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WA

**REVIEW OF ELECTRICITY CORPORATIONS
(SOUTH WEST INTERCONNECTED SYSTEM (SWIS)
PRESCRIBED CUSTOMERS) ORDER 2021**

Strata Community Association (WA) Submission

9 December 2021

Introduction

Strata Community Association (WA) welcomes the opportunity to provide feedback to Development WA on this submission.

The Strata Titles Institute of WA (STIWA) now known as Strata Community Association WA (SCA WA), was born in 1989 due to some passionate individuals who determined the need for a unified industry body to bring about understanding, awareness and uniformity in the Strata Industry. The 'Industry Body', should also when necessary provide representation to Government on whatever amendments may be required to the Strata Titles Act.

The aim of SCA (WA) is to:

- provide a structure and forum for better communication between regions
- enhance the responsibilities of industry members in a nationally consistent manner
- enable representation at a national level to the Department of Education, Science and Training and other statutory bodies.

Based on the 2020 Australasian Strata Insights Report, more than 90,000 Western Australian residents live in apartments with 51,798 strata schemes and 251, 425 lots registered. Australia-wide, more than 2.2 million people live in flats and apartments, the vast majority being strata titled.¹ This figure does not include other forms of strata title such as townhouses and community titled developments. Nor does it include businesses operating in strata titled commercial buildings. The estimated value of property under strata title in Australia in 2020 exceeds \$1.3 trillion.²

As the growth of apartment and strata living has intensified over the last decade, the strata management strata services industry has grown in lock step to serve it. Strata managers navigate through a maze of legislation and regulation ranging from actual strata specific legislation, regulation, workplace, health and safety issues and building codes as well as measures applicable to the management of body corporate funds.

¹ Hazel Easthope, Sian Thompson and Alistair Sisson, *Australasian Strata Insights 2020*, City Futures Research Centre, UNSW, Accessed at <https://cityfutures.be.unsw.edu.au/research/projects/2020-australasian-strata-insights/>

² Ibid, p6

SCA's Response to the Review of Electricity Corporations (South West Interconnected System (SWIS) Prescribed Customers) Order 2021

Background

Energy Policy WA is seeking feedback on a proposed new Order, i.e. *“Review of Electricity Corporations (South West Interconnected System Prescribed Customers) Order 2021”* (Order 2021), to be made by the Minister for Energy, to clarify application of the electricity retail contestability thresholds in the South West Interconnected System (SWIS) of Western Australia.

The proposed Order 2021 is intended to preserve the current Government policy position on electricity retail contestability in the region given the increasing prevalence of bidirectional electricity services, that is, solar generation exports by electricity consumers into the Western Power grid network.

Before enacting the new legislation, Energy Policy WA is seeking stakeholder input as to any drafting errors or unintended consequences of the draft Order 2021.

Strata Community Association (WA) has reviewed the proposed Order 2021 under the following framework.

If the proposed Order 2021 is passed and Order 2007 is revoked, will there be any flow on issues with the definitions and how it affects exempt embedded electrical networks found in SCA (WA) Members' properties under management.

Please see following our findings.

Review Findings

Electricity Corporations (Prescribed Customer) Order 2007 Review

Order 2007 is the existing Order that was introduced by the Western Australian government in 2007. This Order clearly defines the level of contestability (that is, Power of Choice of energy retailer) for prescribed customers in the SWIS. The contestability level currently sits at 50 MWh (50,000 kilowatt hours) p.a. If a customer either consumes less than or is reasonably expected to consume no more than this threshold, they are not considered contestable.

Furthermore, Order 2007 describes “exit point” in relation to the prescribed customers. An exit point is described as *“a point on a covered network identified as such in an access contract at which, subject to the access contract, electricity is more likely to be transferred out of the network than transferred into the network”*, per the Electricity Networks Access Code 2004.

Noting, “exit point” refers to energy being transferred out of “or” into the network, i.e. importing or exporting energy, or bidirectional energy flow. This may occur through the introduction of a customer installing solar photovoltaic and exporting excess power into the network, i.e. Western Power, the SWIS electricity distributor.

Energy Policy WA's Concerns with the current Order 2007

As noted above, Order 2007 currently refers to electricity consumption at an exit point. While an exit point does reference the importing and exporting of energy flow, the Western Australian government notes that the current wording of Order 2007 *"is out of step with an increased prevalence of bidirectional services"*.

The Energy Policy WA consultation paper also notes that without any changes to Order 2007, electricity customer network connections that fall outside of the "exit service" definition (exit service means – see extract following) may not be captured under the current Order 2007.

"entry service" means a covered service provided by a service provider at an entry point under which the user may transfer electricity into the network at the entry point.

We note the current Electricity Networks Access Code does make several references to the transferring of electricity into the grid (see extracts from the Code).

