

09 March 2023

Energy Policy WA (**EPWA**)
David Malcolm Justice Centre
28 Barrack Street
Perth, Western Australia, 6000



By Email: EPWA-info@dmirs.wa.gov.au

Dear Sir/Madam

Submission to Energy Policy WA on the new State Electricity Objective (SEO)

Thank you for the opportunity to review and provide comments on the proposed drafting for the new State Electricity Objective (**SEO**), planned for inclusion in the *Electricity Industry Act 2004* (WA) (the **Act**) and subsidiary legislative instruments made under the Act.

This submission sets out Horizon Power's comments on EPWA's recently released consultation paper, '*Electricity Industry Amendment Bill: Consultation on the proposed State Electricity Objective*' (**Consultation Paper**) and the draft SEO set out therein.

Horizon Power has not sought to comment on how the new SEO may be incorporated into the Act or its subsidiary legislative instruments. In this regard, Horizon Power looks forward to the opportunity to comment on the proposed amendments to the Act and its subsidiary legislative instruments when that drafting becomes available for comment.

A. Executive summary

Subject to the specific comments noted in this submission, Horizon Power supports the proposed drafting for the new SEO, and the proposal to introduce a single unifying objective for the supply of electricity services to consumers in Western Australia.

Horizon Power looks forward to the opportunity to review the proposed amendments to the Act and subsidiary legislative instruments to give effect to the new SEO.

B. General comments on draft SEO

Rational and intent

The Consultation Paper sets out the objectives of the proposed SEO, and notes that SEO will achieve the objectives by (among other things) "replacing existing objectives under the Act's current framework, including ...the Pilbara electricity objective (Section 119(2) of the Act)...".

In principle, Horizon Power supports the notion that the new SEO provides an overarching, unifying objective for the Act and its subsidiary legislative instruments. Notwithstanding this in-principle support, Horizon Power considers it is imperative to understand whether, on implementation of the new SEO, each legislative instrument will:

- build upon the new SEO, or prescribe matters which a person or body performing functions in connection with the relevant instrument must have regard to in applying the new SEO (or both); or

- seek to have the new SEO applied in isolation, without benefit of additional relevant considerations for the specific use case.

By way of example, Horizon Power refers EPWA to section 119(4) of the Act, and queries whether this section (or a section like 119(4)) will be included in the Act to assist the entity applying the new SEO to determine whether the performance of certain functions (in the context of Pilbara networks) meets the new SEO.

No retrospective application of SEO

The Consultation Paper provides that the SEO will not operate retrospectively to affect historical decisions made regarding the operation of the Act or subsidiary legislative instruments.

While Horizon Power understands and supports this approach, Horizon Power considers that careful drafting will be required to enshrine this principle, and avoid past decisions, which were made consistent with the Pilbara electricity objective, being reopened or exposed to challenge when considered as against the new SEO. In this regard, Horizon Power looks forward to reviewing the proposed amendments to the Act and subsidiary legislative instruments intended to give effect to this principle.

Specific comments on draft SEO

Paragraph 1 of SEO

Paragraph 1(a) of the draft SEO details one of the limbs of the draft SEO, namely to promote efficient investment in, and efficient operation and use of, electricity services in relation to the “quality, safety and reliability of supply of electricity”. Horizon Power considers that this limb should also include “security”, which is, for the avoidance of doubt, different to (and distinct from) concepts of safety and reliability. “Security” appears in the Pilbara electricity objective (and is even referred to in the Consultation Paper) and is, in Horizon Power’s view, of paramount importance to protecting the long term interests of consumers of electricity services.

Paragraph 1(c) of the draft SEO details another of the limbs of the draft SEO, namely to promote efficient investment in, and efficient operation and use of, electricity services in relation to the “the environment, including reducing greenhouse gas emissions”. The approach taken in the draft SEO differs from the proposed changes to the National Electricity Objective which is expressed by reference to specific emission reductions targets. Horizon Power would like to understand why the draft SEO adopts a more broad-brush approach in requiring decision makers to have regard to the “environment”; it may be that a more specific reference to emissions reduction targets may provide decision makers with more direction in applying the SEO.

Horizon Power notes that the draft SEO does not include as a limb the encouragement of competition. Horizon Power considers this omission is unusual, in particular given Horizon Power understands the SEO is to replace the Wholesale Electricity Market (WEM) objectives set out in section 122 of the Act. Horizon Power would like to understand whether the proposed amendments to the Act and subsidiary legislative instruments will allow for competition as a relevant consideration for decision makers in applying the new SEO.

Paragraph 3 of SEO

Paragraph 3 of the draft SEO provides that the Minister, the Authority, the Coordinator or the Board may give the weight to any aspect of the SEO that the Minister, the Authority, the Coordinator or the Board considers appropriate in all the circumstances. While this drafting provides flexibility and allows for policy and decision making to evolve in light of changing standards, it seems inconsistent with that part of the Consultation Paper which describes the

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3 limbs of SEO objective as being “of equal precedent”. Horizon Power would like to understand how these points should be reconciled.

Paragraph 4 of SEO

Paragraph 4 of the draft SEO defines “electricity services”, and includes a number of examples of the types of things which constitute “electricity services”. Horizon Power considers that, for the sake of clarity, it would be prudent also list “security and system operations” as constituting “electricity services”.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sandy Morgan', written over a horizontal line.

Sandy Morgan
Senior Manager Pilbara Network
HORIZON POWER