



Our Reference: DMS #3040549V1  
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Mr Robert Pullella  
Executive Director  
Competition, Markets and Electricity  
Economic Regulation Authority  
Level 6 Governor Stirling Tower  
197 St Georges Terrace  
PERTH WA 6000

Dear Mr Pullella

**SUBMISSION ON MATTERS RELATING TO WESTERN POWER'S REVISED PROPOSED ACCESS ARRANGEMENT**

Thank you for the opportunity to comment on three matters relating to Western Power's proposed revised Access Arrangement for the South West Interconnected Network (SWIN), namely:

- reductions in contracted capacity;
- treatment of capital contributions; and
- payment of capital contributions in the nature of a headworks charge.

Synergy provides the following comments for the consideration of the Authority in making its Final Decision.

**CONTRACTED CAPACITY**

Synergy notes amendment 68 of the Authority's Draft Decision required Western Power to delete clause 3.4 (now clause 3.2) of the *Electricity Transfer Access Contract* (ETAC) and replace it with the relevant clauses of the Model Access Contract. While Western Power's revised ETAC retained this clause, it was expanded to require Western Power to consider submissions made by a user before making a final determination.

Notwithstanding the additional protection to users, Synergy does not support the inclusion of a clause in the ETAC that would allow Western Power to unilaterally reduce contracted capacity. It is not considered appropriate for the network operator to be in a position to make commercial decisions regarding the contracted capacity rights of network users.

Synergy notes the consultants appointed by the Authority to consider this issue, Parsons Brinckerhoff Associates (PB Associates), found no precedent in other jurisdictions and recommended the clause be removed.

The Authority has requested specific comment on whether the inclusion of this clause is necessary to:

- prevent users from withholding capacity for the purpose of restricting competition in the market; or
- prevent inefficient investment in network capacity.

While providing Western Power with the ability to unilaterally reduce contracted capacity may act as a mitigation measure against anti-competitive behaviour, Synergy agrees with PB Associates that this action would be at the expense of open access principles. This approach is also in direct conflict with the needs of generators to hold firm capacity in support of bilateral energy trading contracts and may have significant ramifications for other commercial contractual agreements to which a user is a party.

Synergy notes that protections against anti-competitive behaviour already exist under the *Electricity Industry Act 2004* and potentially Part IV of the *Trade Practices Act 1974*. Synergy notes the recommendations of PB Associates that other measures could be implemented to prevent anti-competitive behaviour in relation to capacity rights, such as a requirement for users to provide regular demand forecasts to the network operator with disputes resolved by the Regulator.

While recognising that withholding capacity could result in inefficient investment in the network, Synergy agrees with the Authority (Draft Decision, paragraph 1024) that a user not utilising or expecting to utilise contracted capacity would have a commercial incentive to trade spare capacity, thereby contributing to the efficient utilisation of the network. The potential for trading capacity at a premium to actual cost can be addressed through other measures.

In making a decision on this issue, the Authority should also consider how the contractual rights of existing users will be impacted if clause 3.2 is not deleted from the ETAC.

## **CAPITAL CONTRIBUTIONS**

Synergy understands the treatment of capital contributions proposed by Western Power will increase regulated revenue in the long term and substantially reduce network tariffs (from what they otherwise would have been) in the short term. Given the existing capped retail tariffs, Synergy is supportive of a price control that minimises network tariff increases and end-use customer impacts.

Synergy believes this approach is consistent with section 6.4(c) of the Access Code, which requires the price control in an access arrangement to have the objective of avoiding price shock.

Synergy acknowledges the Authority's concern regarding the potential impact of the proposed capital contributions treatment on Western Power's financial capability to undertake new facilities investment and hence its incentive to expand the SWIN.

However, Synergy notes the Access Code places an obligation on the service provider to undertake network augmentations where the investment meets the new facilities investment test or where a capital contribution has been provided. While it is recognised that cash flow issues arising from the proposed treatment of capital contributions may impact discretionary expenditure, Western Power's ability to fund its expenditure program is a matter for the Corporation and the Department of Treasury and Finance.

Synergy does not believe Western Power's incentive to expand the SWIN will be adversely impacted by the treatment of capital contributions. Western Power has a statutory obligation to endeavour to make a profit, consistent with maximising its long term value. Investment in the network will increase the Corporation's asset base and its ability to achieve a higher return in the long term.

The Authority has recognised that the Access Code does not prevent alternative treatments of capital contributions, such as spreading the deduction of the value of the capital contributions from the approved total revenue over an extended period, rather than adjusting revenue in the period in which the capital contribution is received.

Synergy believes it is the Authority's role to determine the most appropriate treatment of capital contributions, however, the Authority should be mindful of the original intent of the methodology to minimise network tariff increases and end-use customer impacts.

#### **HEADWORKS CHARGE**

Synergy supports the proposal by the Office of Energy to allow for an average capital contribution in the form of a "headworks" charge to be payable by users in particular locations or regions. Synergy believes this approach will provide a fair and transparent method to augment the network in the regional areas of the South West Interconnected System.

#### **CONCLUSION**

Synergy submits these comments for the consideration of the Authority. We would be pleased to discuss any issues raised in this letter and look forward to the release of the Authority's Final Decision on Western Power's Access Arrangement for the SWIN.

Yours sincerely

**GRANT DRAPER**  
**HEAD OF STRATEGIC BUSINESS**

