

Wholesale Electricity Market Rule Change Proposal Submission

RC_2014_09

Managing Market Information

Submitted by

Name:	Oscar Carlberg
Phone:	0406 785 996
Email:	Oscar.carlberg@synergy.net.au
Organisation:	Synergy Electricity Generation and Retail Corporation
Address:	Forrest Centre, 219 St Georges Terrace, Perth WA 6000
Date submitted:	1/03/2019

Submissions on Rule Change Proposals can be sent by:

Email to: support@rcpwa.com.au

Post to: Rule Change Panel
Attn: Executive Officer
C/o Economic Regulation Authority
PO Box 8469
PERTH BC WA 6849

1. Please provide your views on the proposal, including any objections or suggested revisions.

Synergy appreciates the opportunity to provide feedback in response to *Call for Further Submissions: Managing Market Information (RC_2014_09)*.

Synergy recognises the complexities of the existing framework for managing market information and supports the intent of the rule change proposal to make it more efficient and simple to administer. However, Synergy raises the following issues for the Rule Change Panel's further consideration.

Retrospective changes to confidentiality status

Proposed clause 10.2.1 would allow Confidential Information provided by market participants under the condition that it be kept confidential to be retrospectively made public.¹

Additionally, 10.2.5 would allow AEMO to disclose Confidential Information where it considers it has taken "reasonable steps to ensure that the document does not: (i) identify the person to whom the Confidential Information relates; or (ii) enable that person to be identified."

Synergy notes that market participants may only be able to disclose Confidential Information under certain conditions due to the potential risks of its disclosure for themselves and their

¹ 10.2.1 states that "AEMO may revise a determination made under this clause 10.2.1 at any time".

counterparties. Synergy does not support the proposed clauses 10.2.5 and 10.2.1 as they would allow these conditions to be breached and for the information to be disclosed more widely than initially agreed.

Synergy suggests that information defined as Confidential Information under the rules should not be retrospectively made public (regardless of AEMO's redactions) unless the market participant to which the information relates authorises its disclosure.

Requirement for AEMO to consider whether benefits of disclosure outweigh detriments

10.2.2(d)(v) would require AEMO to publicly release market participants' sensitive information where it considers the benefits to the market produced by disclosing the information would outweigh any detriment to the information-owner.

Synergy considers that this is a broad and abstract requirement that would be difficult for AEMO to administer and for market participants to anticipate. Additionally, AEMO's determinations based on 10.2.2(d)(v) may result in outcomes that are inequitable for the market participant to which the information relates despite the potential benefits to other market participants 'out-weighing' its detriment.

As a result, Synergy considers that if enacted, 10.2.2(d)(v) would expose market participants to a broad risk of their sensitive information being disclosed publicly.

To mitigate this risk, Synergy suggests that the Rule Change Panel consider removing the proposed clause 10.2.2(d)(v) from the rule change proposal.

AEMO's ability to create conditions for disclosure

Synergy understands that a key purpose of this rule change proposal is to clearly specify conditions for the disclosure of Confidential Information. For example, the proposed definition for Confidential Information states that Confidential Information "must not be used or disclosed except in accordance with clauses 10.2.3, 10.2.4 or 10.2.5."

However, Synergy considers that the proposed clause 10.2.11 would allow AEMO to create potentially unseen conditions that circumvent these rules.

Proposed clause 10.2.11 states, AEMO may, "for any type of Confidential Information specified in the list referred to in clause 10.2.10, specify conditions with respect to the use or disclosure of that Confidential Information."

As currently drafted, the rule change proposal does not limit the scope of these potential conditions. Instead, proposed clause 10.2.4 states that anyone who receives Confidential Information may disclose it, if it is authorised by conditions specified for the purposes of clause 10.2.11.

Synergy considers that the proposed clauses, 10.2.11, 10.2.4 and 10.2.9 would result in power being vested in (potentially unseen) AEMO-appointed conditions or a Market Procedure that that may circumvent the proposed Market Rules in this rule change proposal.

To prevent this outcome, Synergy suggests that 10.2.11 be amended to limit the scope and application of any exceptions allowing the disclosure of Confidential Information that AEMO may create. For example, this limit could be linked to the guidelines specified in proposed clause 10.2.2.

Additionally, Synergy's suggests that 10.2.11 be amended to require AEMO to publish in a Market Procedure any conditions it creates under this clause such that these conditions are reviewable and visible to market participants.

Information deemed Public by default

Synergy does not support proposed clause 10.2.6 which would deem information "produced or exchanged" under the WEM Rules to be Public Information unless AEMO decides, or the WEM Rules expressly state, the information is Confidential. This is because once

information becomes public and is disclosed, it will be difficult (or impossible) to make confidential.

Synergy considers that this exposes market participants to an unnecessary risk that their sensitive information will be disclosed.

To prevent against this outcome Synergy suggests that certain information should be deemed to be Confidential by default, such as information that indicates market participants' SRMC.

Confidential Information disclosable to certain entities by default

Synergy does not support proposed clause 10.2.3, considering that it appears to allow for Confidential Information to be disclosed to the AEMO, the RCP, the Minister, the PUO, the ERA and the ERB by default regardless of its confidentiality.

This exposes market participants to an unnecessary risk of their Confidential Information being breached by allowing Confidential Information to be disclosed to these entities even where there is no requirement for its disclosure.

Synergy considers this proposed clause contravenes the general principles that the WEM Rules currently apply to the disclosure of Confidential Information – that is, Confidential Information is only disclosed where:

1. it is for a genuine purpose relating to a function conferred to an entity under the WEM Rules;
2. its use is limited to the purpose for which it was disclosed; and
3. the relevant entity must formally request from the relevant market participant the Confidential Information it requires.

These principles are exemplified by rules including clause 2.16.6 which only allows the ERA to require information from market participants where it serves its functions stipulated under 2.16.

Synergy suggests that the proposed clauses should be amended such that the WEM Rules continue to uphold these principles and limit the disclosure of Confidential Information to the service of the purposes stipulated in the WEM Rules.