



16 October 2023

Economic Regulation Authority
Level 4, Albert Facey House
469 Wellington Street
Perth WA 6000

Lodged email: info@erawa.com.au

Dear ERA WA,

RE: Electricity Generation and Retail Corporation Regulatory Scheme: 2023 Effectiveness Review Discussion Paper

Shell Energy Australia Pty Ltd (Shell Energy) welcomes the opportunity to respond to the Economic Regulation Authority WA's (ERA WA's) Electricity Generation and Retail Corporation Regulatory Scheme (EGRC Scheme): 2023 Effectiveness Review Discussion Paper (the Discussion Paper), released on 15 September 2023. We understand this review is undertaken by the ERA WA every two years to consider the effectiveness of the EGRC Scheme. As described in the Executive Summary of the Discussion Paper, the intention of the EGRC Scheme is to curtail Synergy's potential exercise of market power in the Wholesale Electricity Market (WEM), and to promote a competitive market, where other suppliers of electricity can develop to benefit end consumers.

About Shell Energy in Australia

Shell Energy is Shell's renewables and energy solutions business in Australia, helping its customers to decarbonise and reduce their environmental footprint.

Shell Energy delivers business energy solutions and innovation across a portfolio of electricity, gas, environmental products and energy productivity for commercial and industrial customers, while our residential energy retailing business Powershop, acquired in 2022, serves households and small business customers in Australia.

As the second largest electricity provider to commercial and industrial businesses in Australia¹, Shell Energy offers integrated solutions and market-leading² customer satisfaction, built on industry expertise and personalised relationships. The company's generation assets include 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, supporting the transition to renewables, and the 120 megawatt Gangarri solar energy development in Queensland.

Shell Energy has recently acquired a 50% share of Kondinin Energy Pty Ltd (Kondinin) which will be our first West Australian renewables development. The centrepiece of the Kondinin project is the Kondinin Wind Farm, a

¹By load, based on Shell Energy analysis of publicly available data.

² Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2021.

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wind development which would generate approximately 230MWs, across two stages, into the SWIS. Kondinin also holds approvals to develop a 80MWs solar farm and ~60MWs BESS which comprise stages three and four of the Kondinin project.

Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy, while Powershop Australia Pty Ltd trades as Powershop. Further information about Shell Energy and our operations can be found on our website [here](#).

General Comments

Shell Energy understands that feedback from this consultation will inform the review of the effectiveness of the EGRC Scheme, and, following consideration of stakeholder feedback, the ERA WA will prepare a report and provide this to the Minister for Energy by December 2023.

Shell Energy representatives attended a stakeholder workshop held by the ERA WA on 12 October 2023. We welcomed the information session to understand the ERA's view on the key issues with the effectiveness of the EGRC Scheme, particularly given the timing of the release of the Discussion Paper during a significantly busy period, when Market Participants (MPs) were preparing for the new market start on 1 October 2023. Shell Energy considers additional time after 1 October 2023 would have been beneficial in developing its response to the Discussion Paper.

We appreciate the opportunity to provide feedback informing the sixth review of the EGRC Scheme since its adoption in 2014 when State Government-owned electricity generator Verve Energy and electricity retailer Synergy merged to form Synergy. We understand that the EGRC Scheme was established to provide a form of market power mitigation which applied to the offering of standard products (also known as wholesale contracts) that Synergy offered, as wholesale contracts are not captured through the introduction of the Market Power Mitigation framework that took effect on 1 October 2023.

Shell Energy have provided our feedback below on the proposals outlined in the Discussion Paper.

Amendment to the Standard Products Regime

As outlined in Section 3 of the Discussion Paper, the ERA WA is proposing to amend the standard products regime, where the provision of standard products would be limited to predominantly retail businesses, restricting the provision to only entities without significant generation assets, with the reason being that these market participants do not have access to generation to manage their exposure to spot prices³.

The Discussion Paper relies on State Government announcements of coal generation retirement, and the consequence this will have on Synergy's energy surplus and the risk that this energy surplus will decrease over time. Synergy provided feedback to the ERA WA that its future energy position is uncertain. However, this scenario is yet to materialise and we consider this is too speculative to amend such a crucial mechanism that encourages competition in the WEM, and serves to provide market power mitigation for the standard products regime.

Whilst Shell Energy do not currently appear to be captured by the proposed threshold of a "significant generation asset" as per Figure 7 in the Discussion Paper, we see this proposal as problematic, given there will be retirements over the coming years as coal generation exits the SWIS and additionally, policy proposals such as an emissions penalty on generators in the WEM will take effect, leading to disorderly exits of generators⁴. If this were to occur, other generators are likely to be captured by this threshold.

