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Rob Pullella
Access Arrangement Review
Electricity Access
Economic Regulation Authority
PO Box 8469
Perth BC WA 6849

Dear Mr Pullella,

Western Power's Proposed Revised Access Arrangement – Submission on Draft Decision

Synergy appreciates this opportunity to comment on the Economic Regulation Authority's (**Authority**) draft decision on Western Power's Proposed Revised Access Arrangement (**PRAA**). Unless otherwise specified, words in italics in this submission have the same meaning as in the *Electricity Networks Access Code 2004* (**ENAC**).

1 Background

On 16 July 2009 the Authority published its draft decision not to approve the PRAA (**Draft Decision**). The Draft Decision also outlined 46 amendments to the PRAA which need to be addressed before the Authority can approve the PRAA. The Authority, in accordance with section 4.14 of the ENAC, has invited public comments on its Draft Decision.

2 Summary

Synergy notes that, despite it being unable to obtain access to sufficient relevant financial and technical information to enable it to form an opinion as to whether all elements of the PRAA comply with the ENAC¹, the Authority, in performing its functions under the ENAC, appears to have conducted a technically rigorous and detailed assessment of the PRAA and the public and non public supporting information provided by Western Power.

On this basis Synergy strongly supports the bulk of the Draft Decision and the approach taken by the Authority to examine and test the PRAA against the requirements of the ENAC, and in particular, the *Code objective*.

¹ Synergy notes that section 4.2 of the ENAC would appear to require Western Power to provide all users with sufficient information to form such an opinion.

In this submission Synergy has commented on the following three key matters in the Draft Decision and in doing so has taken into account Western Power's responses² to the Authority's required amendments:

1. **Model policy and the criteria for approval:** Synergy notes that the Authority, in some cases, has adopted in the Draft Decision a criterion for approval to the effect that the Authority will determine that an element of the PRAA is consistent with the ENAC where the PRAA reproduces an aspect of a model policy under the ENAC, such as the model access contract and the model application and queuing policy. In Synergy's view, the correct assessment of the PRAA, under section 4.28, also requires a holistic assessment of the various elements of the PRAA and their associated interactions. Synergy requests that, in circumstances where the Authority has determined that elements of the PRAA are consistent with the ENAC because it is similar to portions or individual clauses of the model policy, the Authority review its decision and consider the total effect of the PRAA and its consistency with respect to the *Code objectives* and Chapter 5 of the ENAC.
2. **Service standard benchmark for covered services:** Synergy submits that the Authority has misunderstood Synergy's request in its submission dated 17 December 2008. Synergy in its submission is not requesting that the PRAA contain service standard benchmark for metering activities that are governed under the metering code. Synergy instead, is requesting the Authority to ensure that all network *reference services* that include *covered services* necessary for the operation of the *reference service*, contain a *service standard benchmark* in the PRAA as required by the ENAC.
3. **Efficient non-network alternatives:** The Authority, in its determination of the D-Factor scheme, has indicated that the access arrangement should foster incentives for adoption of efficient non-network alternatives. Synergy requests that the Authority clarifies its determination on this matter and outline the mechanism of how:
 1. A network augmentation to facilitate a non-network solution will operate and be regulated under the access arrangement.
 2. Users can be assured that a network augmentation required in this circumstance will be efficient.

Synergy would also like the opportunity to provide its comments to the Authority on Western Power's proposed second submission when it becomes available.

3 Criteria for Approval Needs To Consider the Effect of the Policy

Synergy submits that when determining whether the PRAA meets the requirements of the ENAC it is necessary to consider whether the effect of the proposed requirement satisfies the model policy in total.

² Western Power's first submission in response to the Authority's Draft Decision, dated 13 August 2009.

Synergy notes that the Authority, in some cases, has adopted a criterion for approval which requires that the Authority must determine that an element of the PRAA is consistent with the ENAC if it reproduces a requirement from a model policy under the ENAC. For example;

105. The Authority notes the concerns raised by Synergy. However, clause 3.1(c) of the proposed electricity transfer access contract is materially the same as clause A3.14 of the model standard access contract under the Access Code. Accordingly, under clause 5.5(a) of the Access Code, the Authority must determine that clause 3.1(c) is consistent with section 5.3 of the Access Code.

Synergy submits that this approach to reviewing and formulating a determination that an element of the PRAA and the PRAA meets the criteria for approval is not consistent with requirements of sections 5.5, 5.11, 5.17 and 4.28 of the ENAC.

The Authority may only determine that a document in the PRAA is consistent with Chapter 5 and the *Code objective* to the extent that it reproduces without material omission or variation the complete model policy³. The ENAC and Chapter 5 does not establish that reproducing a clause from the model policy in an element of the PRAA automatically causes that element of the PRAA or the total PRAA to be consistent with the ENAC and *Code objective*.

Synergy further submits that even if an element of the PRAA is determined to be consistent with Chapter 5 of the ENAC the Authority, under section 4.28, needs to further determine whether the total PRAA, including the interactions between the various elements of the PRAA, is also consistent with the ENAC.

The reproduction of one element or clause of the model policy does not automatically or logically cause the PRAA or a document within the PRAA to be consistent with the ENAC, unless, the PRAA adopts the model policy in total. Therefore, section 4.28 of the ENAC also requires the Authority to further base its criteria for approval on whether the total PRAA meets "... the *Code objective* and the requirements set out in Chapter 5 (and Chapter 9, if applicable)" of the ENAC.

In addition the ENAC, in Chapter 5, establishes that the intent of the model policy is so that the *service provider* can be assured, that if it adopts the model policy in total⁴ then the PRAA will be consistent with Chapter 5 of the ENAC and the *Code objectives*. Otherwise the Authority must use the model policy only as a benchmark when assessing the requirements in the PRAA.

Therefore, in the circumstances where the PRAA has not adopted the model policy in total the Authority must assess whether the effect of the requirement in the PRAA meets the *Code objective* and the requirements set out in Chapter 5 of the ENAC.

Reproducing portions of the model policy is not a guaranteed formula that ensures consistency with the ENAC. Therefore, in these cases the model policy or elements of

³ For example, in the case of the *standard access contract*, it must reproduce without material omission or variation the complete *model standard access contract*, not just a clause from the *model standard access contract*.

⁴ Preserving the total effect of the model policy.

the model policy may only be used as a benchmark to guide the Authority's determination.

In addition, the ENAC does not require that the Authority must determine that a requirement of the PRAA is consistent with the ENAC if the effect of the PRAA is contrary to the model policy in total, the *Code objectives* or the requirements of Chapter 5 of the ENAC.

