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## **PROPOSED CHANGES TO THE PILBARA, GSI AND ESM REGULATIONS – TRANSITIONAL RULE-MAKING POWERS AND CIVIL PENALTIES – CONSULTATION PAPER**

Synergy welcomes the opportunity to provide a submission in response to EPWA's consultation paper. The consultation paper outlines the need for review of Schedule 1 of the ESM Regulations, particularly following the commencement of the new Wholesale Electricity Market on 1 October 2023. As an outcome of this review, EPWA has identified several clauses in the ESM Rules that warrant a category C civil penalty classification. Synergy raises the following considerations regarding the proposed changes below.

### **1 Clause 2.30.5A**

Synergy does not support clause 2.30.5A being deemed to be a category C civil penalty provision in its current form and requires further clarification. Synergy seeks clarity as to the process by which single Credible Contingency Events will be identified, and how a Market Participant will be notified. Additional clarity is also needed as to whether this clause is intended to apply for long-lasting single Credible Contingency Events. Further, if a Market Participant were to become aware that it needs to aggregate Facilities, they should be afforded a reasonable timeframe to implement the aggregation within their systems, trading and training processes. Synergy seeks to further discuss its concerns with EPWA in relation to this clause.

### **2 Clause 4.28C.12(a)**

This clause does not specify a timeframe between when the Market Participant will be aware that they are required to provide additional Reserve Capacity Security, and the time by which they must ensure AEMO holds it. The current drafting of the clause theoretically allows for these two events to fall on the same day, so long as the events occur before the time and date specified in clause 4.1.13.

This could result in a situation where AEMO informs a Market Participant that an additional amount of Reserve Capacity Security is required the Business Day before the time and date specified in clause 4.1.13, which would give the Market Participant very limited opportunity to provide the required Security to AEMO. As such, Synergy considers that it would be unreasonable to categorise 4.28C.12 as a civil penalty provision in its current drafting state, as the requirement is not time-based.

### **3 Clause 6.3C.9**

Synergy seeks clarification regarding the timeframe this clause applies to noting that Real-Time Market Submissions may extend up to seven days. Synergy considers the civil penalty provision

should only be applied to the clause at the STEM submission cut-off time, which would address the risks to the market presented by non-compliance. Conversely, Synergy considers it would be unreasonable to intend that the civil penalty provision applies to the clause for all 7 days of the forward market schedule.

4 Clause 7.4.2(a)

Clause 7.4.2(a)(ii) requires a Market Participant to make reasonable endeavours to ensure that its Real-Time Market Submission for each of its Facilities accurately reflects any applicable tests required under the ESM Rules, including Reserve Capacity testing. While Synergy understands the importance of accurate Real-Time Market Submissions to prevent adverse market impacts, the requirement to reflect Facility testing for a 7-day horizon imposes onerous compliance requirements for Market Participants. Recognising that the clause is intended to prevent these adverse impacts, Synergy proposes that the obligations under clause 7.4.2(a) should not attract a category C civil penalty and that a lower civil penalty category should be applied.

5 Clause 7.4.5

For compliance with clause 7.4.5, a Market Participant's offers are required to accurately reflect their FCESS and SESSM obligations. Synergy has similar concerns as outlined above for clause 7.4.2 with categorising clause 7.4.5 as a category C civil penalty provision. For the same reasons as outlined at item 4, Synergy proposes that this clause 7.4.5 (along with clause 7.4.2(a)) be revised to a lower civil penalty category.

**Conclusion**

Synergy remains committed to a high standard of compliance with the ESM Rules and Regulations. In committing to this standard, Synergy acknowledges that implementing appropriate robust internal controls and processes consumes significant organisational time and resources.

Taking a risk-based approach to managing regulatory requirements, high-risk provisions necessitate longer lead times for appropriate control implementation. Since 1 October 2023, the Wholesale Electricity Market has undergone extensive regulatory changes in relatively quick succession. Synergy is of the view that sufficient implementation time is essential to enable Market Participants to be business-ready, particularly in relation to the provisions preventing high-risk market outcomes. For these reasons, Synergy proposes a commencement date no earlier than 1 January 2026.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "R. Vorster", is written over a light blue horizontal line.

**RUDOLF VORSTER**

**HEAD OF WHOLESALE STRATEGY AND PLANNING**