



**Submission to the Economic Regulation Authority -
ERA consultation on Western Power's proposed
Model Service Level Agreement
17 April 2020**

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Executive summary

Matter	<p>The Economic Regulation Authority (ERA) has published a consultation paper (consultation paper) on its findings on Western Power's (WP) proposed amendments to its model service level agreement (MSLA). The ERA has invited Metering Code participants and interested parties to make submissions on WP's proposed MSLA and the ERA's findings.</p>
Context	<p>WP's MSLA is a requirement under the Electricity Industry Metering Code 2012 (Code) and was first approved by the ERA in March 2006 and has remained unchanged since. The MSLA details the metering services WP must provide and the terms and conditions it must offer, including applicable charges. The MSLA automatically applies to metering services if Synergy (user) does not have its own metering agreement with WP.</p> <p>In August 2017, WP released its proposed MSLA changes for public comment. Synergy made several MSLA submissions in November 2017 and July 2019. On 13 November 2019, WP submitted a proposed revised MSLA to the ERA for approval and the ERA subsequently published and invited public submissions.</p> <p>Synergy was the only market participant to make a submission to the ERA on 19 December 2019 (December 2019 submission). On 18 March 2020 the ERA published a consultation paper outlining its MSLA decisions and proposed amendments and invited further public submissions.</p>
Scope	<p>The ERA has sought stakeholder feedback in relation to the following matters detailed in its consultation paper:</p> <ul style="list-style-type: none">• The process for amending the meter reading schedule.• Clarification of service standards.• Clarification of charges included in network charges.• The treatment of travel costs in fees for metering services.• Fees for meter exchanges.• The process for updating metering service fees.• Verification that cancellation fees only include actual costs incurred that could not be avoided.• Alignment of the MSLA terms and conditions with the standard access contract - modified where necessary for specific Code requirements.• Clarification of WP's and users' obligations and responsibilities for the delivery of MSLA services and consequences if the metering services are not provided in accordance with the MSLA.
Key issues	<p>Overall Synergy is satisfied with and supports the ERA's MSLA decisions contained within its consultation paper. There are a small number of matters detailed in this submission that Synergy seeks further consideration by the ERA. Subject to stakeholder feedback and the ERA's consideration of the matters raised by Synergy, Synergy's expectation is the MSLA can be concluded and approved by ERA to facilitate a commencement date of 1 July 2020 or reasonably soon thereafter.</p>

A. INTRODUCTION

The ERA has published a consultation paper on its findings on WP's proposed amendments to its MSLA. The ERA has invited Code participants and interested parties to make submissions on WP's proposed MSLA and the ERA's findings.

Overall Synergy is satisfied and supports the ERA's MSLA decisions. There are a small number of matters detailed in this submission that Synergy seeks further consideration by the ERA. Subject to stakeholder feedback Synergy's expectation is the MSLA can be concluded and approved by ERA to facilitate a commencement date of 1 July 2020 or reasonably soon thereafter.

B. METERING SERVICES AND CHARGES

Metering services offered

The ERA is seeking feedback from users of WP's metering services to confirm that the list of services includes all of the services required under the Metering Code, Code of Conduct and the Customer Transfer Code.

The ERA's preliminary finding is that the proposed list of services meets the requirements of clause 6.6(1)(a)(i) to include at least all of the metering services the *network operator* is required to provide under the Code, the Code of Conduct and the Customer Transfer Code. In addition, Synergy notes clause 5.1 of the Code provides the requirements for users to also obtain services under a negotiated service level agreement.

Synergy supports the ERA's findings and considers the metering services offered by WP in the proposed MSLA is sufficient to meet Synergy's requirements.

Metering service description

The ERA is seeking feedback from users of WP's metering services to confirm that the proposed descriptions are sufficiently detailed to enable users to clearly understand the service that will be provided.

Synergy notes the ERA considers the level of detail in a MSLA needs to be sufficient to enable users to clearly understand the service that will be delivered and paid for. The ERA also noted the level of detail in the proposed MSLA descriptions appears to be at least equal to the descriptions in the current MSLA.

Synergy supports the ERA's findings and considers WP's proposed descriptions are sufficiently detailed to understand the service that will be delivered together with the other clarifications in the terms and conditions provide sufficient detail of the service that will be delivered.

Process for requesting metering services

The ERA is seeking feedback from users of Western Power's metering services to confirm that the proposed processes for requesting services meet the requirements of the Metering Code.

