

10 March 2023

Mr Jai Thomas
Energy Policy WA
Locked Bag 11
Cloisters Square, WA 6850
Sent by email to: EPWA-info@dmirs.wa.gov.au

Dear Mr Thomas

Information Paper: Consultation on the proposed State Electricity Objective

On 21 February 2023, Energy Policy WA (EPWA) released an information paper on its proposed new energy objective to apply in the Southwest and Pilbara networks in Western Australia.

The information paper states that EPWA has designed the new State Electricity Objective to:

- provide an overarching, unifying objective for the Electricity Industry Act and its subsidiary instruments;
- replace existing objectives of instruments including the objectives under the Wholesale Electricity Market (WEM) and Electricity Networks Access Code in the Southwest, and the Pilbara electricity objective; and
- allow for the consideration of the environment, including the reduction of greenhouse gas emissions.

Change Energy supports the unification of the various code and market objectives into one consistent set of objectives that apply to the WA energy sector. Establishing a single set of objectives helps eliminate inconsistency and potential ambiguity surrounding the intent of different legal instruments and provides more clarity to stakeholders on what we should be trying to achieve in our industry, and what the legal reference point is.

The proposed State Electricity Objective largely reflects the National Electricity Objective, and quite rightly reflects the well-known energy trilemma of reliability, affordability, and sustainability. We are therefore comfortable with the intent of the new objective.

We acknowledge EPWA's logic for including *environment* (rather than solely focusing on decarbonisation) in the objective, and support use of the more all-encompassing term *electricity services* rather than *electricity supply*.

However, changing the wording of the objective is only the start of the process. There is a larger and more difficult challenge that needs to be addressed: the interpretation and application of the objective.

The various aspects of the energy trilemma, and necessarily the new objective, are potentially mutually exclusive. This means that circumstances often arise where the three objectives conflict, or at the very least, achieving two limbs of the objective might be to the detriment of the third. A significant challenge, therefore, is how to promote a consistent interpretation and application.

We highlight the introduction of a new subclause that provides explicit broad discretion for the decision-maker to contemplate any and all considerations and applying any weighting on the various aspects when assessing their decision(s) against the new State Electricity Objective.

While this has always been implicit, subjectivity is a particular problem in gaining a common understanding of the interpretation and application. It has become more of a problem in recent years with the number of different decision-makers involved in the sector (the Minister for Energy, the Coordinator of Energy, the Economic Regulation Authority (ERA), Western Power, the Australian Energy Market Operator (AEMO) and the Electricity Review Board). Each of these parties will bring a different context and interpretation to their decisions under the new objective.

A specific issue, for example could be where the Minister for Energy and Coordinator of Energy considers it most important to increase renewable capacity in the State to achieve environmental outcomes. This could be incompatible with the ERA's primary objective to keep energy prices affordable, AEMO's objective to ensure a secure and reliable supply of electricity, Western Power's objective to keep capital investment to a minimum, and Synergy's objective to make a profit as a gentailer.

The key to success of the new State Electricity Objective is ensuring, as an industry, we have a consistent understanding of the interpretation, application and enforcement approach.

We therefore recommend EPWA produces an accompanying guideline or similar document that provides instruction on how each party should consider and apply the new State Energy Objective. This should provide a clear framework with decision-making criteria under which each of the decision-makers must consider electricity industry matters to ensure they are aligned in the industry's best interests. The framework should also require transparency of the decision-making process together with considerations, weightings, and ultimately the decision. We expect, given the nature of the energy trilemma it would also need to include tie-breaker arrangements.

A guideline could be used to clarify the legal precedence of any decisions made under the State Electricity Objective and provide direction on how to avoid and/or resolve conflict with other legal instruments/regulations/decisions including those outside the energy sector. For example, the proposed State Electricity Objective includes reference to environmental outcomes. While we agree this is an important consideration, the broad nature of the environmental third limb of the objective has the potential to overlap with the remit of bodies such as the Environmental Protection Authority, which is are required to have specific regard to the potential environmental impact of any project – electricity related or not. We expect the drafting of the State Electricity Objective to be mindful of such overlaps, and ensure that there are not multiple Government bodies providing oversight over the same issues, in particular when there is the potential for those Government bodies to arrive at different decisions.

While we know such guidance is not necessarily enforceable, it should provide direction to those bound by the objective and would help improve certainty, trust, and efficiency across the sector.

In summary, Change Energy consider the move to a single overarching electricity objective to be positive, but is concerned about the ambiguity that remains inherent in the proposed objective (and existing objectives). We consider this should be removed through the publication of guidance about the proposed, consistent application and enforcement of the new objective as soon as practicable.

If you have any questions or would like to arrange a meeting to discuss any aspect of this submission, please do not hesitate to contact me.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "G. Gaston".

Geoff Gaston
CEO