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Via email: submissions@epwa.wa.gov.au

Dear Energy Policy WA

ENERGY SECTOR GOVERNANCE: PROPOSED CHANGES TO THE REGULATORY FRAMEWORK

Synergy welcomes the opportunity to provide comments on Energy Policy WA's (EPWA's) Energy Sector Governance: Proposed Changes to the Regulatory Framework (**Consultation Paper**) and agrees with the need for an evolution of market and regulatory arrangements in the context of unprecedented changes to the Wholesale Electricity Market (**WEM**).

Synergy is broadly supportive of the proposed Amending Rules presented in the Consultation Paper. However, Synergy notes further clarification will provide Market Participants more regulatory certainty and submits the following comments for EPWA's consideration.

Appendix A

Draft WEM Rules Amendments - Transfer of Functions from the RCP to the Coordinator

- 1) Clause 2.3.1B:** This clause introduces a new obligation on the Market Advisory Committee (**MAC**) to endeavour to reach a consensus position. Synergy proposes amendments to this clause to ensure it works together with proposed clause 2.3.1C, which makes references to instances where a consensus position is not achieved.

*2.3.1B. The Market Advisory Committee must endeavour where practicable to reach a consensus position **or establish a majority view** on any issues before it.*

- 2) Clause 2.3.5:** EPWA has proposed changes to the composition of the MAC, which includes amending the representation of Contestable Customers from one member to 'at least one' member, as well as increasing the representation of small-use consumers from one member to 'at least two members'.

The absence of a limit on the number of Contestable Customers and small-use consumers could allow the representation from these cohorts to exceed representation from Market Generators and Market Customers, which may not be reflective of the composition of the WEM. Synergy recommends introducing a limit of four members, in line with the maximum members for Market Participants considering clause 2.3.5A, to prevent this.

2.3.5. Subject to clause 2.3.13, the Market Advisory Committee must comprise:...

(b) at least one *and not more than four* members representing Contestable Customers;...

(e) at least two *and not more than four* members nominated by the Minister to represent small-use consumers;...

- 3) **Clause 2.5.3:** EPWA has proposed the removal of clause 2.5.3, which requires the Rule Change Panel to have regard to any statement of policy principles given by the Minister in making Amending Rules in accordance with chapter 2.

Synergy recommends the retention of the clause, with minor amendments, to align with rule 126(3) of the Gas Services Information (**GSI**) Rules. This will ensure that any statement of policy principles issued by the Minister under clause 2.5.2 have been considered in making Amending Rules.

2.5.3 The ~~Rule Change Panel~~ Coordinator must have regard to any statement of policy principles given by the Minister in making Amending Rules in accordance with this Chapter

- 4) **Clause 2.5.8A:** Although not the intent, clause 2.5.8A may be strictly interpreted such that the Minister must only approve, and therefore cannot reject, all rule changes resulting from a Rule Change Proposal initiated by the Coordinator. The proposed clause should also be aligned with rule 148A of the GSI Rules which precludes the Minister from having to assess Fast Track Rule changes. For added clarity, Synergy recommends the following drafting changes:

*2.5.8A. All rule changes resulting from a Rule Change Proposal initiated by the Coordinator, *other than a Rule Change Proposal to which clause 2.5.9 applies*, must ~~be~~ *not be implemented unless* approved by the Minister.*

Appendix B

Draft GSI Rules Amendments – Transfer of Functions from the RCP to the Coordinator

- 1) **Rule 148A:** Similar to Synergy's feedback on clause 2.5.8A of the draft WEM Rules Amendments, Synergy recommends the following drafting changes for added clarity:

*148A. All rule changes resulting from a Rule Change Proposal initiated by the Coordinator, other than a Rule Change Proposal to which rule 131(2) applies, must ~~be~~ *not be implemented unless* approved by the Minister.*

Appendix C

Draft WEM Rules Amendments – Transfer of Functions from the ERA to the Coordinator

- 1) **Clause 2.16.11:** As currently drafted, Synergy's view is that the clause is too broad as it only requires the ERA 'to consider' whether any specific events, system behaviour or other matters have impacted on the effectiveness of the market prior to providing the

Coordinator and the Minister a report on the effectiveness of the market in relation to matters identified in clause 2.16.9.