"covered service" means a service in relation to the transportation of electricity provided by means of a covered network, including:

- (a) a connection service; or
 - (b) an entry service or exit service; or
 - (c) a network use of system service; or
 - (d) a common service; or
 - (e) a service ancillary to a service listed in paragraphs (a) to (d) above,
- but does not include an excluded service.

Energy Policy WA have concerns that customers with bidirectional energy flow may fall outside this designation of an exit point, and may potentially be considered contestable, and available to be supplied by retailers other than Synergy.

Energy Policy WA further note that this is not consistent with the intent of Order 2007 and the current State Government policy position on electricity retail contestability within the SWIS, and Energy Policy WA considers that there is a need to amend the Order 2007 to preserve the current Government policy position on electricity retail contestability in the SWIS. That is, for customers with electricity consumption not exceeding 50 MWh per annum at an exit point to be restricted to having Synergy as the designated electricity retailer, despite whether the electricity is also being exported from or imported to the Western Power network at the exit point.

While the current rules appear to allow for both importing and exporting of energy, we have not undertaken a comprehensive legal review of the Western Australian Energy laws and rules, and our focus is on our brief, i.e. "if the proposed Order is lifted will there be any flow on issues with the definitions and how it affects exempt embedded electrical networks found in SCA (WA) Members' properties under management."

Electricity Corporations (SWIS Prescribed Customers) Order 2021 Review

SCA (WA) reviewed Order 2021 and associated documents and considered if we believe there will be any flow on issues with the definitions and how it affects exempt embedded electrical networks.

Order 2021

1. Item 4 - revokes Order 2007.
2. Item 3(1)(b) - Reiterates the meaning of exit point.
3. Items 3(2) & (3) - Further articulate the meaning of a prescribed customer at an exit point, and their non-contestability threshold per Clause 54(2) of the Electricity Industry Act 2004, being a customer who consumes, or reasonably expected to consume no more than 50 MWh p.a.

The 'Code of Conduct for The Supply of Electricity to Small Use Customers 2018' defines Contestable Customers as a prescribed customer, which aligns with Order 2007.

"contestable customer" means a *customer* at an exit point where the amount of electricity transferred at the exit point is more than the amount prescribed under the *Electricity Corporations (Prescribed Customers) Order 2007* made under the *Electricity Corporations Act 2005* or under another enactment dealing with the progressive introduction of customer contestability.

4. Item 1(1)(a) - Appears to introduce two new definitions, i.e. "supply point" & "bidirectional point". While Order 2021 references the Electricity Networks Access Code 2004, section 1.3, i.e. "Definitions", and a meaning of supply point & bidirectional point, we were unable to find those meanings or definitions in the code.
5. The Order does not specifically reference exempt embedded electrical networks.

Exempt Framework in Western Australia

We have not undertaken a legal review of the regulatory framework in Western Australia however we are aware that the Electricity Networks Access Code 2004 refers to various exemptions, e.g. Clause 12 references persons applying to a service provider for exemption from technical rules. Additionally, the Electricity Industry Exemption Order 2005 allows for residential and commercial electricity embedded networks and energy on-selling. Order 2021 does not revoke the Electricity Industry Exemption Order 2005 in our view.

Summary Statement

On consideration of the research we have undertaken and summarised above, and the expected flow on affect, in our view, the revoking of Order 2007 and replacing it with Order 2021, will not create any flow on issues with the definitions of, and how it affects exempt embedded electrical networks in Western Australia's SWIS,

SCA (WA) request clarification from Energy Policy WA that our understanding is correct.

Inclusion in future consultation

SCA (WA) request that Energy Policy WA include SCA (WA) and the property industry into future consultation, as we represent strata schemes and managers who are key market participants as customers, consumers and privately-owned network operators.

Property Ownership Rights

SCA (WA) highlight that property ownership rights need to be considered and acknowledged in the development of energy policy in WA, as the electrical infrastructure is owned by the property as an intrinsic, essential asset within any property.

The main legal property rights to be acknowledged are the right of possession, the right of control, the right of exclusion, the right to derive income, and the right of disposition. There are exceptions to these rights, and property owners have obligations as well as rights. The property owner remains responsible for the electrical infrastructure (i.e. condition, reliability, maintenance, insurance, life cycle capital upgrade).

Where multiple exit points (i.e. a multi master network) are in existence within a privately owned property, in current circumstances, the network operator (Western Power) and the non-contestable (<50,000kWh pa) electricity retailer, Synergy benefits from and utilises privately owned electricity infrastructure to sell electricity to the property owner's tenants, lot owners and occupants, without paying the property owner for the right of access.

SCA (WA) seek acknowledgement from Energy Policy WA that this order and future orders related to the use of privately owned electrical (and gas) infrastructure must be developed in recognition of the property owners' rights.

To contact SCA (WA) about any aspect of our submission, please contact our SCA (WA) President, Catherine Lezer, on admin.wa@strata.community or our Wendy Caccetta, Policy and Media Officer on wendy.caccetta@strata.community.