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Ms Sara O'Connor
Economic Regulation Authority
Level 4, Albert Facey House
469 Wellington Street, Perth WA 6000
Lodged electronically at: https://www.erawa.com.au/consultation

Dear Ms O'Connor

Discussion paper on the Electricity Generation and Retail Corporation regulatory scheme: 2020 effectiveness review

Change Energy welcomes the opportunity to comment on the Economic Regulation Authority's (ERA's) discussion paper for the 2020 review of the effectiveness of the Electricity Generation and Retail Corporation regulatory scheme (EGRC Scheme).

We note that the EGRC Scheme was put in place when the former Verve Energy and Synergy businesses were merged in 2014 to limit the new vertically integrated business from exercising market power in the Wholesale Electricity Market (WEM). We consider the EGRC Scheme fundamental to supporting private sector participation in the WEM, as it provides a transparent price at which retailers can buy and sell energy and places an obligation on Synergy to enter into trades at those prices.

We agree with the ERA that there continues to be deficiencies in the design of the EGRC Scheme, and that these could be amended to deliver better outcomes for consumers. In particular, we support:

- reducing the buy sell spread based on the Deloitte method, with consideration of expected outcomes in a competitive market and benchmarking results;
- introducing greater transparency of internal commercial outcomes through more granular financial reporting, including for example by business unit, market segment and product offering;
- publishing the transfer prices to provide clearer signals in the market and hold Synergy to account when pricing to contestable customers; and
- introducing peak and off peak standard products that generally align with solar production.

Our comments on each of the questions raised in the discussion paper are attached.

If you have any questions or would like to arrange a meeting to discuss any aspect of this submission, please contact me at Geoff.Gaston@changeenergy.com.au.

Yours Sincerely

[redacted]

Geoff Gaston
CEO

ATTACHMENT A

This attachment addresses each of the questions raised by the ERA in its discussion paper.

1. What benefits do counterparties trading with Synergy anticipate would arise from changing the regulations to include lower maximum spreads for advertised standard products?
2. What costs and benefits does Synergy anticipate if the alternative spreads in section 3.4.3 are implemented?

Change Energy supports the ERA's analysis. We note the ERA has determined a maximum spread of 10% on quarterly products and 5% on annual products would still result in Synergy making a profit 69% of the time. We therefore would support the implementation of a maximum spread of 5-10% or lower.

As highlighted in the ERA's analysis, the standard products are infrequently traded, so we do not expect a reduction in the spread to result in a greater number of standard product trades. However, the standard product regime provides price transparency and product availability for small retailers as a point from which negotiations can occur. The buy and sell prices are therefore paramount to any participant reliant on trading with Synergy (most smaller participants in the WEM).

There is no benefit to Synergy of reducing the maximum spread. It would reduce the profitability of both standard products and non-standard products traded with counterparties, thereby negatively affecting commercial outcomes for Synergy. However, a lower maximum spread will make purchasing electricity in the WEM cheaper, which ultimately benefits consumers – in this instance contestable customers.

Should Synergy (or the government) consider the ERA's proposed spread would result in significant negative commercial outcomes, we would expect robust justification and analysis to be published in support of a higher buy sell spread being retained.

3. What factors should inform the setting of a new maximum spread:
   a) the updated Deloitte method (see Appendix 5)
   b) the outcomes expected in a competitive market
   c) the risk to Synergy of offering standard products
   d) benchmarking with other jurisdictions
   e) any other factors?

Change Energy appreciates the difficulty of establishing a maximum spread that would reflect competitive prices given the absence of a competitive market in WA. While we consider the Deloitte method to be reasonable, we recommend using a combination of expected outcomes in a competitive market and benchmarking with other jurisdictions would provide a better approximation.

We do not consider the risk to Synergy should inform the maximum spread as it is wholly within Synergy's control to manage.

4. How could a new maximum standard product spread by implemented to both minimise any additional risk to Synergy and increase the effectiveness of the standard products regime? This could be phasing in a lower spread over several years or reducing the minimum volumes of standard products available for the first year of a lower spread. For example lowering the total standard product volume for sale (150MW to 100MW). Can stakeholders suggest alternative options?

The reduced maximum spread(s) should be implemented as soon as possible with immediate effect. Change Energy does not consider any transitional arrangements are necessary. The fact that the Minister for Energy reduced the maximum spread from 20% to 15% and then back up to 20% within a year (2020), shows changes in the spread(s) can be done with minimal concern.