In addition, it is also important to note that section 4.28 of the ENAC requires the Authority to take a holistic view of the PRAA and the interaction of the various documents and elements of the PRAA when making a approval decision. That is, even if the Authority determines that an element of the PRAA under Chapter 5 or Chapter 9 is consistent with the ENAC, the Authority must also further determine, under section 4.28, whether the total PRAA, including the interactions between the various elements of the PRAA, is also consistent with the ENAC.

Therefore, Synergy requests that, in circumstances where the Authority has determined that elements of the PRAA are consistent with the ENAC because it is similar to portions or individual clauses of the model policy, the Authority review its decision and consider the total effect of the PRAA and its consistency with respect to the *Code objectives* and Chapter 5 of the ENAC.

4 Service Standard Benchmark for Covered Services that have been Incorporated into Reference Services

In its submission dated 17 December 2009⁵, Synergy requested that Authority ensure that the PRAA contains a service standard benchmark for all *reference services*. In its draft decision the Authority indicated that;

320. Finally, Synergy has submitted that the access arrangement should include service standard benchmarks for metering activities.

321. The Authority considers that it is not necessary for the access arrangement to include service standard benchmarks for metering activities. While metering activities are appropriately subject to agreed service obligations and standards, these are established under Part 5 of the Metering Code, including under any service level agreement that exists between Western Power and the user.

Synergy submits that the Authority has misunderstood Synergy's request in its submission. Synergy in its submission is not requesting that the PRAA contain service standard benchmark for metering activities that are governed under the Metering Code⁶.

Synergy instead, is requesting the Authority to ensure that all network *reference services* that include *covered services* necessary for the operation of the *reference service*, contain a *service standard benchmark* in the PRAA as required by section 5.1(c) of the ENAC.

⁵ Synergy reference DMS3177640.

⁶ Electricity Industry Metering Code 2005 (**Metering Code**)

Section 5.1(c) of the ENAC states that an *access arrangement* must “include *service standard benchmarks* under section 5.6 for each *reference service*”.

In addition, section 5.6 of the ENAC requires:

“A *service standard benchmark* for a *reference service* must be:

- (a) reasonable; and
- (b) sufficiently detailed and complete to enable a *user* or *applicant* to determine the value represented by the *reference service* at the *reference tariff*.”

It is important to note that the standard metering service is a network *covered service* under the ENAC. In particular, these services are classified as a *common service* under the ENAC. This means, under the ENAC, these *services* ensure the reliability of the network or provide benefits to *users* of the *network*, and the costs of these *services* cannot reasonably be allocated to one or more particular *users* and so needs to be allocated across all *users*.

Consequently, this permits Western Power to recover costs from all users and apply the *price control* and *pricing methods* to these *covered services* to determine the charges in the *price list* all users must pay.

In addition, the Authority also approves the tariffs for these *common services* in the *price list* which all users are obliged to pay under the *access arrangement*.

Therefore, Synergy submits that these *common services*, are associated with each reference service under the PRAA and apply to all users of the network and are not subject to agreed service obligations between the user and Western Power. Unless users negotiate a corresponding non-reference service and non-reference tariff for each reference service in the PRAA.

In addition, it is not clear how a user could efficiently obtain a *reference service* under the PRAA which excludes one or more elements of the standard metering *covered service* associated with that *reference service*. Especially when it has been established that the costs for the standard metering *common service* cannot reasonably be allocated to one or more particular *users* and so needs to be allocated across all *users*.

Similarly, it would also not be efficient for each user to separately negotiate the network availability benchmarks associated with each *reference service* in the PRAA.

This approach would not be an efficient and practical outcome for the market and would be contrary to the *Code objectives* and section 5.2(b) and (c) of the ENAC where:

“An *access arrangement* must:

- (b) specify a *reference service* for each *covered service* that is likely to be sought by either or both of:

- (i) a significant number of *users* and *applicants*; or
 - (ii) a substantial proportion of the market for *services* in the *covered network*; and
- (c) to the extent reasonably practicable, specify *reference services* in such a manner that a *user* or *applicant* is able to acquire by way of one or more *reference services* only those elements of a *covered service* that the *user* or *applicant* wishes to acquire;

Synergy, further submits that if users are obliged to negotiate agreed service level obligations for the standard metering service then it cannot be a *covered service* under the ENAC. Therefore, the Authority cannot approve an *access arrangement* or *price list* that contains a standard metering service where the costs are allocated to all users and where all users must pay.

If all users are required to pay for this *covered service* under the *price list* then it is essential that the PRAA specifies the *service standard benchmark* for these services and the Authority monitor and publish the performance of these services in accordance with sections 11.2 to 11.5 of the ENAC.

Furthermore, it is not reasonable to fund the cost of the standard metering *covered service* under the access regime without providing any transparency on whether the service is being effectively delivered or even delivered at all. Similarly, it is also not reasonable to fund the cost of the standard metering *covered service* under the access regime and expect all users to individually negotiate the service levels for a service that they have no choice but to pay for⁷.

Therefore, Synergy would like the Authority to review its determination and the requirement to ensure that the PRAA contain *service standard benchmarks* for *covered services* that are necessary for the operation of a *reference service* and have been incorporated into the *reference service* under the PRAA. These *service standard benchmarks* are also necessary for the Authority and users to have transparency that these services are actually being delivered and being delivered effectively.

⁷ Synergy notes that currently there are detailed policy discussion occurring at the national level on whether elements of metering services should be made contestable and moved out of the exclusive control of monopoly service providers and the access regime. If all metering services in Western Australia are eventually determined to be contestable or governed by the metering code then it would be reasonable for the current standard metering services to be removed as a *covered service* from the *access arrangement* and the *price list*. Users would then have the ability to choose and only pay for the services that they need and use. In addition, users would have transparency and only need to pay for services that have actually been delivered.

5 Does efficient Non-Network Alternatives Permit Inefficient Network Augmentations

The Authority, in its determination of the D-Factor scheme, has indicated that the access arrangement should foster incentives for adoption of efficient non-network alternatives.

1031. The Authority considers, however, that the access arrangement should, where possible, foster incentives for adoption of efficient non-network alternatives. For this reason, the Authority considers that the gain sharing mechanism to be included in the access arrangement for the second access arrangement period should include provision to exclude from actual non-capital costs any amount of non-capital costs that were incurred as a result of implementing a non-network alternative where such costs were not, and could not reasonably have been, included in the forecast of non-capital costs accounted for in target revenue for the access arrangement period. This amendment to the gain sharing mechanism is addressed at paragraph 956 of this Draft Decision.