³ <https://www.erawa.com.au/cproot/23591/2/-EGRC.Rev.2022-Discussion-Paper-Clean-For-publication.PDF>, Section 3.2, pg 19.

⁴ <https://www.wa.gov.au/government/document-collections/swis-demand-assessment>



The WEM objectives include to “encourage competition among generators and retailers in the SWIS, including by facilitating efficient entry of new competitors”. Shell Energy believes that the proposed amendment to the standard products regime does not align with this objective and would therefore need further consultation on this amendment alone, given the implications if it were to take effect. Shell Energy request that further alternatives be presented to stakeholders following feedback from the consultation on this Discussion Paper.

Ringfencing

As outlined in Section 4 of the Discussion Paper, the ERA WA is using this review to assess the costs and benefits associated with maintaining the ringfencing requirement and whether it remains necessary. Shell Energy agrees with the analysis undertaken by the ERA WA, and support the finding that without ringfencing requirements, the flow of wholesale information within Synergy to Synergy’s Retail Business Unit (RBU) would be similar to that of other vertically integrated businesses supplying wholesale products in the WEM.

Given the abovementioned analysis provided by the ERA WA, with reference to Section 4.1 regarding ringfencing the Generation Business Unit (GBU) from the Wholesale Business Unit (WBU), even though Synergy’s GBU does not directly engage in WEM trades, Shell Energy believes that ringfencing obligations should continue to apply between the WBU and GBU and promotes best practice in the restriction of information flow. Ringfencing, with effective compliance and enforcement oversight, aims to protect and promote competitive markets, allowing companies to act on a level playing field. Shell Energy consider increased scrutiny of a dominant MP and retaining strict ringfencing requirements should be maintained and undergo continual improvement and enforcement oversight as a matter of preventing the potential for anti-competitive behaviour.

We note that it is difficult to provide a clear position on the analysis of the costs associated with ringfencing requirements as the Discussion Paper does not provide this detail. Therefore, we see benefit in retaining the same ringfencing requirements and recommend the ERA WA do not amend this element of the EGRC Scheme.

Amendment to the Disclosure Mechanism

At Section 5, the ERA WA outlines the EGRC Scheme’s inclusion of a disclosure mechanism to serve as a second MPM tool, and proposes that the disclosure mechanism either be retained and amended, or be removed completely. The Discussion Paper sets out the two options and provides reasoning for both. Shell Energy recognises that such a mechanism must serve an effective purpose and whilst removal of the disclosure mechanism may be the preferred option by the ERA WA, we suggest improvements are made to the current mechanism as per Section 5.3.1 and the barriers to effective monitoring be explored by the ERA WA.

The assessment against Option 1 to amend the disclosure mechanism includes “this option can provide some limited additional benefit to an effective standard products regime”.⁵ Whilst there may be “limited benefit”, we believe that MPs require increased transparency, not the removal of transparency (albeit the information would not be public), and assurance that a dominant MP is being held to a high level of accountability.

With reference to the assessment provided by the ERA WA against Option 2 to remove the disclosure mechanism; the reasoning that this would “eliminate administration and compliance costs”, Shell Energy does not agree that this reason outweighs even a “limited benefit” that Option 1 presents. We strongly suggest that a

⁵ <https://www.erawa.com.au/cproot/23591/2/-EGRC.Rev.2022-Discussion-Paper-Clean-For-publication.PDF>, Section 5.4, pg 33.

⁶ <https://www.erawa.com.au/cproot/23591/2/-EGRC.Rev.2022-Discussion-Paper-Clean-For-publication.PDF>, Section 5.4, pg 33.



responsible entity should monitor financial data from Synergy and indicative anti-competitive behaviour identified through this process would trigger a detailed investigation.

In addition, as described in our feedback provided for amending the ringfencing requirements, it is difficult to provide a clear position on the analysis of the costs associated with the disclosure mechanism, as we are not provided this detail. Therefore, we do not see actual benefit in cost savings, and suggest this is not sufficient to be relied upon to remove the disclosure mechanism.

Conclusion

We appreciate the opportunity to provide feedback on the review of the EGRC Scheme.

We strongly encourage the ERA WA to consider the stakeholder feedback provided and continue to engage with MPs and we welcome the opportunity to discuss our submission further. Additionally, as requested in our submission, we would like to reiterate the importance of protecting and promoting competition in the WEM, no amendments being made to the ringfencing requirements, and retaining the disclosure mechanism.

Please contact Tessa Liddelow at tessa.liddelow@shellenergy.com.au for any queries regarding this submission.

Yours sincerely

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