5. Are there any other factors the ERA should consider regarding the maximum standard product spread?

The ERA (and the government) should consider the net benefit of the proposed changes to electricity consumers and the overall economy though reductions to cost of goods and services produced by contestable customers.

6. If Synergy were obliged to publish more detailed periodic financial reports, including separate financial results for its contestable and non-contestable customers, and gas and electricity: a) How would market participants use this information? b) Would having the information improve the effectiveness of the EGRC scheme? If so, how?

It is Change Energy's experience that there is a clear disconnect between the:

- wholesale price offerings (through standard product and non-standard products); and
- prices Synergy's retail business unit offers to contestable customers.

This is true across all customer segments – from large industrial customers down to small use customers.

We would support more granular and segmented financial reporting showing the different business units (generation, wholesale and retail), as well as between different market/customer segments. A better understanding of how costs are allocated and/or transferred between the different business units and market/customer segments would ultimately provide the ERA, market participants and potential new investors in WA energy markets a view of the risks inherent in competing with a large state-owned enterprise.

Perhaps more importantly, this level of detail would provide electricity consumers and taxpayers the information necessary to understand how Synergy's significant losses are being generated and what can be done to reduce them in the future.

We would like to see a commitment from the Minister for Energy and Synergy that Synergy will operate its contestable customer business unit in a commercial manner consistent with the private companies competing in this market. That is, we consider Synergy should operate with the goal of making profits, rather than using its market position and considerable debt facility to offer uncompetitively low (loss making) prices to contestable customers simply to maintain its dominance.

7. If Synergy was obliged to publish its foundation transfer price, how would participants use this information and would having the information improve the effectiveness of the EGRC scheme?

As stated above, publishing the foundation transfer price would provide clearer signals in the market and also hold Synergy to account when pricing to contestable customers.

8. Do market participants see benefits in extending the non-discrimination requirements to the foundation transfer price mechanism? If so, please describe the expected benefits.

Change Energy fully supports the non-discrimination requirements being extended to the foundation transfer price mechanism for the reasons stated above.

9. The ERA would like to understand if market participants are choosing not to enter into standard product contracts because of the associated credit requirements. If so, how do participants suggest Synergy's standard product credit requirements should be altered?

As stated above, Change Energy considers the standard products provide a reasonable basis for negotiation for the trade of more tailored products. We do not consider the infrequent trade of standard products is related to Synergy's credit requirements. We consider Synergy's credit requirements acceptable.

10. Although Synergy has never used the force majeure clause to suspend its obligations under a standard product transaction, is the existence of the clause still a concern for participants?
11. If the force majeure clause were to be amended, what changes would participants recommend and why? Is the list of generation units still suitable? If not, then why not?

Change Energy understands the need for force majeure provisions in standard product terms and conditions. However, it is important to note that these provisions from suppliers are generally passed through to customers in the form of price resets or supply interruptions.

12. What specifications would market participants find useful in a new standard product?

Change Energy would like to see peak and off peak products that generally align with solar production added to the range of standard products. The impact of the increasing penetration of solar in the system need to be able to be better managed by market participants. We consider aligning peak and off-peak periods to expected solar output would be a simple and effective way of doing this.

13. The ERA is interested in hearing from Synergy if there are any costs and benefits to Synergy of making longer term standard products available?

N/A

14. What aspect of the new Commonwealth legislation or lessons from the ACCC inquiry need to be considered in the ERA's report to the Minister?

The EGRC Scheme was designed for the unique circumstances in the Western Australian energy sector and therefore has more relevance to Synergy and other market participants than the new Commonwealth legislation. However, we note that the purpose of the recent amendments – to prevent conduct in energy markets that can be detrimental to competition or consumer welfare – is consistent with the intent of the EGRC Scheme. In this sense the Commonwealth changes are applicable and there is merit in aligning with them closely.

We therefore recommend the ERA should use the Commonwealth legislation as a useful comparator for the EGRC Scheme on an ongoing basis, and ensure any proposed changes to the EGRC Scheme are not inconsistent with other competition legislation in force or being developed.

Should there be lessons learnt from the ACCC inquiry, we would expect the ERA to consider these in the context of the EGRC Scheme in due course.