



INFORMATION

Electricity Retail Corporation (t/a Synergy)

2011 PERFORMANCE AUDIT REPORT

The Economic Regulation Authority today published the 2011 performance audit (**Audit**) report for Synergy's electricity retail licence (ERL1).

Authority's Response to the Audit

The Audit report disclosed that there were 14 non-compliant licence obligations,¹ all except two of which are obligations under the *Code of Conduct for the Supply of Electricity to Small Use Customers* (**Code of Conduct**).

The Authority notes that, by the time Synergy provided the final Audit report to the Authority, 11 of the 14 non-compliant licence obligations had been addressed. The Authority considers that a number of the contraventions disclosed in the Audit report to be significant, particularly as some of the contraventions relate to issues that have adversely impacted the delivery of billing services to customers, including the payment of concessions to eligible customers, and breaches of the *Privacy Act 1998* (**Privacy Act**) in relation to customer information. Both of these issues are discussed in more detail later in this notice.

As most matters have been addressed by Synergy, it is not appropriate for the Authority to serve a notice on Synergy for failure to comply with its licence under section 32(1) (**section 32 notice**) of the *Electricity Industry Act 2004* (**Act**).

Where the Authority has no concerns with the Audit findings of electricity licensees, the Audit period may be as long as 36 months.

However, the Authority has significant concerns with the findings of Synergy's Audit report and undertakes a more regular Audit for licensees in this category.²

The Authority has decided to continue to closely monitor Synergy's compliance with its licence obligations by requiring Synergy to conduct another Audit in six months time. The next Audit will cover the 18 month period from 1 January 2012 to 30 June 2013, with the report on the Audit due to be provided to the Authority by 30 September 2013.

Decision to close the Section 32 notice

On 17 February 2011, the Authority served a section 32 notice on Synergy for failure to comply with its licence. The section 32 notice covered six of the contraventions identified in the previous 2010 Audit report and a further contravention in relation to clause 5.3 of the

¹ While the Audit report includes 15 non-compliant licence obligations, contraventions with clause 4.5(1) of the Code of Conduct have been included in the Audit report as two separate non-compliant licence obligations. Therefore there are actually 14 non-compliant licence obligations.

² While the Act states the Audit period for an electricity licensee is 24 months, the Authority may decide to increase or decrease this Audit period.

Code of Conduct (which related to obtaining the customer's verifiable consent when setting up a direct debit).

The 2011 Audit report provided an assessment of Synergy's progress towards rectifying the contraventions in the section 32 notice. The auditor reported that Synergy has rectified six of the seven contraventions in the section 32 notice. The remaining contravention relates to issuing late bills (more than 90 days after the previous bill) to customers. The Authority has been monitoring Synergy's late billing performance since April 2010 and has observed a significant and sustained improvement in the number of late bills issued each month.

The Authority has decided to close the section 32 notice served on Synergy on 17 February 2011.

BACKGROUND INFORMATION

Summary of the 2011 Performance Audit Findings

The Audit report identified that there were 14 licence obligations that were rated non-compliant (see section 11 of the Audit report).³

The 14 licence obligations that were rated as non-compliant relate to contraventions of clause 16.1 of the licence (providing the Authority with regulatory reports within the required timeframe), clause 3.4(1) of the *Electricity Industry Customer Transfer Code 2004* (submitting more than the prescribed number of data requests in a business day), and 12 obligations under the Code of Conduct in relation to:

- Providing the annual Code of Conduct report to the Minister and Authority by the due date.
- Compliance with the National Privacy Principles as set out in the Privacy Act.
- Issuing customer bills on time.
- Providing a customer who has entered into a new contractual arrangement with the required information.
- Providing correct concession amounts on a bill.
- Providing all of the required information on a bill.
- Correctly estimating bills for customers on a bill smoothing arrangement (covers two non-compliant obligations).
- Timely implementation of a change of tariff for eligible customers who request one.
- Timely review of a bill upon request by a customer.
- Complying with the rules applying to setting up new direct debit payments.
- Maintaining a complaints handling process that complies with the requirements set out in the Code.
- Acknowledging and responding to customer complaints within the specified timeframes.

³ Refer note 1.

Customer Billing Issues

The Audit report identified issues with customer billing, in particular where concessions were underpaid or not included on customer bills.

The Audit report discloses that, in the 2011/12 financial year, 52,866 customers received a payment for rebates that were underpaid during the period from August 2009 to June 2011. The auditor also stated that Synergy is currently repaying concessions worth approximately \$3.5M to 31,216 customer accounts for the period May 2011 to March 2012. These payments are due to be made by the end of December 2012. The Audit report discloses that approximately 84,000 customers have received or will receive repayments of rebates from Synergy.

Additionally, the Audit report discloses 597 customers did not receive concessions on their bills due to Synergy incorrectly processing requests by customers to re-activate their concession card details and 396 renewable energy buyback scheme customers did not receive the Dependent Child Rebate on their bills.

The Authority is concerned by the extent of the problems with the application of concessions to the bills of eligible customers. The concessions are paid to low income households in order to assist them with their power bills. The Authority is satisfied that Synergy has taken appropriate action to identify the customers who have not received the concessions they are entitled to and pay the amount that has been underpaid. However, the Authority will monitor Synergy's progress with the concession repayment project until it has been completed.

Privacy Issues

The Audit disclosed breaches of the Privacy Act by Synergy which are summarised as:⁴

- **Use and Disclosure of Customer Information**

- Customer information such as the date of birth [of the customer] was incorrectly attached to Western Power's planned outage notifications and sent to approximately 9,300 connected properties;
- there was an unauthorised release of customer information to third parties due to Synergy not correctly identifying its customers; and
- some of Synergy's letters to its customers were mailed to the wrong customer address.

- **Data Security of Customer Information**

- Customer information such as telephone numbers and email addresses on Synergy's customer information system, may be overwritten and lost in certain circumstances;
- a customer's interaction notes with Synergy, which are stored on Synergy's customer management system, may be incorrectly transferred to another customer's account in certain circumstances; and
- customer information was updated by a third party without the relevant customer's consent.

⁴ Headings refer to the appropriate National Privacy Principle that has been breached in each case (refer to schedule 3 of the Privacy Act).

- **Data Quality of Customer Information**

- Synergy updated some customer records with incorrect information.

While some of the breaches of the Privacy Act only affected a small numbers of customers, the Authority is of the view that Synergy needs to further improve its processes and systems to adequately safeguard the privacy of its customers. The auditor states that Synergy has focussed on reminding staff of their privacy responsibilities; implemented system changes to prevent recurrence of non-compliances and provided staff coaching and feedback on the correct privacy procedures. However, the auditor also reported that some staff had not completed their refresher training, and made a recommendation to address this issue.

A copy of the [Audit report](#) is available on the Authority's website.

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