



31 August 2022

Our Ref: CWF-20220831

Mr Jai Thomas
Acting Coordinator of Energy
Energy Policy WA
Level 1, 66 St Georges Terrace
PERTH WA 6000

Dear Mr Thomas

RE: COMMENTS ON MARKET POWER MITIGATION CONSULTATION PAPER

Thank you for the opportunity to comment on the proposed market power mitigation framework design. Collgar Wind Farm (Collgar) supports its necessary and timely review.

Collgar agrees with Energy Policy WA's (EPWA) assessment that the existing framework does not provide sufficient guidance on what is acceptable bidding behaviour and the costs that can be legitimately recovered under the Short Run Marginal Cost (SRMC) bidding requirement. In addition, Collgar considers the strict application of the existing framework may, at least in some cases, not allow a generator to recover reasonable costs.

Collgar also agrees that the existing framework will be increasingly tested as more renewable energy generation is installed. It is also unclear how it would apply to storage.

Designing a fit-for-purpose market power mitigation framework is very challenging. On one hand, Market Participants are seeking certainty of the costs they can include in offers but on the other hand value flexibility to account for unique circumstances and new technologies, amongst other things. Striking the right balance between prescription and flexibility, while difficult, is essential to providing the right settings for efficient market operation. In addition, the market power mitigation regime must be appropriate given other design elements, including most critically the Reserve Capacity Mechanism (RCM).

Collgar agrees with the guiding principles, in particular that there is value in *ex ante* elements to provide certainty for Market Participants and that design must minimise regulatory costs. In addition, it is critical that the framework design enables Market Participants, when operating efficiently, to receive adequate revenue to provide a reasonable return on investment. This includes that the cost of operating in a given real-time market must be able to be recovered from that real-time market without needing to obtain revenue from other streams (e.g. another real-time market(s), the RCM or other outside the Wholesale Electricity Market (WEM)).

Collgar makes its comments based on the information currently available on the WEM design, including proposed amendments to the RCM. However, it is critical that in finalising the RCM review and market power mitigation framework design that EPWA, as planned, undertakes a

wholistic assessment of the design to ensure that it is complementary and provides opportunity for adequate revenue streams.

Collgar has the following comments on specific elements of the market power mitigation framework.

General Trading Obligations

Collgar supports the general principle that a Market Participant must offer prices that reflect the costs that a Market Participant without market power would include in forming its profit-maximising offer. Similarly, requiring conduct to be in good faith and not misleading is appropriate.

Implementing these principles is more challenging. Having prescriptive, pre-approved parameters is likely not appropriate – while it provides certainty it easily doesn't allow for cost changes over time and could be time consuming and costly to agree.

Collgar values the ERA having appropriate discretion to make assessments on offer construction and trading conduct within a guiding set of principles outlined in the WEM Rules. This allows the market power mitigation framework to be flexible and remain appropriate over time. However, it is difficult for Collgar to endorse guidelines that it has not seen and therefore consultation on guideline development is critical.

A downside of a guideline is that there is not the same governance framework as Market Procedures, including that there is no formal requirement to consult with Market Participants and that guidelines can be less firm in their wording. A recent example is the guidelines for Generator Performance Standards and Relevant Generator Modifications, which only had a week consultation (which was included given stakeholder requests) and use language such as 'may'. This means that although guidelines can provide useful information for Market Participants, they do not provide a lot of certainty and there may not be consultation opportunities.

WEM Procedures also have downsides, including that sometimes they are more focused on process rather than principles and decision-making approaches and can lack flexibility. Collgar encourages EPWA to consider how additional governance could support the Offer Construction Guideline to ensure that certainty and consultation opportunities are provided to Market Participants. It may also be appropriate for the Coordinator of Energy (Coordinator) to have oversight of the guideline given the potential conflict of interest having the both ERA design and regulate the policy.

Regardless of the mechanism, it is important the general trading obligation framework is implemented such that Market Participants can recover their efficient operating costs (including mandatory fees and costs to meet regulatory obligations), noting that the WEM design provides for operating costs to be recovered through real-time markets and fixed, capital costs to be recovered through the RCM.

Market Power Test

Need for the Gateway Test

In theory, the Gateway Test should not be required given the general trading obligations and that the ERA can investigate any Market Participant to determine whether it is meeting these obligations. However, it seems that the Gateway Test is designed to minimise regulatory burden

for both Market Participants (e.g. not all being required to have the same record keeping) and the ERA (being able to focus its resources on Market Participants with market power). This approach is sensible to minimise costs.