Synergy submits that this determination needs further clarification and substantiation.

For example, it is possible to implement a non-network alternative⁸ as a result of making an inefficient network augmentation however; the overall outcome may be efficient. This may be one possible interpretation of the Authority's decision.

Alternatively, the Authority may have contemplated that if a network augmentation is required to support a non-network alternative, then, that network augmentation must be subject to the requirements of the new facilities investment test.

In addition, Synergy also submits that there needs to be clarification on who determines the efficient non-network alternative and how this determination is conducted while preserving the requirement of the *Code objectives*, especially when the need for services under the current access regime are designed to be driven by the needs of users.

Synergy requests that the Authority clarifies its determination on this matter and outline the mechanism of how a network augmentation to facilitate a non-network solution will operate and be regulated under the access arrangement.

⁸ For example, demand side management on the fringe of the network.

6 Western Power Responses to the Authority's Required Amendments

6.1 Required Amendment 1

Amendment 1 requires that;

The proposed access arrangement revisions should be amended such that one or more reference services provide for single connection points to function both as entry points and exit points. This revision will cater for the requirements for network services that arise where small-scale renewable energy systems connect to the network and where electricity consumers participate in the Renewable Energy Buyback Scheme.

In addition, section 5.2(c) of the ENAC requires that an *access arrangement* must;

- (c) to the extent reasonably practicable, specify *reference services* in such a manner that a *user* or *applicant* is able to acquire by way of one or more *reference services* only those elements of a *covered service* that the *user* or *applicant* wishes to acquire...

Western Power in its submission⁹ has proposed engaging a consultant to assist in the development of a new or modifies reference service to meet the requirements of Amendment 1 and the ENAC.

Synergy supports this proposal and submits that it is a sensible approach to determining those elements of the *covered service* that the user or applicant wishes to acquire.

Synergy would like the opportunity to participate and comment on the proposed design of these services and associated tariffs.

6.2 Required Amendment 2

Amendment 2 requires that;

The proposed access arrangement revisions should be amended so that the requirement under clause 3.3, for a user to ensure compliance with eligibility criteria for a reference service, is subject to operation of the Applications and Queuing Policy regarding a change in the reference service applying to a connection point.

Western Power in its submission has proposed adding a new clause 3.3(b) to the ETAC¹⁰ to meet the requirements of Amendment 2.

Synergy, in principle, supports the addition of this new clause 3.3(b).

⁹ Western Power's first submission in response to the Authority's Draft Decision, dated 13 August 2009.

¹⁰ Electricity Transfer Access Contract (ETAC)

However, Synergy submits that clauses 3.2 and 3.3 also needs to be changed to reflect that an applicant, under the Applications and Queuing Policy who has lodged, or intends to lodge, an application to change a *reference service*, may be a user or a customer. The current drafting of these clauses

6.3 Required Amendment 3

Amendment 3 requires that;

The proposed access arrangement revisions should be amended so that the revised electricity transfer access contract includes a clause 3.6(d) requiring that "subject to the Customer Transfer Code, Western Power must not delete a connection point other than in accordance with a notice given by a user in accordance with clause 3.6".

Western Power in its submission has proposed adding a new clause 3.6(d) to the ETAC to meet the requirements of Amendment 3.

Synergy supports the addition of this new clause 3.6(d).

6.4 Required Amendment 4

Amendment 4 requires that;

The proposed access arrangement revisions should be amended so that the electricity transfer contract includes a new clause 3.6(e) requiring that, if Western Power wilfully or deliberately deletes a connection point in breach of clause 3.6(d), Western Power is liable to pay the user any indirect damage suffered by the user as a result of Western Power's action.

In addition, the Authority, in its Draft Decision, has indicated that it is reasonable for Western Power to be liable where the deletion of a connection point other than allowed for under clause 3.6 is wilful or deliberate.

Western Power in its submission has proposed adding a new clause 3.6(e) and a new definition for "Wilful Default" to the ETAC to meet the requirements of Amendment 4.

Synergy, in principle, supports the addition of this new clause 3.6(e). However, Synergy notes that the proposed definition for "Wilful Default" is based on the intent to cause harm. Therefore, Synergy submits that this proposed definition of "Wilful Default" is too broad and has the effect of lifting the bar so high that this clause 3.6(e) and the Authority's required amendment will never come into effect.

Synergy submits that in order for the requirements of Amendment 4 to be satisfied Western Power's proposed definition for "Wilful Default" needs to be amended as marked up as follows:

"Wilful Default* means a deliberate and ~~purposeful or wilful~~ act or omission carried out with a calculated regard for the consequences of the act or omission but does not include any error of judgment, mistake, act or omission, whether negligent or not, which is made in good faith."

6.5 Required Amendment 5 and 6

Amendment 5 and 6 requires that;

The proposed access arrangement revisions should be amended such that clause 3.7 of the electricity transfer access contract is clear on whether schedule 3 and, where relevant, the metering database, is to be updated only by Western Power, or by either Western Power or the user.

The proposed access arrangement revisions should be amended such that clause 3.7 of the electricity transfer access contract requires Western Power to provide the user with such access to schedule 3 and the metering database as is reasonably required for the user to obtain information or to change relevant information.

A key aim of these amendments is to create clarity and address the current ambiguities within the ETAC. In addition, the Authority has also indicated¹¹ that it does not consider that it is necessary or desirable for the access contract terms and conditions to refer to specific mechanisms of communication under the Communication Rules. In order to ensure there is no further ambiguity Synergy supports this position especially since the Communication Rules developed under the Metering Code:

1. Does not deal with network transactions under the ETAC and the Applications and Queuing Policy.
2. Only deals with transactions specified, in the Web Portal and Build Pack, under the Metering Code, as required by the Metering Code.
3. Is currently under a change request and undergoing review by the Authority. Western Power in its Change Request 6 has indicated that "...code participants have found the documentation to be lacking in detail and clarity, and to contain errors"¹². Consequently, Western Power has proposed substantial changes to the Communication Rules and Build Pack. At this stage it is not clear if these changes are consistent with the Objectives of the Metering Code.

¹¹ Paragraph 141, Authority's Draft Decision dated, 16 July 2009.

¹² Western Power Change Request #6, dated 21 January 2009 (**Change Request 6**).

