition of "Service Order"</u> It is not clear by what is meant by a "valid request" and Synergy is concerned that any uncertainty could hinder or possibly even prevent a User's access to the services under the MSLA. In Synergy's view any service request submitted in accordance with the Code or <i>communication rules</i> is a valid request. Therefore, the word "valid" should be deleted from the definition.	Western Power has amended the definition of "Service Order", as requested by Synergy.	Synergy acknowledges that WP has amended the definition of "Service Order" by removing the word "valid" from that definition.

Item	Issue (outline of September Submission)	Outline of WP's response to September Submission	Synergy's further comment
7.	<p data-bbox="297 331 674 360"><u>Definition of "Standard Supply"</u></p> <p data-bbox="297 384 891 1059">WP has now provided a classification for what is a Standard Supply. Services and prices under the MSLA will only apply to a customer with a "Standard Supply". Customers who do not have a Standard Supply will require either the customer or the User to contract with WP under separate terms and condition. The process and contractual obligation in relation to multiple parties under the MSLA is not clear. Synergy's position on the MSLA is it must explicitly deal with all metrology arrangements, not just some. The intent of the MSLA is to provide a baseline contract for metering services with <i>users</i> having the ability to enter into alternative contracts in the event the MSLA is "not fit for purpose". <i>Users</i> should not be compelled to negotiate metering services with a monopoly service provider in relation to the provision of metrology services from a regulated asset.</p> <p data-bbox="297 1134 891 1278">WP' s proposed approach is not consistent with clause 6.6(1)(a) - (c) and (e) of the Code. In Synergy's view, it is also inconsistent with the <i>Code objectives</i>.</p>	<p data-bbox="913 331 1559 432">Western Power agrees to delete this definition and references to "Standard Supply" throughout the MSLA.</p>	<p data-bbox="1585 331 2119 432">Synergy acknowledges that WP has deleted the definition of, and the references to, "Standard Supply" throughout the MSLA.</p>

Item	Issue (outline of September Submission)	Outline of WP's response to September Submission	Synergy's further comment
8.	<p><u>Clause 2.2 Termination</u></p> <p>See Synergy's comments in relation to clause 2.1.</p> <p>[Comments on clause 2.1 – "The clause contemplates the MSLA will need to be executed as an agreement before it has legal effect. However, in some cases the MSLA terms are deemed to apply where there is no written agreement or "execution" of it (e.g. see Code clause 5.2). Clause 2.1 therefore needs to be amended to also allow the Term of the agreement to commence where the MSLA is deemed to apply without any execution."]</p>	<p>See Western Power's comments above regarding clause 2.1.</p> <p>[Comments on clause 2.1 – "Western Power believes that such a change is unnecessary given the operation of clause 5.2 of the Code. Western Power does not propose to amend clause 2.1 as suggested."]</p>	<p>Synergy does not suggest any amendments to clause 2.2 of the proposed MSLA.</p> <p>However, see Synergy's further comments and requested amendments to clause 2.1 and the definition of "Commencement Date"</p>
9.	<p><u>Clause 3.1 Metering Services Terms</u></p> <p>The provision requires WP to provide the service in accordance with the terms of the MSLA. However, some services require the services can only be provided in accordance with the Customer Funded Works Terms and Conditions but does not make it clear who must comply with these additional terms and conditions.</p>	<p>As noted above (at item 2), Western Power has deleted the references to "Customer Funded Works – Terms and Conditions" throughout the new MSLA.</p>	<p>Synergy acknowledges WP has deleted the definition of, and references to, "Customer Funded Works – Terms and Conditions".</p>
10.	<p><u>Clause 4.1(c) Charges Meter Tests</u></p> <p>Clause 5.21(10) of the Code requires that any unwritten service level agreement in respect of</p>	<p>Western Power has amended clause 4.1(c) of the MSLA as requested by Synergy.</p>	<p>Synergy acknowledges that WP has amended clause 4.1(c) of the proposed MSLA as per Synergy's request.</p>

Item	Issue (outline of September Submission)	Outline of WP's response to September Submission	Synergy's further comment
	<p>testing of the <i>metering installations</i>, or the auditing of information from the <i>meters</i> associated with the <i>metering installations</i>, or both, must include a provision that no charge is to be imposed for undertaking a test or audit of <i>meters</i> associated with the <i>metering installations</i> if the test or audit reveals a non-compliance with the Code.</p> <p>However, the effect of clause 4.1(c) of the MSLA is that a User is liable to pay for a meter test unless the meter test reveals energy data errors in favour of WP. Clause 5.21(10) is not so narrow and clause 4.1(c) of the MSLA is therefore inconsistent with the Code requirement. The Code requires that WP must not impose a charge for the <i>meter</i> test or audit if the results reveal a non-compliance with the Code irrespective of whose favour the <i>energy data</i> is perceived to be in. Further the provision is inconsistent with clause 4.11(2) of the <i>Code of Conduct</i> where a <i>user</i> is acting on behalf of a small use customer and hence inconsistent with clause 2.1(c) of the Code.</p> <p>Further, it is important to note that where <i>energy data</i> is non-compliant, either higher or lower, the <i>user</i> always has a liability – either to</p>		

