



1 November 2021

Mr Ashwin Raj
Energy Policy WA
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Cloisters Square, WA, 6850

Lodged email: energytransformation@energy.wa.gov.au

Dear Mr Raj

RE: Energy and Governance Legislation Reform (Project Eagle) Consultation Paper

Shell Energy Australia Pty Ltd (Shell Energy) welcomes the opportunity to respond to the Western Australian Government's consultation on reforming the energy sector governance arrangements.

About Shell Energy in Australia

Shell Energy is Australia's largest dedicated supplier of business electricity. We deliver business energy solutions and innovation across a portfolio of gas, electricity, environmental products and energy productivity for commercial and industrial customers. The second largest electricity provider to commercial and industrial businesses in Australia¹, we offer integrated solutions and market-leading² customer satisfaction, built on industry expertise and personalised relationships. We also operate 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, supporting the transition to renewables, and are currently developing the 120 megawatt Gangarri solar energy development in Queensland. Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy.

www.shellenergy.com.au

General Comments

Shell Energy supports the proposed reforms to the energy sector governance arrangements. We consider the development of a centralised regulatory framework, and the rationalisation and consolidation of the current regulatory and legislative frameworks into a single instrument (Energy Rules WA) will better support the energy transition and provide a simpler regulatory environment for businesses to operate in.

Definition of contestability

While Shell Energy supports the streamlining and modernising of the electricity regulatory framework, we are concerned with the proposal to change the contestability orders under section 54 of the *Electricity Corporations Act 2005* to enable orders to be made on the basis of supply points rather than the customer.³

Shell Energy does not support this proposal. There has been no rationale provided by the Government as to why the current position - that a contestable customer is one who consumers

¹ By 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 2011-2020.

³ Energy and Governance Legislation Reform consultation paper, pg 20.



more than 50MWh per annum at a supply point, regardless if consumption is less at other supply points – is no longer suitable.

Rather than supporting the objectives of the Government reforms for a regulatory framework that *'reduced barriers to competition'* and *'protects and advances the interest of energy consumers into the future'*⁴, defining contestability on the basis of supply points will have major implications for the structure of the market. This policy change signals a reduction of competition and will be a barrier for entry, reducing customer choice and outcomes.

Shell Energy does not agree that this enhancement is in the best interest of customers. For example, a customer may have 5 supply points and one supply site is above 50MWh while the other 4 are below this threshold. Under the current definition of contestability, the customer is contestable at all sites, as it can aggregate its loads and choose its preferred retailer. This benefits its energy procurement processes and gives the customer greater negotiation power (i.e. bespoke energy contracts that may include energy management solutions) and simplifies the management of its energy bill to one retailer. Changing the definition of contestability to the supply point would mean the same customer would only be able to choose a retailer of choice for the 1 supply point above 50MWh. The other 4 sites would not be contestable, and the customer will have no choice as to who supplies energy at these 4 sites. This will impose an undue burden on the customer when it comes to managing their energy plans and undermines efforts by energy retailers who have developed business strategies to deliver competitive products and services.

Shell Energy asks the Government to provide clarity on what the identifiable problem is, as it has not been made clear what market failure has occurred to warrant the change to the definition of contestability. We strongly encourage the Government to undertake a transparent consultation process on this issue to mitigate risks of unintended consequences to the market, and customers, which could reduce the effectiveness of the Government's Energy Transformation Strategy.

Implementation

Shell Energy notes the ambitious timeline the Government has set to deliver a single package of legislation reform to produce a Bill to be considered by Government by the end of 2022 with an intention to go live from Q3 2023. It will be imperative that industry is provided sufficient and appropriate opportunities through this process to engage. Collaborative, transparent, and effective stakeholder engagement will better deliver optimal outcomes for market participants and all customers. Effective consultation with stakeholders in the early development of concepts will result in well-considered, efficient, and robust solutions over the longer term.

Shell Energy supports a transitional approach to the implementation of the new Energy Rules WA. Early provision on what the transitional arrangements are will be necessary to allow market participants sufficient time to allocate resourcing to respond in an effective manner and will minimise implementation costs or unintended consequences of any associated changes.

We welcome the opportunity to discuss our submission further. Please contact Carmel Forbes at carmel.forbes@shellenergy.com.au for any queries regarding this submission.

Yours sincerely

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⁴ Energy and Governance Legislation Reform slides, Industry forum, 20 October 2021