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Economic Regulation Authority
469 Wellington Street
PERTH WA 6000

2017 Report to the Minister for Energy on the Effectiveness of the Electricity Generation and Retail Corporation Regulatory Scheme (2018 EGRC review)

Synergy welcomes the opportunity offered by the Economic Regulation Authority (**ERA**) to comment on the 2018 EGRC review.

Synergy provided feedback to the ERA on the 2017 EGRC review on 30 June 2017. Synergy considers a number of issues raised in that submission are still relevant to the 2018 review and a copy of the submission is attached for the ERA's reference.

In relation to the 2018 EGRC review Synergy provides the following comments in response to the ERA's request for stakeholder feedback.

1. The ERA invites stakeholders to comment on the scope of the 2017 EGRC review

Please refer to item 1 in Synergy's 2017 EGRC review submission.



2. The ERA welcomes feedback from stakeholders on whether or not the effectiveness of the scheme is affected by the replacement transfer pricing mechanism or the transfer pricing arrangements.

The ERA has proposed:

“The Segregation and Transfer Pricing Guidelines 2013 do not identify the new method for calculating transfer prices. Market participants, in particular new entrants, may not be aware of the replacement foundation transfer price mechanism or how it relates to market prices. Synergy can revise this mechanism at any time for changes of a minor or technical nature, but there is no requirement for Synergy to inform the ERA to allow for regulatory scrutiny. Accordingly, to provide transparency, the ERA recommended that Synergy publishes its foundation transfer price and the method it uses for calculating this price.”¹

In Synergy’s view the recommendation is not reasonable because it requires Synergy to publish the method by which it arrives at the price and reveal commercial in confidence information between the wholesale business unit (**WBU**) and retail business unit (**RBU**) and between WBU and its competitors. Synergy considers concerns in relation to foundation transfer pricing mechanism impacting the effectiveness of the EGRC Scheme should be evidence based. Further, Synergy considers that commercial arrangements between RBU and WBU that are not contrary to the EGRC regulations should not be made publicly available as this will detrimentally affect Synergy’s legitimate business interests.

3. The ERA welcomes feedback from stakeholders on their experience of the scheme’s ring fencing guidelines and their views on circumstances that might warrant amendments to the ring fencing guidelines

Please refer to item 1 and “other matters” in Synergy’s 2017 EGRC review submission.

Synergy notes the Authority as part of the 2018 EGRC review has expressed the following view:

“A staff member with knowledge of commercially sensitive information about negotiations between a particular business unit and a competitor can be moved to another business unit where that information could be used to Synergy’s advantage. The possibility for, and extent of, staff movements between segregated business units creates opportunities for sensitive information to be shared, even if inadvertently.”²

Staff transfers are an accepted organisational practice to assist employees to develop their career path by providing experience in other parts of a business and to enable staff to further develop their skills, experience, and knowledge by performing a different role that requires new skills and provides different responsibilities.

Synergy agrees with the ERA excluding individuals from moving between roles within Synergy for set periods is impractical given Western Australia has a small electricity sector and a limited pool of experienced electricity professionals.

Synergy is very mindful of its EGRC scheme obligations. Synergy has implemented various controls to manage staff movements to minimise the risk of restricted information disclosure and its staff treat the ring fencing obligations seriously. Synergy’s staff are well aware of the ramifications to the organisation and individuals should the *ElectricityCorporations(ElectricityGeneration and Retail Corporation) Regulations 2013* be breached. It should also be noted since the EGRC’s scheme inception in January 2014 Synergy has been subject to two independent audits annually by the Office of the Auditor General with the audit opinions being tabled in Parliament each year. From Synergy’s perspective there is no evidence to suggest the ring fencing guidelines require amendment to address the issue raised by the ERA.

¹ Refer 2018 EGRC review page 22.

² Refer 2018 EGRC review page 9.

The ERA has also proposed that one of the key questions it will consider as part of the 2018 EGRC review is whether the scheme's ring fencing requirements are effective in restricting the flow of competitors' commercially sensitive information between the different business units. Synergy considers the scheme has been effective in achieving this outcome and notes that its RBU has no:

- direct involvement in establishing Synergy's forecast view of market prices
- involvement in establishing forward energy pricing curve/bilateral price curve
- involvement in establishing the foundation transfer price for electricity which is a load weighted function of the forward energy pricing curve/bilateral price curve³.

In addition, Synergy also notes that the WBU does not meet with the RBU in relation to the requirements set under sections 7.2.1 to 7.2.5 of the ISWA that relate to a Change in Circumstance.

4. The ERA invites stakeholders to comment on the effectiveness of the scheme in encouraging competition in the wholesale electricity market, and to provide any evidence in support of their views

Synergy has previously commented on the scheme and the effect on competition in its 2017 EGRC review submission. Synergy considers the matters raised in this submission continue to be valid to the 2018 EGRC review. Please refer to item 1 in Synergy's 2017 EGRC review submission.

5. The ERA welcomes any information from stakeholders on their experience of the standard product regime and its effectiveness in providing access to wholesale electricity supplies

Synergy notes the ERA recommended, in its 2016 EGRC review⁴, setting a spread of 10 per cent between the buy and sell price to ensure that pricing discipline is placed on Synergy, and to revisit this 12 months after implementation to assess changes in the level of trade. The ERA also recommended exploring varied spreads, with smaller spreads employed for more frequently traded products.

Synergy considers there is no evidence that the current standard products buy sell spread is inappropriate or is not supporting the EGRC scheme especially given there has been a significant increase in the standard product deals in the second part of 2017 and in 2018. In its last year's submission Synergy provided the reasoning for why a 10 per cent buy sell spread is difficult to achieve. Please refer to item 2 in Synergy's 2017 EGRC review submission.

Synergy also notes the ERA recommended Synergy relax its credit requirements so that they are proportionate to Synergy's exposure to the risk of counterparty default under the standard product regime. Synergy considers its credit requirements, relevantly, are a function of board approved policies and are intended to protect Synergy from the risk of counter party default. Therefore, Synergy does not consider that they prevent customers from purchasing standard products especially given there has been a significant increase in the standard product deals in the second part of 2017 and in 2018.

³ For clarity RBU has no involvement in establishing the forward energy price curve. RBU only provides a forecast of the ISWA load by half hour for the period (consistent with Synergy's budgeting). ISWA rates are a load weighted function of the forward energy price curve and the ISWA quantities.

⁴ Refer 2018 EGRC review page 22.

6. Other matters

Synergy also notes the ERA recommended Synergy provides segmented financial reports to ensure transparency regarding how its revenues, costs and profits are split across Synergy's different electricity segments, with a confidential version of the information provided to the ERA for regulatory scrutiny and a public version provided to the market for information. Synergy has previously commented on the merits of segmented reporting in its 2017 EGRC review submission. Therefore, giving regard to the current level of audits, regulations and scrutiny it is already subject to Synergy considers the administrative and cost burden of providing segmented reports outweighs the perceived benefits in relation to public transparency.

Please contact me should you wish to discuss the above matters further.

Yours sincerely,

SIMON THACKRAY
MANAGER REGULATION AND COMPLIANCE