

10 March 2023

Energy Policy WA  
Level 1, 66 St Georges Terrace  
**PERTH WA 6000**

Via email: [EPWA-info@dmirs.wa.gov.au](mailto:EPWA-info@dmirs.wa.gov.au)

Dear Energy Policy WA,

## **ELECTRICITY INDUSTRY AMENDMENT BILL – CONSULTATION ON THE PROPOSED STATE ELECTRICITY OBJECTIVE**

Synergy welcomes the opportunity to provide feedback to Energy Policy WA (**EPWA**) in relation to the draft State Electricity Objective (**SEO**), planned for inclusion in the *Electricity Industry Act 2004 (Act)* as outlined in EPWA's publication *Electricity Industry Amendment Bill - Consultation on the proposed State Electricity Objective<sup>1</sup> (Paper)*.

The proposed SEO is as follows:

### **Draft State Electricity Objective (SEO)**

- (1) The objective of this Act is to promote efficient investment in, and efficient operation and use of, electricity services for the long-term interests of consumers of electricity in relation to —
  - (a) the quality, safety and reliability of supply of electricity; and
  - (b) the price of electricity; and
  - (c) the environment, including reducing greenhouse gas emissions.
- (2) The Minister, the Authority, the Coordinator and the Board must have regard to the State electricity objective in carrying out a function under this Act.
- (3) For the purposes of subsection (2), the Minister, the Authority, the Coordinator or the Board may give the weight to any aspect of the State electricity objective that the Minister, the Authority, the Coordinator or the Board considers appropriate in all the circumstances.
- (4) In subsection (1) —  
electricity services means services that are necessary or incidental to the supply of electricity to consumers of electricity, including—
  - (a) the generation of electricity; and
  - (b) services provided by means of, or in connection with, an electricity network; and
  - (c) the sale of electricity.

The three primary outcomes described in the Paper that underpin the SEO are:

1. Promote consistency across the electricity regulatory framework including by replacing the existing objectives of subsidiary regulatory instruments;
2. Reduce barriers to timely and efficient investment in low emission technologies; and
3. Retain focus on the long-term interests of consumers with respect to price, reliability, security and safety of electricity.

Synergy is generally supportive of the SEO and its stated intent, however, notes additional factors should be addressed within the provision itself to allow for a clearer and more effective application.

<sup>1</sup> [Information Paper External Feb 2023 0.pdf \(www.wa.gov.au\)](#)

Synergy's primary observations relate to what it considers to be significant omissions in clauses (2) and (3) which ultimately creates uncertainty and risk for the electricity industry.

### **Impact and relationship of the SEO to subsidiary instruments under the Act**

The Paper makes it clear that the SEO is to achieve its intended outcomes in two key ways, by providing a "unifying objective for the Act and its subsidiary instruments"; and "replacing existing objectives of instruments under the Act's current framework". The Paper further identifies key examples of what will be impacted, such as the Wholesale Electricity Market (**WEM**) objectives. To ensure this flow-on impact to subsidiary regulatory instruments occurs, Synergy asserts it is critical that the drafting of the SEO acknowledges these requirements. Explicitly stating that the SEO is to directly shape and change existing legislation and regulation, is a notable direction that should be called out.

Synergy suggests clause (2) is amended to:

*"The Minister, the Authority, the Coordinator and the Board must have regard to the State electricity objective in carrying out a function under this Act, or under subsidiary legislation and rules made pursuant to the Act."*

### **Role of the Australian Energy Market Operator (AEMO)**

AEMO has significant functions and powers under the WEM Rules and the Electricity Industry (WEM) Regulations 2004. AEMO plays a critical role in facilitating safe, secure and reliable delivery of energy and energy services to the WEM. Both the WEM objectives (as referred to earlier) and the WEM Rules are specifically identified in the Paper as subsidiary regulatory instruments that will be impacted by the SEO. An example of how AEMO will be required to have regard to the SEO is when formulating an allowable revenue proposal under clause 2.22A.2 of the WEM Rules. AEMO's allowable revenue is ultimately recovered from consumers via electricity retail prices and tariffs and so its actions will directly influence progress toward achieving the SEO.

Given this, it is clear that AEMO must consider the SEO in the performance of its functions. However, AEMO is not listed along-side decision-makers that must have specific regard to the SEO in clauses (2) and (3). All other major authorities in the electricity sector – the Minister for Energy, the Coordinator of Energy, the Electricity Review Board and the Economic Regulation Authority – are identified as having the requirement to have regard to the SEO in its planning and operations. Synergy understands EPWA's position to be that as AEMO (or any other market body) is not created under primary legislation, it is therefore not appropriate for inclusion in the SEO. Synergy observes that due to the significant role AEMO plays in the electricity sector, additional policy measures may need to be considered to support AEMO's objective setting and decision-making process, and to provide greater transparency of this to the market.