ERA required amendment

The MSLA must include:

- a process for requesting a preferred appointment time for all metering services
- a process for requesting the cancellation of services.

The process for requesting metering services under the MSLA is dependent on the operation of the (build pack) communication rules. Synergy's December 2019 submission supported the revised processes for metering service transactions.

However, the ERA has determined there are two limitations with the proposed process:

1. **Appointments:** Appendix 4 of the Code provides for users to request a preferred appointment date and time and the network operator must make reasonable endeavours to perform the metering service at that preferred date and time. Only the proposed non-scheduled special metering service includes provisions for a user to request a nominated date or appointment time.
2. **Cancelling service orders:** Appendix 4 of the Code, requires the network operator to publish a form to allow a user to request to cancel a service order. The proposed MSLA includes cancellation fees but a process and form to request a cancellation is not included in the MSLA.

It is important to note under clause 6.7 of the Code, the communications rules are required to specify the detailed technical specifications including file formats, protocols and timeframes as to how data and information communication is to be implemented to permit users to design and commission systems for it to engage in business-to-business communications for Code purposes. The contractual matters and terms such as what the service does, how it is requested and the timeframes that apply should be detailed in the MSLA as contemplated under clause 6.1 of the Code.

Synergy supports the ERA's findings and notes that the (build pack) communication rules currently makes references to how appointments and service order cancellations are managed including timeframes. Synergy supports further clarification of these requirements in the MSLA to ensure the matters detailed in the build pack are consistent with the Code. Therefore, Synergy also supports the ERA's required amendment in relation to appointments and service order cancellations.

Synergy also understands WP has consulted participants on making further changes to the build pack to support the roll out of its advanced metering infrastructure. Therefore, Synergy considers the matters (detailed above) raised by the ERA would also apply to services in relation to the new advanced metering infrastructure.

Meter reading schedule**ERA required amendment**

The MSLA must include details about when and how changes can be made to the meter reading schedule. This should include when users will be notified, what consultation will be undertaken and how Western Power will ensure users are able to meet their billing obligations.

The ERA's preliminary finding is that the proposed MSLA meets the requirements of clause 6.6(1)(f) of the Code to publish annually a meter reading schedule and assign meter reading dates to each meter. However, the proposed MSLA does not comply with the requirement to specify the procedures (including frequency) as to how the meter reading schedule may be revised. Changes to the reading day number affects a retailer's customer billing.

The ERA has determined greater detail is needed about when and how changes can be made to the meter reading schedule, including when users will be notified, what consultation will be undertaken and how WP will ensure users are able to meet their customer obligations.

Synergy's December 2019 submission did not discuss the process of how changes are made to the meter reading schedule. The meter reading schedule directly affects Synergy's ability to comply with its billing obligations under the Code of Conduct. In addition, Synergy notes the process for when users will be notified, what consultation will be undertaken and how WP will ensure users are able to meet their billing obligations is currently not described in the MSLA. Therefore, Synergy supports the ERA's required amendment and considers it will provide users with greater regulatory certainty. Synergy also considers the ERA's required amendment is consistent with clause 5.8 of the Code.

Time frames and service levels

The ERA is seeking feedback from users of WP's metering services to confirm that the proposed service standards, including energy data provision accuracy, are consistent with the requirements of the Metering Code.

ERA required amendment

The KPIs must be removed from the MSLA.

Energy data provision accuracy

WP has amended the energy data provision accuracy in the proposed MSLA. WP has proposed the energy data provision accuracy will be measured on the ratio of actual values (that is, based on a meter reading) to the total number of energy data values (that is, inclusive of estimated and substituted values) based on the following levels:

- Manually read meters (not including self-read) is 96%
- Remotely read meters (not including self-read) is 98%
- Manual meter reading errors (not including self-read) is less than or equal to 2%

Synergy did not discuss the energy data provision accuracy in its last submission. However, Synergy prefers and supports the proposed approach and levels in measuring energy data provision accuracy to the method outlined in the current MSLA.

Service standards

The ERA's preliminary finding is that the proposed MSLA complies with the requirement to include timeframes and service levels for each metering service and that the proposed timeframes and service levels meet the minimum requirements set out in the Code. However, the ERA determined unless a key performance indicator (**KPI**) was set to 100 per cent, it results in there not being a definitive timeframe for each service. On that basis, the ERA's preliminary finding is that KPIs are not consistent with the requirements of clause 6.6(1)(b)(ii) of the Code to specify a timeframe for each service.