Therefore, the policies, in the ETAC, which govern the exchange of data and information under the ENAC should be stand alone and clearly delineated from Western Power's obligation under the Metering Code and its associated distribution and transmission licenses. Synergy submits that this is fundamentally necessary in order to, both, remove ambiguity from the ETAC and meet the requirements of section 5.3(b)(i) of the ENAC, in order for the ETAC to also form the basis of a commercially workable *access contract*

Western Power in its submission has proposed significant changes to clause 3.7 of the ETAC to meet the requirements of Amendment 5 and 6. Synergy understands the general concept proposed by Western Power's proposed changes. However, Synergy submits that the Western Power's proposed amendment creates further ambiguities associated with the scope of information to be updated and where certain information is maintained. It also appears that Western Power is not applying a uniform approach, for all users, with respect to maintaining Schedule 3 information.

The maintenance of metering point data is rigorously controlled by the Metering Code. In addition, these elements of the Metering Code also forms part of Western Power's license conditions and is subject to independent audit. Therefore, Synergy submits this same clarity and rigour also needs to be applied to maintaining the connection point data under Schedule 3 of the ETACs.

In addition, clause 3.7(a) only requires a part of the information in Schedule 3 to be updated. However, Synergy submits that it is important that all data under Schedule 3 is recorded and maintained in the Connection point database. In addition, Synergy also submits that for this data to be meaningful and commercially workable the various data elements in Schedule 3 need to be linked and this link needs to be robust. Unless such a framework it implemented it is likely that there will continue to be issues with data integrity. Therefore, Synergy recommends the following changes to clause 3.7 and the associated definitions.

Synergy understands the concepts proposed by Western Power however there are certain practical issues that need to be addressed in order to ensure that Amendment 5 and 6 will be satisfied:

1. All information in Schedule 3 must be recorded in the Connection Point Database for this data to be meaningful and commercially workable:
 - 3.7(a) Unless the Parties* otherwise agree, Western Power must record and update the information referred to in ~~Part 1~~ of Schedule 3, with respect to each Connection Point*, in the Connection Point Database*.
2. The Connection Point Database will also need to be updated to record any relevant application under the Application and Queuing Policy. Including the provision of a covered service:
 - 3.7(b) Subject to clauses 3.7(g) and 3.7(h), Western Power* must update the information contained in a Connection Point Database* following any variation made under this clause 3 or the Application and Queuing Policy;

3. Synergy has over 900, 000 connection points on its ETAC and information in schedule 3 associated with these connection points are substantial. Clause 3.7(c) does not make it clear what constitutes “the most up-to-date version” of the information that will be provided to the requesting user and whether this information will be provided in a useable format. The user needs a level of confidence or assurance that it can rely on the information that is being provided. Synergy submits that Amendment 6 contemplates that a user would be able to rely on the schedule 3 information provided to it so that it may fulfil its obligations under the ETAC. Therefore, Synergy recommends that clause 3.7(c) be amended to reflect this, as marked up as follows:

3.7(c) Western Power must not knowingly permit the Connection Point Database to be materially inaccurate and Upon request by the User* for information referred to in the Connection Point Database*, Western Power* ~~will~~ must provide to the User* ~~the most up-to-date version of~~ that information in an agreed format”.

4. Clause 3.7(d) is ambiguous and confuses Western Power’s obligations for metering points under the Metering Code and its licence with its obligations under the ETAC for recording data associated with a connection point. In addition, Western Power, in its submission has already indicated that only some elements of Part 1 of Schedule 3 is currently recorded in the Metering Database. Synergy recommends that this clause is deleted because it has already been addressed in Western Power’s new definition for a Connection Point Database.

~~3.7(d) The Parties* acknowledge that if the User* is a Metering Code Participant*, for each Connection Point* Western Power* must also record and update the relevant information required under Part 1 of Schedule 3 in the Metering Database* in accordance with the provisions of the Metering Code*.~~

5. Synergy has raised concerns with Western Power for act or omissions associated with a connection point on Synergy’s ETAC’s on the basis of fulfilling an obligation or a service under the Metering Code. However, despite requesting the basis of the obligation Synergy has not been provided with substantiation for these actions. Consequently, Synergy recommends that the following change is made to clause 3.7(e) in order to reflect the current provisions in the Metering Code, for clarity and to ensure that the Metering Code is not used as an excuse to make unilateral changes to a connection point on Synergy’s ETAC.

3.7(e) Nothing in this Contract* restricts or prohibits Western Power* from maintaining and updating the Metering Database* in accordance with the Metering Code*. However, this clause 3.7(e) does not limit the Code*¹³, and, in the event of any conflict or inconsistency between this 3.7(e) and a provision of the Code* the latter is to prevail.

¹³ Code* means the Electricity Networks Access Code 2004.

6. Clause 3.7(f) will be difficult to implement practically to the extent that the Metering Database is used to record the information or a subset of the information in Schedule 3. The Build Pack that has been developed under the Metering Code, Communication Rules only deals with the exchange of information and data, under the Metering Code, between the network operator and a Code Participant¹⁴. The Communications Rules and therefore, the Build Pack does not deal with the exchange of information and data under the ENAC. In addition, Western Power, in the recent Build Pack Change Request 6, as indicated that "...While using the Build Pack, code participants have found the documentation to be lacking in detail and clarity, and to contain errors." The Authority also plans to conduct a public consultation on the proposed changes in Change Request 6. Therefore, Synergy submits, that until the issues and the scope of the Build Pack has been addressed, it is critical that the User's need, to have access to schedule 3 and the ability to change information in schedule 3, be stand alone under the ETAC and not dependent on the Build Pack that is currently subject to a major change and review.

3.7(f) Western Power*, acting in accordance with Good Electricity Industry Practice*, will provide the User* with such access as is reasonably acceptable to the User*, acting as a Reasonable and Prudent Person* to, to the information in the Connection Point Database Metering Database* in accordance with the Build Pack*.

Where the User* is the Current User¹⁵ for the metering point then Western Power shall provide the User* with access to the information in the Metering Database in accordance with the Communications Rules* so that the User* may comply with its obligations under the Metering Code and the ENAC¹⁶.

7. Synergy understands that Western Powers intention for clause 3.7(g) and 3.7(h) is to clarify that if there is a permanent reconfiguration to the network then there will be circumstances that the information in the Price List will not align with the information in the Connection Point Database. Under the ETAC Western Power can only charge Users in accordance with the Price List associated with the specific Pricing Year, this mechanism ensures that the end customers are not subject to a price shock¹⁷ during a Pricing Year due to a permanent reconfiguration of the network. Therefore, Synergy recommends the following change to clauses 3.7(g) and 3.7(h) for clarity:

¹⁴ It is important to note that the Communications Rule specifies that Western Power must provide this information through two mechanisms, the Web Portal or Build Pack. Not just the Build Pack.