### **Guidance for market participants**

Further to the above, Synergy considers that further clarity is required as to the methodology that decision-makers identified in clauses (2) and (3), and AEMO, will use to weigh each limb outlined in clause (1). Without visibility of this assessment process, there is a substantial risk that the SEO's intention to promote consistency across the regulatory framework, and to ensure efficient investment, operation and use of electricity services – will not be achieved. In the instance of AEMO, understanding how environmental impacts will be considered in dispatch decisions will be critical and may have a material impact to market participants' operations.

Synergy suggests that EPWA consider requiring that each decision-maker, and AEMO, publish supporting documentation (to be made available to industry participants) that provides guidance as to how the SEO will be interpreted and applied to their unique functions and processes.<sup>2</sup>

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<sup>2</sup> The Australian Energy Market Commission publishes similar guidance in the national electricity market refer: [Guide to our decision making \(aemc.gov.au\)](https://www.aemc.gov.au/publications/guidance-to-our-decision-making)

## Additional feedback for clarity and stronger application of the SEO

Clause	Comments	Suggested amendment
(1)	<p>Although implied, for clarity Synergy considers the SEO should also expressly state the “efficient use” of electricity services, just as “efficient” is used in conjunction with investment and operation. Without efficient use of electricity services there may be unintended consequences in relation to how services are designed to be used, resulting in inefficient outcomes.</p> <p>For example, efficient investment in infrastructure could result in service tariff structures that do not send the right signals to ensure the “efficient use” of the service.</p>	<p><i>(1) The objective of this Act is to promote efficient investment in, <del>and</del> efficient operation and <b>efficient</b> use of, electricity services for the long-term interests of consumers of electricity in relation to –</i> ...</p>
(1)	<p>Synergy supports EPWA’s amendment to refer to “electricity services” over “electricity supply”. Services more accurately encapsulates the evolving energy market with features such as bi-directional energy flow.</p>	NA
1(a)	<p>It is important to note that “security” and “reliability” are fundamentally different concepts and disciplines. For example, they are each provided different criteria and measured in different ways under the Technical Rules in the Electricity Network Access Code 2004 (<b>ENAC</b>), which is a regulatory instrument pursuant to this Act.</p> <p>Additionally, the Paper refers to security being part of the SEO, yet it is not included in the draft provision. Synergy strongly recommends the insertion of “security” in (1a).</p>	<p><i>(a) the quality, safety, <b>security</b> and reliability of supply of electricity; and</i></p>
1(b)	<p>For consistency. Synergy supports use of “electricity services” and considers it should be clear that when referring to prices it is of services not just supply.</p>	<p><i>(b) the price of electricity <b>services</b>; and</i></p>
1(c)	<p>The Paper highlights that the inclusion of the “environment” descriptor in the SEO is intended to contemplate a broad range of positive environmental outcomes and is not limited only to emission of greenhouse gases. Synergy supports this approach but considers this intent is not adequately reflected in the drafting of clause 1(c) of the SEO.</p>	<p><i>(c) <del>the environment to</del> <b>reducing environmental impacts</b>, including reducing greenhouse gas emissions.</i></p>
(2)	<p>As outlined earlier in this submission, Synergy considers that subsidiary legislation should also be included in the SEO.</p>	<p><i>(2) The Minister, the Authority, the Coordinator and the Board must have regard to the State electricity objective in carrying out a function under this Act, <b>or under subsidiary</b></i></p>

		<i>legislation and rules made pursuant to the Act.</i>
(4)	<p>The Paper does not make it clear whether the SEO is intended to apply to stand-alone power systems (<b>SPS</b>) and storage works. It could be viewed that SPS and storage works are accounted for in the SEO in relation to “services that are necessary or incidental to the supply of electricity”, however, given the importance of SPS and storage in the future, Synergy advocates a specific reference to these products is included in the SEO.</p> <p>Similarly, Synergy interprets this clause to consider and encompass the participation of Distributed Energy Resources, however advocates for the SEO to reference them specifically due to their increasingly important role in the WEM.</p>	<p>(4) ...</p> <p><i>(a) the generation of electricity, including through Stand Alone Power Systems; and</i></p> <p><i>(b) services provided by means of, or in connection with, an electricity network, including from Distributed Energy Resources; and</i></p> <p><i>(c) the sale of electricity; and</i></p> <p><i>(d) the storage of electricity.</i></p>

Sincerely,



**TIRI SANDERSON**  
**EXECUTIVE GENERAL MANAGER PEOPLE, STRATEGY AND SOCIAL VALUE**