Item	Issue (outline of September Submission)	Outline of WP's response to September Submission	Synergy's further comment
	the <i>network operator</i> or the <i>customer</i> under the <i>Code of Conduct</i> (refer clauses 4.17 - 4.19). It is difficult to contemplate a practical scenario where non-compliant <i>energy data</i> provided by WP can benefit a <i>user</i> or be in the favour of a <i>user</i> . Therefore, Synergy requires this clause to be amended to be consistent with the Code so a User is not required to pay any fee if the test or audit reveals any non-compliance with the Code. For example, delete the words "such it results in Energy Data errors being recorded in Western Power's favour".		
11.	<u>Clause 11 Set off</u> Clause 11 would only give WP (not Users) a right of set off. WP has not provided any justification for this asymmetrical and ostensibly unreasonable approach. Synergy requests that mutual set off rights should apply for both parties.	Western Power has amended this clause to reflect the ETAC provisions. These allow set - off by either party of payments accrued due.	Synergy acknowledges that WP has, in response to Synergy's request, amended clause 11 of the proposed MSLA to allow for mutual set-off rights.
12.	<u>Clause 12 Assignment and Encumbrances</u> Clause 12(c) – the same exception as applies here for WP should also apply for Synergy (which	Western Power has amended clause 12 as requested.	Synergy acknowledges that WP has, in response to Synergy's request, amended clause 12(c) to the proposed MSLA to allow

Item	Issue (outline of September Submission)	Outline of WP's response to September Submission	Synergy's further comment
	is also State owned).		for mutual set-off rights.
13.	<p><u>Clause 13 Confidential Information</u></p> <p>WP's current SLA does not contain confidentiality obligations. In Synergy's view, this is because the confidentiality provisions of the Code are sufficiently robust to ensure that each of WP and Users confidential information is protected. The establishment of a new confidentiality regime under the MSLA introduces confusion and could give rise to a situation where Users are not free to advise their customers on prices for extended metering services or scheduled dates for metering services to be provided by WP at a customer's premises.</p> <p>To the extent that a confidentiality regime should be provided for, which Synergy does not accept, Synergy queries how a recipient is expected to know if information it receives would fit within any of the requirements of clause 13.1(c),(d) or (e) unless the party providing the information expressly says so (which the current drafting does not require them to do). Further, in relation to permitted disclosures, Synergy considers that Users and WP should be able to disclose confidential</p>	<p>Western Power has deleted this clause as requested</p> <p>The confidentiality provisions were included consistent with Western Power's standard access contract however Western Power is willing to delete these provisions.</p>	Synergy acknowledges that WP has deleted clause 13 as per Synergy's request.

Item	Issue (outline of September Submission)	Outline of WP's response to September Submission	Synergy's further comment
	<p>information to the Minister for Energy and his/her delegates and staff.</p> <p>Synergy also queries if the 7 year time limit on enforceability post termination (clause 13.10) is appropriate if any confidential information would still be confidential at or after that time?</p>		
14.	<p><u>MP-1 (Meter installation and energisation) (previously named "ASP-1 (New connection)" in WP's initial proposed MSLA)</u></p> <p>Customer Funded Work</p> <p>Synergy considers this matter is inconsistent with clauses 6.6(1)(a),(b), (c) and (e) of the Code. It is not clear what is meant by Customer Funded Works and how third party terms and conditions for them can legally apply under the MSLA including modifications to the <i>network</i> effected under the AQP and a <i>user's</i> ETAC.</p> <p>If WP has unfettered control over the content of those Customer Funded Works terms and conditions then it could seek to use them to introduce provisions that are prejudicial to Users and not approved by the Authority. Further, it is not clear how this is an eligibility criterion. The MSLA, under the Code, needs to specify the</p>	<p>In response to Synergy's feedback, Western Power has removed this reference, acknowledging these are fundamentally dealt with in other instruments.</p>	<p>Synergy acknowledges WP's response and it has removed the references to "Customer Funded Work".</p> <p>However, see Synergy's further comments and requested amendments above regarding other aspects of MP-1 which remain outstanding.</p>



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	maximum charges that may be imposed – it is not clear what WP is proposing in relation to the legal effect Customer Funded Work will have under a MSLA. In Synergy's view this is not relevant to the MSLA and should be removed.		