¹⁵ As defined under the Metering Code.

¹⁶ This is required to support the current circumstances where Synergy customers have their own ETAC and where Synergy requires the metering data to fulfil its billing obligations under the Metering Code.

¹⁷ Refer to the corresponding changes that are required to be made for clause 7.1(f) below, as required by Amendment 12.

- 3.7 (g) Subject to clause 3.7 (h), where Western Power causes a Permanent Reconfiguration* of the Network* which results in the information contained in the Contract Database* having to be updated:
- (i) Western Power* is not required to update the information contained in the Connection Point Database* before the next 1 July following the Permanent Reconfiguration* of the Network*; and
 - (ii) Western Power* must update, in accordance with clause 37.2, the information contained in Schedule 3 the Connection Point Database* before the next 21 July following the Permanent Reconfiguration* of the Network*.
 - (iii) In these circumstances, despite the information recorded in the Connection Point Database, the tariff payable under this Contract* will be in accordance with clause 7.1.
- 3.7(h) Where a Permanent Reconfiguration* of the Network* occurs as a result of, or arising from, a notice or application by the User* under clauses 3.4, 3.5 or 3.6 which results in the information contained in the Contract Database* having to be updated:
- (i) clause 3.7(g) does not apply; and
 - (ii) Western Power must update the information contained in the Connection Point Database* as soon as reasonably practicable after the Permanent Reconfiguration* of the Network*; and
 - (iii) where the information to be updated is contained in ~~Part 1 of~~ Schedule 3, then the information must be updated in accordance with clause 37.2.
 - (iv) In these circumstances, despite the information recorded in the Connection Point Database, the tariff payable under this Contract* will be in accordance with clause 7.1.

8. Definitions: Amendment 6 requires Western Power to provide the user access to all the information under schedule 3. Therefore, the definition for the Connection Point Database needs to be amended to reflect this, as marked up as follows:

Connection Point Database* means:

- (a) ~~Part 1 of~~ Schedule 3; or
- (b) another database or databases, as agreed between the Parties*, containing information, in Schedule 3, relating to this Contract* and maintained by Western Power* ~~as agreed between the Parties*~~, which for the avoidance of doubt can include the Metering Database* if the User* is not a Metering Code Participant* and this is agreed by the User* and Western Power*.

9. Definitions: The details of the Transmission Node Identifiers that affect a pricing zone are outlined in the Price List approved by the Authority, for each Pricing Year. Therefore, Synergy recommends the following change for clarity.

Permanent Reconfiguration means:

~~(a)~~ a permanent physical change (including a change to the Transmission Node Identifier or the zone substation applicable to a Connection Point* and a change to the distance from the applicable zone substation to a Connection Point*); or

~~(b) a change to the pricing zone applicable to a Connection Point*.~~

10. Definitions: For clarity and in order to ensure the proposed mechanism is commercially workable the definition of Contract Database needs to ensure that in circumstances where the Metering Database is used as the Connection Point Database, then the Metering Database must logically contain all the information in Schedule 3. Therefore, Synergy recommends the following change for clarity:

Contract Database* means the Connection Point Database* or, if the Metering Database*, containing all the information in Schedule 3, is not included within the Connection Point Database* and clause 3.7(k)(ii) applies, then it means the Metering Database*.

6.6 Required Amendment 7

Amendment 7 requires that;

The proposed access arrangement revisions should be amended so that the electricity transfer access contract indicates which records of connection point data will have precedence, to the extent of any inconsistency between schedule 3 of the electricity transfer access contract, the metering database and any connection point data contained in the price list.

Western Power in its submission has proposed adding a new clause 3.7(k) to the ETAC to meet the requirements of Amendment 7. In addition, Western Power has proposed that it may record the information in Schedule 3 in more than one database. This can potentially increase the discrepancy of data between Western Power's databases, including the User's database.

Therefore, Synergy notes that this clause does not go far enough with respect to operating with the rest of clause 3.7 and establishing a commercially workable access contract. Clause 3.7(k) does not make it clear when the database precedence should apply and what the User and Western Power should reasonably do to address discrepancies and manifest errors between databases including User databases.

Therefore, in order to ensure there is appropriate coverage for these circumstances and ensure there is a commercially workable access contract Synergy recommends the following change to clause 3.7(k):

3.7 (k) ~~Where under this Contract* Western Power* has recorded information in more than one of Part 1 of Schedule 3, the Metering Database* and any other database maintained by Western Power for the purposes of this Contract* and there is an inconsistency or conflict between the information in the databases in which the information is recorded, If there is a discrepancy between data held in the Connection Point Database and any other database then the affected User and Western Power must liaise together to determine the most appropriate way to resolve the discrepancy; and in the absence of manifest error, then the following order of precedence applies, from highest to lowest:~~

(i) where the circumstances in clauses 3.7(g) or 3.7(h) apply:

- (A) ~~Part 1 of Schedule 3~~ Connection Point Database*;
- (B) any other database;
- ~~(C) the Metering Database*;~~ and

(ii) in all other circumstances:

- (A) ~~the Metering Database*~~ Connection Point Database;
- ~~(B) Part 1 of Schedule 3~~ any other database;
- ~~(C) any other database.~~

6.7 Required Amendment 9

Amendment 9 requires that;

The proposed access arrangement revisions should be amended such that clause 6.1(a) of the electricity transfer access contract be made to provide for the user to nominate a controller as soon as reasonably practical after the commencement of the service.

Western Power in its submission has amended clause 6.1(a) in the proposed ETAC to meet the requirements of Amendment 9.

Synergy supports this amendment. Synergy supports this amendment. However, Synergy recommends that Western Power's proposed changes to the subsequent clause 6.1(c) also needs to be amended to satisfy the requirements of Amendment 5 and 6 and be consistent with Western Power's proposed changes to clause 3.7 in the ETAC. Synergy recommends the following changes to clause 6.1(c);

6.1(c) ~~The Parties* Western Power~~ must amend the Connection Point Database*, in accordance with clause 3.7, following any variation made under this clause 6.1.

6.8 Required Amendment 10

Amendment 10 requires that;

The proposed access arrangement revisions should be amended such that clause 6.1(e) of the electricity transfer access contract requires only that the user uses reasonable endeavours to procure that a controller enter into a connection contract with Western Power.

Western Power in its submission has proposed amending clause 6.1(e) of the ETAC in order to satisfy the requirements of the amendment.