Synergy suggests the clause is amended to require the ERA's assertions to be substantiated by evidence and proposes the following drafting:

2.16.11. The Economic Regulation Authority must provide to the Coordinator and the Minister a report on the effectiveness of the market and dealing with the matters identified in clauses 2.16.9, if the Economic Regulation Authority ~~considers~~ has reasonable evidence to prove that any specific events, or systemic behaviour or matters have impacted on the effectiveness of the market.

- 2) Clauses 3.18G.1 and 3.18H.1:** Under the proposed arrangements, accountability is separated such that the ERA is responsible for the economic study of the impact of Network Operator Outages on the market and the Coordinator is responsible for the review of the outage planning process.

Option A:

Although Synergy is supportive of the underlying intent to assign the ERA with economic reviews and the Coordinator with technical reviews, Synergy's preference is to not separate these obligations and instead allow them to be conducted in a collaborative manner.

Delete proposed section 3.18G which will require consequential changes to the number of proposed section 3.18H.

3.18H.1. At least once in every five year period starting from the New WEM Commencement Day, the Coordinator, ~~with the assistance of AEMO~~, must conduct a review of the Outage planning process against the Wholesale Market Objectives. At a minimum, the review must include:

- (a) a technical study of the effectiveness of the Outage Evaluation Criteria, with the assistance of AEMO;*
- (b) an economic study on the impact of Network Operator Outages on the market, with the assistance of the Economic Regulation Authority; and*
- (~~b~~c) a public consultation process with Rule Participants.*

Option B:

If the recommendation to keep accountabilities separated is retained, then Synergy proposes the following alternative.

Synergy seeks further information regarding the rationale for setting a different timeline for the ERA's review of the economic study on the impact of Network Operator Outage on the market, which is to occur at least once every five year period starting from 1 July 2021, and the timeline the Coordinator must comply with regarding the review of the Outage planning process, which is to occur at least once every five year period starting from the New WEM Commencement Day.

Synergy recommends the timelines should be aligned and occur once every five year period starting from the New WEM Commencement Day. Synergy also sees benefit in introducing an explicit requirement in the Amending Rules for the reviews to have regard to the latest studies issued by the ERA or Coordinator.

Lastly, Synergy recommends drafting amendments to clause 3.18G.1 to clarify what the purpose of the report is and therefore what conclusions the study is intended to reveal.

3.18G.1. At least once in every five year period starting from the New WEM Commencement Day ~~1 July 2021~~, the Economic Regulation Authority must conduct an economic study on the impact of Network Operator Outages on the market for the purpose of xxx, and must have regard to the most recent review conducted under clause 3.18H.1.

3.18H.1. At least once in every five year period starting the New WEM Commencement Day, the Coordinator, with the assistance of AEMO, must conduct a review of the Outage planning process against the Wholesale Market Objectives. At a minimum, the review must include:

(a) a technical study of the effectiveness of the Outage Evaluation Criteria; and

(b) a public consultation process with Rule Participants,

and must have regard to the most recent review conducted under clause 3.18G.1.

Appendix D

Drafting Instructions – Rule change panel abolition and related changes

1) Transitional rule-making authority:

EPWA seeks to extend the date for the Minister’s transitional rule-making power to 31 March 2023, which is six months post the commencement of the new market beginning on 1 October 2022, for both the Electricity Industry (Wholesale Electricity Market) Regulations and Gas Services Information Regulations.

Synergy is supportive of this extension on the provision that the six months includes adequate time for industry consultation. If necessary, Synergy supports elongating the Minister’s transitional rule-making authority beyond 31 March 2023 to allow for an adequate consultation period.

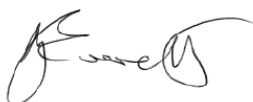
Other

Under section 4 of the Consultation Paper, EPWA notes the Taskforce intends to undertake “a separate public consultation on the overall regulatory framework for future” Whole of System Plans (**WOSPs**). Clarification is sought as to whether a separate issues paper will be published as part of this consultation that provides further information on the operation of the WOSP as well as the assessment criteria to be considered a priority project.

Synergy once again thanks EPWA for the opportunity to submit on the Consultation Paper and confirms that this submission may be made publicly available on www.energy.wa.gov.au.

Should you require additional information regarding this submission, please contact Jo-Anne Chan, Senior Regulatory Analyst, at jo-anne.chan@synergy.net.au.

Yours sincerely



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