In practice, there will be costs associated with the ERA undertaking the Gateway Test. Collgar supports this option if the ERA considers it is the most cost-effective approach for its to appropriately assess whether the general trading obligations are being met. However, if the Gateway Test will be burdensome for the ERA and it considers there is a lower cost, fit-for-purpose option then this ought to be strongly considered.

Design of the Gateway Test

In the case the Gateway Test remains in the design, Collgar supports that it covers both general market power and market power that arises due to binding constraints. It may be best for consideration of binding constraints to be on a locational basis rather than being specific to a given constraint.

In theory, the best indicator of market power is whether a portfolio is a pivotal supplier, meaning that some or all of the portfolio is required to meet MW demand and/or provide other services (e.g. ESS) within a given interval. In practice, this may be costly to implement and therefore Collgar supports a more cost-effective proxy. Downsides of the Static Concentration Test are that it may include large facilities, particularly renewables, that practically do not have any market power and may exclude smaller facilities that have market power due to their technological capacity or location. These factors ought to be considered in the selection of the appropriate Gateway Test.

Collgar agrees that the Gateway test ought to be run at the portfolio level given the potential to coordinate bids for facilities under single ownership. Collgar suggests that the definition of portfolio ought to capture facilities (including aggregated Distributed Energy Resources (DER)) that are under the *control* of a single entity, but not necessarily ownership. This accounts for the various corporate structures, including joint venture arrangements and Virtual Power Plants (VPP).

Offer Assessment

In the case a Market Participant is newly caught in the Gateway Test, longer than three months may be needed to enable it to amend its systems and processes to meet the record-keeping requirements for offer assessment. An alternative is that a window of up to six months is agreed between the ERA and the Market Participant depending on their size and resourcing available.

Collgar questions whether the proposed approach to separately assess offers in real-time markets is appropriate. Given co-optimised ESS and energy dispatch, it is necessary to consider bidding behaviour across all markets to determine whether market power is being used. For example, a Market Participant could provide appropriate offers into the energy market but offer some of its capacity at low prices in ESS markets (above price floor but potentially below cost) so it is dispatched for ESS and another, higher priced facility is required to be dispatched for energy, increasing the energy market clearing price it also receives. Collgar encourages the ERA to consider behaviour across all markets, including contractual mechanisms, when assessing offer construction.

Market Impact Test

In addition to the effect of offers, the Market Impact Test ought to also consider the behaviour of the Market Participant. If the participant can demonstrate that there was not deliberate or negligent behaviour that led to the offer assessment 'fail' then the ERA ought to be able to use its discretion as to whether a breach has occurred. That is not to say that intent must be proven for a breach to occur, but rather that a demonstrated lack of intent ought to be a consideration for the ERA's decision making.

Energy and FCESS price limits

In theory, effective implementation of the Market Power Test would negate the need for price caps. However, Collgar acknowledges that WEM policy makers support price caps as they provide a backstop to the Market Power Test and to ensure price exposure is limited.

In this context, Collgar supports energy and ESS price caps that are sufficiently high to not bind frequently and impede on revenue adequacy (including that they allow for recovery of ramping costs). Collgar also supports less frequent, three-year review (with annual indexation) to mitigate unnecessary review costs.

The ERA and/or Market Participants being able to trigger an in-period review is very valuable to manage unexpected cost increases (as is currently being experienced). There is likely benefit in prescribing the process to trigger such a review, and that the ERA can decline any frivolous requests. Coordinator approval to decline a request would ensure that reasonable requests are not rejected and provide protection for Market Participants.

Having sufficiently high ESS price caps negates the need to have separate price caps for each ESS. If a lower price cap is implemented, then there will likely be value in having separate caps for each ESS given that the market price for some markets (e.g. Contingency Raise) will likely be much higher than others (e.g. Contingency Lower). Collgar prefers the simpler single, higher ESS price cap.

The ERA's future price floor assessments will become more complex as new technologies, including storage, enter the market. For example, the energy price floor is the cap on the price paid to storage to charge. Review of the considerations set out in clause 6.20.14 of the WEM Rules may be necessary to ensure they are fit-for-purpose for the new WEM.

Collgar supports a market power mitigation framework that appropriately balances certainty and flexibility, is cost effective (for all stakeholders) and enables Market Participants to receive adequate revenue streams.

Collgar appreciates the opportunity to provide input to this important review and is available to discuss its comments as required.

Yours sincerely



REBECCA WHITE
REGULATORY AND TRADING MANAGER