Synergy supports this amendment.

However, Synergy disagrees with Western Power that the User, outside of the requirements of Amendment 11, remains liable to enforce the Technical Rules against a controller.

In addition, Synergy also disagrees with Western Power's assertion that a connection contract "...is essential to ensure that Western Power can continue to enforce the Technical Rules and ensure the safe operation of the network". Synergy submits that Western Power's has a clear ability to enforce compliance to the Technical Rules and ensure the safe operation of the network, and Western Power's ability to do so is not dependent on the existence of a connection contract.

Synergy however, in the absence of action by Western Power, has a limited ability to enforce the compliance on a controller. Especially, when Western Power chooses to approve the connection of a controller's equipment and facility's without consulting or notifying the retailer. For example, Western Power recently advised Synergy that it would be approving the connection of photovoltaic systems to the network and that it would no longer be notifying Synergy of these approvals or connection despite Synergy having the responsibility to ensure that certain elements of the Technical Rules have been complied with.

6.9 Required Amendment 11

Amendment 11 requires that;

The proposed access arrangement revisions should be amended such that clause 6.2(a) of the electricity transfer access contract is made subject to a provision that the user is not required to commence, maintain or continue legal proceedings to procure compliance of a controller with obligations under the access contract unless Western Power provides an indemnity for all of the user's costs of and relating to such proceedings.

Western Power in its submission has proposed amending and introducing new clauses to clause 6.1(e) of the ETAC in order to satisfy the requirements of the amendment.

In addition, Western Power has indicated that:

“...Western Power will provide an indemnity but the indemnity will be limited to legal proceedings involving circumstances that are outside of those contemplated by the scope of clause A3.36 of the model access contract. Under Western Power’s proposal, where the circumstances align with or are similar to those contemplated by clause A3.36 of the model access contract no indemnity is provided.”

Clause A3.36 of the model access contract states:

<p>Designated controllers</p> <p>A3.36 Points which require a designated controller</p> <p>Each of the following is a “designated point” for which there must be a <i>designated controller</i>:</p> <p>(a) an <i>entry point</i> specified in Schedule 3 at which the installed <i>capacity</i> of the <i>facilities and equipment</i> to transfer electricity into the <i>network</i> exceeds 30 KVA; and</p> <p>(b) an <i>exit point</i> specified in Schedule 3 at which [x].²⁹</p>

It is important to note that Western Power’s proposed ETAC does not employ or reproduce in total the concepts in the model access contract. In particular, Western Power’s proposed ETAC specifies that any person at a connection point including residential customers, who own, operate, control or otherwise is responsible for the facilities and equipment at the connection point, is a controller. It is also important to note that under this definition a retailer can never be a controller and under the proposed ETAC is required to provide Western Power with the details of the controller. This approach is not consistent with the concepts of *designated controller* and *designated point* under the model access contract.

Therefore, Synergy disagrees with Western Power’s point of view, listed above, and submits that if Western Power’s view were to be accepted than it would therefore only be reasonable for a retailer to only procure compliance from a controller in those circumstances that were outside of those contemplated by the scope of clause A3.36. This is a good example of where a narrow application of one element of the model policy can result in an outcome that is not consistent with requirements of section 5.3 and the *Code Objectives*.

In addition, Synergy submits that Western Power cannot rely on a narrow application of a model policy to circumvent the requirements of ENAC and *Code objective*.

The Authority in its draft decision stated that:

180. The Authority observes that clause 6.2(a) of the proposed electricity transfer access contract, which requires the user to procure the compliance of the controller of a connection point with terms of the electricity transfer access contract, is similar to clause A3.38 of the model standard access contract under the Access Code. However, the Authority observes that there are differences:

181. The Authority considers that it is unreasonable that the user is required to procure compliance of a controller, effectively on Western Power's behalf, noting that Western Power has the ability to require that the controller at a connection point enter into a connection contract with Western Power in circumstances where the facilities and level of energy transfer at the connection point are such as to have the potential to disrupt the network. As such, the Authority considers that it is reasonable that Western Power bear the costs potentially arising from such a requirement.

Synergy supports the Authority's determination and submits that Western Power's proposed amendment does not satisfy the requirements of Amendment 11. In addition, Synergy submits that the proposed new clause 6.2(f), (g) and (h) are ambiguous, circular and confusing and has the effect of Western Power not requiring to provide indemnity to the user in any circumstance.

In order to satisfy the requirements of Amendment 11 Synergy recommends the following changes clause 6.2(f), (g) and (h):

6.2(f) ~~Unless clause 6.2(g) applies,~~ the User* is not required to commence, maintain or continue legal proceedings to procure compliance of the Controller* with the obligations set out in this Contract*, to the extent that such compliance is reasonably necessary for the Parties* to satisfy their obligations under this Contract* and unless Western Power provides an indemnity for all of the User's* costs of and relating to such proceedings.

~~6.2(g) Where:~~

~~i. the proceedings referred to in clause 6.2(f) do not relate to clauses 6.2(i), (ii), (iv), (v) or (ix); and~~

~~ii. either:~~

~~(A) the obligations in issue do not relate to an Exit Point* specified in the Contract Database*; or~~

~~(B) the obligations in issue do not relate to an Entry Point* where Generating Plant* with installed capacity exceeding 30 kVA is connected at the Entry Point*;~~

~~the User* is not required to comply with clause 6.2(f) unless Western Power* provides an indemnity to the User* for the User*'s costs of and incidental to the proceedings.~~

~~6.2(h) Nothing in this clause:~~

- ~~(i) limits the User*'s obligations under this clause; or~~
- ~~(ii) derogates from Western Power*'s other rights under this Contract* including its rights under clause 6.2(d), or requires Western Power* to pay any compensation to the User* for exercising any of these rights.~~

6.10 Required Amendment 12

Amendment 12 requires that;

The proposed access arrangement revisions should be amended such that clause 7.1 of the electricity transfer access contract includes a provision dealing with the determination of amounts payable by the user where there is a change in the charges payable under a reference tariff during a billing period. The provision must represent a reasonable balance between the interests of the user and Western Power.

Western Power in its submission has proposed amendments to clauses 7.1(a) and 7.1(f) in the proposed ETAC.

