

Wholesale Electricity Market Rule Change Proposal Submission

RC_2018_05

ERA Access to market information and SRMC investigation process

Submitted by

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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 WA 6849

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

Synergy appreciates the opportunity to provide feedback on the Rule Change Proposal, *ERA Access to Market Information and SRMC Investigation Process*.

Proposal to impose additional requirement on AEMO to provide information to ERA

Synergy considers the issue forming the basis for the proposal to impose an additional requirement on AEMO to provide information to ERA is immaterial and insufficient to justify the proposed changes to clauses 2.13.3A, 2.13.9A and 2.13.9B. Further, Synergy considers the proposed amendments to 2.13.9B would impose additional obligations on AEMO that are unrelated to the apparent issue outlined by the Rule Change Proposal.

ERA considers the proposed changes to 2.13.3A, 2.13.9A and 2.13.9B are necessary because without them there is “no power in the Market Rules for ERA to require AEMO to provide it with market information for compliance monitoring” and there could therefore be “legal risk in AEMO voluntarily providing information to ERA”.

However, clause 2.1A.2(j) obliges AEMO to support ERA's monitoring of participants' compliance and investigation of any potential rule breaches; and clause 2.13.3A of the rules obliges AEMO to co-operate with ERA and facilitate any processes and systems put in place by ERA in monitoring participants' compliance with the market rules. These requirements seem to diminish any risk of AEMO being seen to be "voluntarily" providing ERA information.

Aside from the apparent legal risk, the Rule Change Proposal does not present any other issues that the proposed changes to clauses 2.13.3A, 2.13.9A and 2.13.9B would rectify. For example, the proposal does not offer instances where the absence of the proposed changes has rendered ERA unable to efficiently access information necessary to conduct its compliance monitoring, nor allowed AEMO to withhold any information sought by ERA in support of its compliance function.

Additionally, Synergy considers it unlikely that AEMO would be able to withhold this type of information due to the aforementioned requirements set out by clauses 2.1A.2(j) and 2.13.3A.

Given the proposal to impose a requirement on AEMO to provide information does not seem to rectify any issues, Synergy considers the proposed changes to 2.13.3A, 2.13.9A and 2.13.9B are not sufficiently justified.

Further, Synergy considers the proposed change to 2.13.9B would impose additional requirements on AEMO that are unrelated the apparent legal risk issue. While the proposed addition to 2.13.3A would impose the requirement for AEMO to provide ERA information to prevent AEMO from providing information "voluntarily"; the proposed addition to 2.13.9B goes further and would impose a requirement for AEMO to develop "processes and systems to provide [ERA] with data and information". Synergy considers this additional requirement for processes and systems would not serve to mitigate the apparent legal risk issue outlined by the proposal and is therefore not sufficiently justified.

Proposal to de-restrict ERA's information use

Synergy does not support the proposal to allow ERA to use information gathered in support of its effectiveness monitoring (under 2.16) to be used in support of its other functions because this amendment would make it difficult for Market Participants to understand where their confidential information is transmitted and assess the risk of their confidential information being breached.

Under the current rules, when ERA requests information from Market Participants, Market Participants understand what functions the information will serve and which third parties supporting ERA's work – if any – would also be accessing the information. However, under the proposed changes, ERA would not be required to notify Market Participants when their information is being used for a separate purpose and when it is being accessed by an additional third party. Without this notification, Market Participants would not know where their confidential information is being held, nor be able to assess the risk of their confidential information being breached.

Additionally, Market Participants would be unable to offer any contextual or ancillary information to support ERA's work.

Finally, Synergy considers the legal risk issue outlined by the proposal does not justify the de-restriction of ERA's use of information under 2.16 via changes to 2.16.14. In contrast to the Rule Change Proposal, Synergy does not consider that ERA would be exposed to legal risk in the absence of the proposed changes. If ERA gains access to information via the proper channels and clearly invokes its appropriate rights under the rules when requesting information, ERA should be able to allay any arguments that it has collected information illegally or that this information is inadmissible.

2. Please provide an assessment whether the change will better facilitate the achievement of the Wholesale Market Objectives.

Synergy considers the proposed changes to 2.13.3A, 2.13.9A, 2.13.9B and 2.16.14 would not better facilitate the achievement of the Wholesale Market Objectives.

3. Please indicate if the proposed change will have any implications for your organisation (for example changes to your IT or business systems) and any costs involved in implementing these changes.

Synergy may incur costs if this Rule Change Proposal affects Market Participants' ability to manage the confidentiality of their information.

4. Please indicate the time required for your organisation to implement the change, should it be accepted as proposed.

Synergy does not expect to expend significant time in implementing any changes resulting from this Rule Change Proposal.