Synergy, in its last submission, supported WP's proposed service standards. However, Synergy notes that there needs to be regulatory certainty in how service requests for customers outside of the KPI levels are treated under the Code and Code of Conduct. A situation cannot exist where the Code of Conduct requires an absolute (i.e 100 per cent) metering service standard but the Code permits a lesser standard. Therefore, Synergy supports the ERA's required amendment and considers it will provide users with greater regulatory certainty. Synergy also considers the required amendment is consistent with clause 1.5(5) and 5.8 of the Code.

Charges for Standard Metering Services

ERA required amendment

Fees for Standard Metering Service that are recovered through network tariffs must be removed from Table 5 in Schedule 5 of the proposed MSLA.

The proposed MSLA includes fees for some Standard Metering Services in Table 5 of Schedule 5. The ERA determined, although there are footnotes stating that these fees are included in the network tariff metering charges under the access arrangement, their inclusion in the proposed MSLA (Table 5) creates confusion, as indicated in Synergy's submission.

Synergy's December 2019 submission supported metering reference service prices in the access arrangement price list such that all charges for metering reference services can be reviewed and updated on an annual basis, in accordance with the Access Code. In addition, Synergy understands that WP's preferred approach to pricing the new metering reference services is for the prices to be published in the access arrangement price list. Therefore, Synergy supports the ERA's findings and required amendment. Synergy's preference is for each metering reference service specified within the 2020/21 access arrangement price list to be a stand-alone published price and not a default metering price plus additional charge approach, as this will avoid unnecessary complexity and cost when reconciling metering charges.

Charges for quotable work

ERA required amendment

The MSLA must include details of any unit rates used in the calculation of fees for services priced on application.

Synergy's December 2019 submission noted there was insufficient published information for users to satisfy themselves that WP had sought to achieve the lowest sustainable cost of providing metering services. Therefore, Synergy sought the ERA to ensure metering charges were consistent with the Code requirements and were not based on "cost plus pricing". In addition, Synergy also highlighted the unit rates to be used in WP's quotation methodology has not been included in the MSLA.

The ERA determined WP has been under-recovering its costs for extended metering services. This indicates the current fees in the MSLA are below cost and, presumably, would have motivated WP to manage its expenditure efficiently to minimise losses. For that reason, the ERA has found it is reasonable to assume the proposed starting prices are based on efficient costs. Synergy supports the ERA's findings.

Synergy notes the ERA is seeking further clarification from WP on certain charges and noted that most services are charged on a fixed fee basis. However, charges for manual de-energisation and re-energisation services for high voltage supplies are based on WP providing a quote (price on application). The ERA determined the Code requires any applicable hourly labour rates, distance-related costs or equipment usage costs used in the calculation of the price to be included in the MSLA. Synergy supports the ERA's findings and required amendment.

Travel Costs

ERA required amendment

Travel costs should be averaged across all customers.

Under the current MSLA, service charges include 30 minutes of travel. Any additional travel is charged at \$93.50 per hour for vehicle travel or \$85 per hour plus airfare and accommodation for air travel. The proposed MSLA consolidates all travel costs in the charge for the metering service and specifies a separate metering service charge for country and metropolitan customers.

The ERA determined this can result in country and metropolitan customers paying a different charge for the same service indicating that this "...can result in differences in fees of between \$30 to \$112 depending on the service" resulting in country customers paying significantly higher fees than metropolitan customers. Consequently, the ERA determined travel costs should be averaged across all customers. The ERA's approach is consistent with how Synergy's passes through certain metering costs to customers under the *Energy Operators (Electricity Generation and Retail Corporation) (Charges) By-laws 2006*. Therefore, Synergy supports the ERA's findings and required amendment.

Prices for meters, radio frequency communication installations and meter re-configurations

ERA seeking further information from Western Power

Western Power must provide information and evidence of how its proposed prices for meters, radio frequency communication installations and meter re-configurations will not result in meters being replaced unnecessarily and how the difference between the proposed MSLA fee and actual cost will be funded.

In its December 2019 submission, Synergy supported WP's proposed fees for meter exchanges and radio frequency communication links. It is still the case that Synergy considers the proposed fees will encourage the uptake of remote metering services and allow customers to benefit from the new services this infrastructure will provide. In addition WP's proposed fee structure will also assist customers experiencing payment difficulties and financial hardship. For this class of customer a user can elect to exchange an existing meter that cannot provide interval data remotely. By providing payment difficulty and financial hardship customers with daily interval data this can assist them to understand how their usage affects their electricity bill.