Synergy agrees with the general concepts proposed by Western Power. However, Synergy submits that the following addition, as marked up, needs to be made to clause 7.1(f) in order to satisfy the requirements of Amendment 12 and ensure the provision represents a reasonable balance between the interests of the user and Western Power:

- 7.1(f) Subject to clause 3.7(g) and 3.7(h), for the purposes of calculating Tariffs* and Charges* for a Service*:
- (i) Western Power* is entitled, in the absence of manifest errors, to rely on the information contained in the Contract Database* (as updated from time to time in accordance with this Contract*) to the extent that there is no discrepancy between the Contract Database* and the Price List* most recently approved by the Economic Regulation Authority; and
 - (ii) where information contained in the Contract Database* is updated, or to be updated, in accordance with this Contract*, the updated information:
 - (A) will not apply to any period before; and
 - (B) must not be used to calculate a Tariff* or Charge* until, the date that the information is actually updated in accordance with this Contract*. For the avoidance of doubt, if there is a discrepancy between the information in the Price List* and the information in the Contract Database* then the information in the Price List* most recently approved by the Economic Regulation Authority will be used to calculate the Tariff* or Charge*.

- 3.7 (g) Subject to clause 3.7 (h), where Western Power causes a Permanent Reconfiguration* of the Network* which results in the information contained in the Contract Database* having to be updated:
- (i) Western Power* is not required to update the information contained in the Connection Point Database* before the next 1 July following the Permanent Reconfiguration* of the Network*; and
 - (ii) Western Power* must update, in accordance with clause 37.2, the information contained in Schedule 3 the Connection Point Database* before the next 21 July following the Permanent Reconfiguration* of the Network*.
 - (iii) In these circumstances, despite the information recorded in the Connection Point Database, the tariff payable under this Contract* will be in accordance with clause 7.1.
- 3.7(h) Where a Permanent Reconfiguration* of the Network* occurs as a result of, or arising from, a notice or application by the User* under clauses 3.4, 3.5 or 3.6 which results in the information contained in the Contract Database* having to be updated:
- (i) clause 3.7(g) does not apply; and
 - (ii) Western Power must update the information contained in the Connection Point Database* as soon as reasonably practicable after the Permanent Reconfiguration* of the Network*; and
 - (iii) where the information to be updated is contained in ~~Part 1 of~~ Schedule 3, then the information must be updated in accordance with clause 37.2.
 - (iv) In these circumstances, despite the information recorded in the Connection Point Database, the tariff payable under this Contract* will be in accordance with clause 7.1.

6.11 Required Amendment 13

Amendment 13 requires that;

The proposed access arrangement revisions should be amended such that clause 10 of the electricity transfer access contract clearly applies only in respect of a contribution payable by the user.
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Western Power in its submission has proposed amendments to clause 10 in the proposed ETAC.

Synergy agrees with the general concept proposed by Western Power. However, Synergy submits that the wording in the proposed amendment needs to be more precise and reflect the wording in Amendment 13. Amendment 13 requires clause 10 to apply to a contribution that is payable by the user. Therefore, Synergy recommends that clause 10 be amended as marked up as follows:

Without limiting the User*'s security obligations related to clause 26, the Nominated Person* must provide an irrevocable and unconditional bank guarantee (or equivalent financial instrument) in terms acceptable to Western Power* (acting as a Reasonable and Prudent Person*), guaranteeing the present value of any amount of any Contribution* ~~to be made payable~~ by the User* that remains unpaid or unprovided as calculated by Western Power* under the Contributions Policy*.

6.12 Required Amendment 14

Amendment 14 requires that;

The proposed access arrangement revisions should be amended such that clause 12.1 of the electricity transfer access contract is consistent with clause 6.2 and limits the obligation of the user to ensure that any other person or person's equipment complies with the Technical Rules only to the extent:

- that is reasonably practical for the user; and
- that Western Power provides an indemnity for all of the user's costs of and relating to proceedings against any other person for the purposes of ensuring compliance.

Western Power in its submission has proposed amendments to clause 12.1 in the proposed ETAC.

Synergy understands the general concept proposed by Western Power's proposed changes. However, Synergy submits that the Western Power's proposed amendment does not go far enough and therefore does not satisfy the requirements of Amendment 13.

The literal introduction of clause A3.61 from the model policy contemplates that the user is a generator or consumer and has direct control of the facilities and equipment connected to the network. In addition, the definition of User under the Technical Rules also contemplates the person who seeks access to the network also directly controls the facilities and equipment that Western Power approves to be connected to the network.

Even though retailers may facilitate an application under the Application and Queuing Policy, retailers do not have direct control of the customers' facilities and equipment that Western Power approves to be connected to the network.

Therefore, the literal reproduction of clause A3.61 from the model policy does not have the effect of satisfying the requirements of Amendment 14. In particular, that the obligations of the user to ensure that any person or person's equipment complies with the Technical Rules only to the extent:

1. that it is reasonably practical for the user; and
2. that Western Power provides an indemnity for all user's costs of relating to proceedings against any other person for the purpose of ensuring compliance.

Therefore, in order to fully satisfy Amendment 14 and provide a reasonable balance between the interests of the user and Western Power Synergy recommends that clause 12.1 be expanded as marked up as follows:

12.1 (a) Western Power* and the User* must each comply with the Technical Rules.

12.1 (b) The Users obligation to ensure that any other persons equipment complies with the Technical Rules is limited to the extent:

(i) that it is reasonably practical for the user to do so; and

(ii) that Western Power provides an indemnity for all of the User's costs of and relating to proceedings against any other person for the purposes of ensuring compliance.

6.13 Required Amendment 15

Amendment 15 requires that;

The proposed access arrangement revisions should be amended such that clause 12.2 of the electricity transfer access contract provides that an act or omission of the user that causes Western Power to incur extra costs for compliance with the Technical Rules only causes the user to be liable for those costs where:

- the act or omission of the user is in breach of the access contract; and
- Western Power has not already recovered the costs from another party.

Western Power in its submission has proposed amendments to clause 12.2(c) in the proposed ETAC.

Synergy agrees with the general concept proposed by Western Power. However, Synergy submits does not make it clear what happens when Western Power has the option and ability to recover costs from multiple parties.

Therefore, in order to satisfy Amendment 15 Synergy recommends that clause 12.1(c) be amended as marked up as follows:

12.2(c) Notwithstanding clause 12.2(b), where an act or omission of the User* in breach of this Contract* causes Western Power* to incur extra costs in order to ensure Western Power* complies with the Technical Rules*, the User* shall bear Western Power*'s reasonable extra costs so incurred to the extent that such costs are not already recovered from the User* or payable by any other person under any other arrangement, including the Contributions Policy*.

6.14 Required Amendment 18

Amendment 18 requires that;

The proposed access arrangement revisions should be amended to delete clause 19.5(c) of the electricity transfer access contract.

