



# Notice

3 April 2019

## Investigation into Synergy's pricing behaviour

### Investigation conclusion

The Economic Regulation Authority has [concluded its investigation](#) into the prices offered by the Electricity Generation and Retail Corporation, trading as Synergy, in the Western Australian Wholesale Electricity Market's balancing market<sup>1</sup>. Under clause 2.16.9F of the Wholesale Electricity Market Rules, the ERA must publish the results of its investigation.

The ERA has investigated Synergy's balancing submissions in 14,812 trading intervals between March 2016 and July 2017, and has concluded that the prices offered exceeded Synergy's reasonable expectation of the short run marginal cost<sup>2</sup> of generating the relevant electricity in 12,908 trading intervals, and that Synergy's behaviour was related to its market power. This may be a breach of the Market Rules.

The ERA has calculated that Synergy's pricing behaviour increased Synergy's revenue by between \$40 million and \$102 million above what it would have received over the 15-month investigation period if it had bid according to the market rules.

The ERA will now bring proceedings before the [Electricity Review Board](#), in the interests of Western Australian consumers.

### Background

The Wholesale Electricity Market in Western Australia operates under the *Electricity Industry Act 2004*, the *Electricity Industry (Wholesale Electricity Market) Regulations 2004*, and the Market Rules.

Market generators such as Synergy are required to make price-quantity offers into the balancing market to supply electricity for each 30-minute trading interval. These offers are known as balancing submissions.

Synergy is the largest generator in the balancing market, operating a generation portfolio made up of 30 individual generators.

Clause 2.16.9B of the Market Rules requires the ERA to investigate when it believes that prices offered by a market generator in its balancing submissions may exceed the market

<sup>1</sup> The balancing market is a competitive market within the Wholesale Electricity Market. It determines the dispatch of generation to meet electricity demand based on price offers from market generators.

<sup>2</sup> Short run marginal cost is an economic term and is defined as the increase in total cost that arises from a unit (or small) increase in output.

generator's reasonable expectation of the short run marginal cost of generating the relevant electricity, and that the behaviour may relate to market power.

### **ERA's investigation and findings**

On 26 July 2017, the ERA notified Synergy that it had commenced an investigation into the prices offered in Synergy's balancing submissions, pursuant to clause 2.16.9B of the Market Rules. The investigation covered the trading period from 31 March 2016 to 10 July 2017. A parallel investigation was also conducted by the ERA under clause 2.13.10(b) of the Market Rules into the same pricing behaviour over the same trading period. Synergy consented to the investigations being run in parallel.

The ERA investigated whether the prices offered in Synergy's balancing submissions were above Synergy's reasonable expectation of the short run marginal cost of generating the relevant electricity. This behaviour is prohibited by clause 7A.2.17 of the Market Rules when such behaviour relates to market power.

A balancing market participant derives its reasonable expectation of the short run marginal cost from estimates of its input costs, including reasonable assumptions made when estimating those costs. Short run marginal costs include fuel costs and start-up costs. The ERA's investigation focused on Synergy's gas input prices (fuel costs) and generator start-up costs, after Synergy changed those costs for its calculation of short run marginal cost in 2016.

There is a direct relationship between the input costs included in short run marginal cost and the prices offered in Synergy's balancing submissions. If the input costs were above Synergy's reasonable expectation of those costs, then the ERA considers that the prices offered in Synergy's balancing submissions would be above its reasonable expectation of the short run marginal cost of generating the relevant electricity.

The ERA concluded that Synergy's calculation of its short run marginal cost did not represent Synergy's reasonable expectation of the short run marginal cost of generating the relevant electricity.

The ERA investigated a total of 14,812 trading intervals during the trading period 31 March 2016 to 10 July 2017.

The ERA considers that Synergy had market power in the wholesale electricity balancing market throughout the investigation period. The ERA concludes that the prices offered by Synergy in its balancing submissions, which were above its reasonable expectation of short run marginal cost, were related to Synergy's market power in 12,908 of the trading intervals investigated.

The ERA concluded that Synergy's behaviour may be a breach of clause 7A.2.17 of the Market Rules. Clause 7A.2.17 of the Market Rules is a category C civil penalty provision and can attract a maximum penalty of \$50,000 for a first contravention and \$100,000 for subsequent contraventions.

Under clause 2.13.18 of the Market Rules, where the ERA reasonably believes that a breach of the Market Rules has occurred following an investigation under clause 2.13.10(b) of the Market Rules, it may bring proceedings before the Electricity Review Board.

The ERA has calculated a reasonable expectation of the short run marginal cost of generating the relevant electricity for the 12,908 trading intervals, to estimate the effect of Synergy's pricing behaviour on the balancing market. Based on this calculation, Synergy's pricing behaviour resulted in an increase in the total cost of electricity settled in the balancing market

of between \$100 million and \$192 million and increased Synergy's revenue by between \$40 million and \$102 million.

The ERA will bring proceedings before the Electricity Review Board for a determination of whether Synergy's pricing behaviour in the 12,908 trading intervals breached clause 7A.2.17 of the Market Rules. If the Electricity Review Board finds Synergy in breach of the Market Rules, it may make orders to enforce the Market Rules including imposing financial penalties.

The Electricity Review Board will be established after it receives the ERA's application. The Electricity Review Board is responsible for determining whether Synergy's conduct breached the Market Rules.

### **About the ERA**

The ERA is Western Australia's independent economic regulator. We aim to ensure the delivery of water, electricity, gas and rail services in Western Australia is in the long-term interest of consumers.

The ERA also undertakes inquiries, which provide recommendations to government on economic issues that are likely to have significant implications for the people and businesses of Western Australia.

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