

Our ref: 34924817  
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19 April 2024

Energy Policy Western Australia  
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Dear Energy Policy WA

### **Alternative Electricity Services (AES) – Developing Supporting Regulations**

Synergy welcomes the opportunity to provide feedback to Energy Policy Western Australia (**EPWA**) in relation to the above and is pleased to provide the following comments to EPWA to support the development of the proposed general regulations<sup>1</sup>.

#### **1. Background**

The Electricity Industry (Alternative Electricity Services) Bill 2023 proposes changes to the Electricity Industry Act 2004 (**Act**) to establish an AES registration framework including the making of regulations to support the implementation of the AES framework. The first two services being considered for regulation under the AES framework are:

- the sale and supply of electricity in an embedded network; and
- On-site Power Supply Arrangements (**OPSA**), previously referred to as behind-the-meter generation and storage services.

Energy Policy WA (**EPWA**) is seeking stakeholder feedback on EPWA's proposals for the development of [general regulations](#) in relation to:

1. Public consultation requirements for granting, renewing, amending or transferring registration for a service provider.
2. Public consultation requirements for issuing, reviewing, amending or replacing the AES Code.
3. Requirements in relation to the Economic Regulation Authority (**ERA**) using and disclosing any information it has been provided to carry out its responsibility to administer and enforce the registration framework including providing the Coordinator of Energy requested information.
4. Extending regulation 5(1) of the Electricity Industry (Ombudsman Scheme) Regulations 2005 to include the AES framework.

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<sup>1</sup> Refer [https://www.wa.gov.au/system/files/2024-02/alternative\\_electricity\\_services\\_framework-developing\\_supporting\\_regulations-consultation\\_paper.pdf](https://www.wa.gov.au/system/files/2024-02/alternative_electricity_services_framework-developing_supporting_regulations-consultation_paper.pdf)

As an overarching comment, Synergy considers it is important to ensure, when developing the general regulations, there is no regulatory duplication and to provide for a consultation regime that is responsive and flexible while the AES Code and framework is still in the early stages of maturity.

Synergy as the State's largest electricity retailer is also keen to ensure there is an effective framework to facilitate efficient behind-the-meter electricity sale and supply. Synergy's specific feedback and support for the development of the proposed general regulations is outlined in response to the consultation questions below. In addition, Synergy has proposed some additional matters for EPWA's consideration in developing the general regulations.

## 2. CONSULTATION

1. Do you support the proposed approach on the consultation requirements of registration applications as described? If not, please explain why.
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Yes, subject to Synergy's comments below.

Under section 59L(1) of the proposed amended Act, the ERA must ensure that public consultation is carried out in accordance with regulations before it makes a decision on any application to grant, renew, amend, or transfer a registration. However, AES registration applications may in some cases be exempt from consultation to allow for a fast-track application process or where proposed amendments to the registration are of a minor or administrative nature.

EPWA is proposing to draft regulations that require the ERA prior to making a decision on registration applications:

1. must provide notice of applications being received on a publicly available website maintained by the ERA. The notice may refer to one or more applications received and is to include:
  - instructions that any person can make written submissions to the ERA on the application(s);
  - submissions must be received within a specified timeframe; and
  - where to send submissions.
2. must use reasonable endeavours to notify persons who may have a material interest in the applications being made of the applications, to the extent it is practicable to do so; and
3. must have regard to submissions, made in accordance with the notice, when making a decision on an application.

Synergy notes sections 25 and 26 of the Economic Regulation Authority Act 2003 (**ERA Act**) relate to the functions of the ERA, specified under any other enactment, including the requirement to promote transparent decision-making processes that involve public consultation. Therefore, Synergy supports the principles and proposed approach to developing the general regulations but considers regard should be given to ensure the detail drafting of the regulations are consistent with the ERA Act.

2. Do you support the proposed approach to the regulation of public consultation processes as described? If not, please explain why.
3. Are there any additional matters related to regulating consultation approaches for AES applications and the AES Code that should be considered by Energy Policy WA?

Yes.

Synergy has no additional comments to make in relation to Q.3.

### 3. CONFIDENTIAL INFORMATION

4. Do you support the proposed approach to the regulation of confidential information as described? If not, please explain why.
5. Are there any additional matters related to regulating the use and disclosure of confidential information that should be considered by Energy Policy WA?

Yes.

Synergy has no additional comments to make in relation to Q.5.

### 4. CONSEQUENTIAL AMENDMENT

Synergy notes the Alternative Electricity Services Bill 2023 proposes to amend section 92 of the Act to include references to registration holders and the AES Code. In addition, further changes are proposed to extend regulation 5(1) of the Electricity Industry (Ombudsman Scheme) Regulations 2005 to the AES framework.

Synergy considers it is important the Ombudsman scheme treats all classes of members equitably in terms of cost recovery. In particular, it is important the scheme does not create a cross-subsidy between classes of members. For example, between members who are licensees and registration holders. Synergy considers there is likely to be significant variation in the size, operations and financial capabilities of registration holders (embedded network services providers) to fund the scheme.

Therefore, there may be a risk that smaller registration holders may be cross subsidised by licensees. In order to address this, Synergy recommends EPWA consider making an amendment to regulation 3(e) to explicitly require the scheme to be cost reflective for all members.

Please contact Karthi Mahalingham Manager Networks Regulation and Compliance on [REDACTED] [REDACTED] should you have any queries in relation to this submission.

Yours sincerely



**SIMON THACKRAY**  
**HEAD OF REGULATION AND COMPLIANCE**