In addition, the Authority, in its draft decision indicated that:

247. The Authority recognises that maximum limits on liability tend to be specified under commercial contracts in round numbers that may have some basis in an assessment of potential liability, but are specified in the round numbers for convenience. The Authority concurs with Synergy that annual inflation indexation of these values is pedantic and may potentially complicate the insurance transactions of users.
248. Inflation indexation of limits to liability is not contemplated under the model standard access contract under the Access Code.
249. Taking these matters into account, the Authority considers that clause 19.5(c) is not reasonable and is inconsistent with section 5.3 of the Access Code. The Authority requires this clause to be deleted from the proposed electricity transfer access contract before the proposed access arrangement revisions will be approved.

Synergy supports the Authority's determination in this matter and agrees that clause 19.5(c) should be deleted.

Western Power, in its submission, has acknowledged the issue of relatively small increases. In addition, Western Power has also proposed that not indexing the maximum liability amounts will result in the amounts, over time, becoming inappropriately low. However, Synergy submits it could also be convincingly argued that the converse is true and that indexing the maximum liability amounts will result in the amounts, over time, becoming inappropriately high.

This is because the maximum liability associated with how users use the network and the extent of the potential damage that may be caused to the network by users is not related to CPI and therefore, is not consistent with section 5.3 of the ENAC and the *Code objectives*.

Synergy submits that as technology improves, network design improves and the process for approving connections to the network improves the maximum liability associated with using network may in fact reduce over time.

Therefore, Synergy continues to support the Authority's determination that clause 19.5(c) should be deleted from the ETAC.

6.15 Required Amendment 19

Amendment 19 requires that;

The proposed access arrangement revisions should be amended so that the requirements for workers compensation, motor vehicle and third-party property insurance under part 1(a)(ii) and part 1(a)(iii) of the electricity transfer access contract apply only where these insurances are reasonably requested by Western Power.

Western Power in its submission has indicated that this amendment is already addressed within the current drafting of clauses 1(a)(ii) and 1(a)(iii) in Schedule 5 of the proposed ETAC. Therefore, Western Power has not changed clauses 1(a)(ii) and 1(a)(iii) citing that is consistent with section 5.3 of the ENAC and that users may drive into Western Power's substations.

Synergy submits that Western Power and the model policy has assumed that all users are either consumers or generators who have direct control of the facilities and equipment connected to the network. These types of users, Controllers, will perform activities, which may be required under their connection contract with Western Power which may involve Western Power assets. Nevertheless, it is not clear why or how a retailer would drive into a Western Power substation to disconnect supply to one of its customers.

Therefore, Synergy supports the Authority's Amendment 19 for these insurances to be provided when reasonably requested by Western Power under a connection contract or otherwise.

Synergy recommends that clauses 1(a)(ii) and 1(a)(iii) in Schedule 5 be marked up as follows:

- 1(a) The User* must effect and maintain, commencing from the Commencement Date* the following policies of insurance:
 - (ii) when reasonably requested by Western Power, workers' compensation insurance for all persons employed by the User* including employer's liability at common law, with a limit of cover in respect of any one occurrence at least equal to \$50 million;
 - (iii) when reasonably requested by Western Power motor vehicle third party property insurance for all loss or damage to property caused by or attributable to the use of a motor vehicle in the performance of the services or any work under the Contract*, for a limit of \$10 million per claim and unlimited in the aggregate of all claims made; and

6.16 Required Amendment 20

Amendment 20 requires that;

The proposed access arrangement revisions should be amended so that clause 29.3(b) of the electricity transfer access contract requires that Western Power act reasonably in determining a location for a meeting for resolution of a dispute.

Western Power in its submission has proposed amendments to clause 29.3(b) in the proposed ETAC.

Synergy supports this amendment.

6.17 Required Amendment 21

Amendment 21 requires that;

The proposed access arrangement revisions should be amended so that clause 33.1 of the electricity transfer access contract extends the requirement for confidentiality of information to encompass information exchanged in negotiations preceding the contract and information about, or relating to, a proposed controller.

Western Power in its submission has proposed amendments to clause 33.1(f) in the proposed ETAC.

Synergy supports this amendment.

6.18 Required Amendment 45

Amendment 45 requires that;

The proposed access arrangement revisions should be amended such that the contributions policy only allows for contributions in respect of non-capital costs incurred in the implementation of an alternative option where:

- the alternative option is being implemented in response to a connection application; and
- the costs are costs that would be incurred by a service provider efficiently minimising costs; and
- Western Power is able to clearly demonstrate that the costs were not included, and could not reasonably have been included, in forecasts of non-capital costs taken into account in setting the price control; and
- the conditions of section 6.41(b) of the Access Code are not satisfied.

Synergy disagrees with Western Power's view that the second dot point in Amendment 45 is already addressed in clause 3 of the proposed Contributions Policy. Synergy submits that contributions under clause 3 of the proposed Contributions Policy does not include the full meaning of *efficiently minimising costs* as defined under the ENAC. Synergy recommends the following change to clause 3 of the Contributions Policy is necessary in order to ensure that the second dot point in Amendment 45 is addressed in the proposed Contributions Policy:

A contribution with respect to covered services sought by an applicant must not exceed the amount that would be required by a prudent service provider ~~acting efficiently~~ efficiently minimising costs¹⁸, in accordance with good electricity industry practice seeking to achieve the lowest sustainable cost of providing the covered services.

6.19 New Addition – Changes To Security For Charges

Western Power has, in clause 9 of the proposed ETAC, made changes to criteria for determining the financial risk of a User.

Western Power now requires Users to have an unqualified credit rating of at least:

- A, from Standard and Poor's Australia Pty Ltd; or
- A, from Moody's Investor Service Pty Ltd.

Western Power has not demonstrated how this new criteria meets the requirements of section 5.3 and the objectives of the ENAC.

It is important to note that Synergy is a government owned corporation and together with Verve would be one of the biggest User's of the network. Therefore, it is not clear where the material risk to Western Power lies.

This new criteria would effectively require all Users to pay or provide a security and therefore, Synergy submits that proposed change is not reasonable as required by section 5.3 of the ENAC and it would, likely, discourage competition in markets upstream and downstream of the networks.

¹⁸ Where efficiently minimising costs has the same meaning given to it in the Electricity Networks Access Code 2004.

7 Conclusion

Synergy submits these comments for the consideration of the ERA and would be pleased for the opportunity to meet and discuss these issues in detail.

Yours faithfully

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