The ERA has expressed concern that charging for new meters at what it considers to be below cost could lead to meters being replaced unnecessarily. For example, if the price for a meter re-configuration is the same as a meter exchange, a user may be motivated to request a new meter even when it would be more cost-effective to reconfigure the existing meter.

The ERA also indicated that it is unclear, from WP's proposal, how it intends the cost of meter exchanges requested by users will be funded. Currently, only metering expenditure for new connections and meter replacements are included in regulatory capital expenditure under the access arrangement. Meter exchanges initiated by users are paid for by the user through the MSLA fees and passed through to the customer who requests the service.

Synergy's experience with WP operationally is that a meter exchange is only performed when meter reconfiguration is not technically able to deliver the service requested by the retailer for example the provision of remote meter reading services. Synergy expects this arrangement to continue. In addition, Synergy considers the proposed pricing will support the uptake of AMI meters and therefore, facilitate the implementation of the state government's DER road map.

Synergy considers that there are two matters that the ERA should seek further clarification on:

1. **Funding meter exchanges.** User requested meter exchanges/reconfigurations are funded and treated under the new facilities investment test and the regulated asset base (RAB). Synergy supports the least cost and efficient approach and considers clarity is necessary to determine whether the approach that will be taken is the least cost approach. Synergy's expectation is if a meter is exchanged, the user funded portion would not be added to the RAB and the cost of the old meter would be removed from the RAB (and not continue to be retained in the RAB).

Synergy encourages the ERA to address this matter in its MSLA decision.

2. **Basis for pricing remote energy data services:** In its November submission Synergy indicated it discussed with WP the basis of some of the additional meter (read) charges. Synergy understood from these discussions the additional (incremental) metering charges in the MSLA, for the provision of remote energy data, are based exclusively on the cost of providing the data through cellular communications (not radio mesh). Synergy is concerned with this approach because it considers the cost of providing remote energy data through radio mesh communications is generally cheaper than through cellular communications (but subject to topography and radio mesh coverage). If this was correct it would mean the price list is not reflecting the lowest sustainable cost for that service as required by the Code.

Synergy encourages the ERA to address this matter in the 2020/21 networks price list.

Annual updates to charges
ERA required amendment
The annual update of prices must be amended to use the pricing parameters approved in the access arrangement for the period 2017/18 to 2021/22.
Formula for price adjustments
ERA required amendment
Proposed new clause 1.3 must be amended to use the Consumer Price Index with adjustments for labour cost escalation and productivity improvements.

The proposed MSLA allowed all metering charges to be updated automatically each year based on the Wage Price Index (**WPI**) published by the Australian Bureau of Statistics.

Synergy's December 2019 submission did not support the WPI escalation approach as it considered increasing charges is not consistent with clause 6.6(1)(e) of the Code and is contrary to a network operator seeking to achieve the lowest sustainable costs of providing metering services. Synergy was also concerned by broadly applying the WPI to costs could create an inefficient culture and provide an incentive for a network service provider to not pro-actively seek to achieve the lowest sustainable cost or pass through any achieved cost savings. Therefore, Synergy requested the ERA to consider whether increasing fees and charges by the proposed WPI mechanism is consistent with clause 6.6(1)(e) of the Code.

The ERA determined that automatic updates based on the WPI is not consistent with the requirement in clause 6.6(1) of the Code including that prices 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.

The ERA considered periodic updates of the MSLA charges should be undertaken to ensure prices are current and continue to reflect efficient costs. However, this would best be achieved by using the pricing parameters approved in the access arrangement (AA4) for the period 2017/18 to 2021/22. These parameters include:

- The Consumer Price Index – based on the most recent December quarter compared to the December quarter in the previous year.
- Labour escalation – 0.81 per cent to be applied to labour costs only.
- Productivity improvement – minus one per cent each year.

Synergy supports the ERA's findings and required amendment.

Service cancellation fees

ERA required amendment

WP has not demonstrated that its proposed cancellation fees are consistent with the requirements set out in Appendix 4 of the Metering Code. WP must revise the proposed fees and/or provide evidence to demonstrate they are consistent with the requirements of Appendix A4 in the Metering Code.

The proposed MSLA introduced provisions for the network operator to levy charges in relation to a user cancelling a service request. The requirements for service cancellations are detailed in Appendix 4 of the Code. Synergy's December 2019 submission requested the ERA to determine if the cancellation fees users are required to pay under the proposed MSLA is consistent with clause A4.2(3), A4.2(4) and A4.2(5) of the Code.

The ERA determined Appendix 4 of the Code permits the network operator to require the user to pay the amount incurred by the network operator, acting efficiently in accordance with good electricity industry practice, before the work or costs were able to be stopped or cancelled. The network operator must provide evidence to the user of this amount. The ERA considered the proposed MSLA did not provide any information on or evidence of how the proposed cancellation fees meet the Code requirements for cancelled services.

Therefore, the ERA required the MSLA to be amended to provide evidence that the cancellation fees are consistent with the requirements of Appendix A4 of the Code. Synergy supports the ERA's findings and required amendment.

C. TERMS AND CONDITIONS

Service terms under clauses 3.1 – 3.4

ERA required amendment

The proposed parameters in clause 3.2(2) must be clearly defined so parties understand their respective obligations and there is no dispute about whether Western Power should have delivered the service or not.

Synergy supports the ERA's findings and required amendment.

Metering service charges terms under clause 4.1

Synergy supports the ERA's findings.

Invoicing, payment and GST terms under clauses 5.1 to 5.6

Synergy supports the ERA's findings and agrees the definition of "Business Day" should apply to the SWIS and all customers in the SWIS, not only the Perth metro region.

Force majeure terms under clause 8

ERA required Amendment

Proposed clause 8.2 and 8.3 must be amended as follows:

Subject to clauses 8.3 and 8.5, if a Force Majeure Event occurs and the Affected Person is unable wholly or in part to perform any obligation under this Agreement, then the Affected Person must:

- (a) notify the other person as soon as reasonably practicable on becoming aware of a Force Majeure Event likely to prevent the operation of clause 5.8 of the Code or adversely affect any customer using Life Support Equipment; and
- (b) subject to clause 8.2(a) notify the other Party if the FM Period continues for a period of two days or longer as soon as reasonably practicable and in any event within 5 Business Days of a Party becoming aware an event is or is likely to be a Force Majeure Event; and
- (c) use reasonable endeavours (including any reasonable expenditure of funds ...

...

An Affected Person is not obliged to incur any expenditure in complying with clause 8.2(b) if the Force Majeure Event is constituted by a breach of, or failure to comply with, this Agreement or the Code by the other Party.

Synergy supports the ERA's findings but suggests the clauses are redrafted to read as follows:

- “(a) notify the other Party as soon as reasonably practicable and in any event within 1 day of a Party becoming aware of a Force Majeure Event is likely to prevent the operation of clause 5.8 of the Code or adversely affect any customer using Life Support Equipment; and

- (b) in circumstances other than those under clause 8.2(a), if the FM Period continues for a period of two days or longer, notify the other Party as soon as reasonably practicable and in any event within 5 Business Days of a Party becoming aware an event is or is likely to be a Force Majeure Event; and” .

Liability and indemnity terms under clause 7

ERA Required amendment

Proposed clause 7 must be amended to be consistent with provisions in the electricity transfer access contract and ensure that Western Power is required to pay compensation if its failure to deliver a service in line with the service standard results in a user incurring additional costs.

Synergy supports the ERA’s findings and required amendment.

Dispute resolution terms under clause 10

ERA required amendment

The definition of “dispute must be amended to be consistent with the Metering Code.

The dispute resolution provision is largely unchanged from the current MLSA. However, a new defined term “dispute” has been added to the proposed MLSA which is not aligned with the Code. The ERA has determined the definition of “dispute” in the MLSA should be consistent with the Code. Synergy supports the ERA’s findings and required amendment.

Assignment and encumbrances terms under clause 12

ERA required amendment

The proposed changes to the assignment and encumbrances clause must be amended so that they apply only to Western Power.

Synergy supports the ERA’s findings and required amendment.

Entire agreement terms under clause 13.8

ERA required amendment

Clause 13.8 must be amended as follows:

This Agreement constitutes the entire agreement between the Parties as to its subject matter and, to the extent permitted by Law, supersedes all previous agreements, arrangements, representations or understandings model service level agreements in effect under the Metering Code.

Synergy supports the ERA’s findings and required amendment.