



Economic Regulation Authority

# Offer construction guideline and Trading conduct guideline

Final report

20 January 2025

## Acknowledgement of Country

At the ERA we value our cultural diversity and respect the traditional custodians of the land and waters on which we live and work.

We acknowledge their continuing connection to culture and community, their traditions and stories. We commit to listening, continuously improving our performance and building a brighter future together.

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# 1. Introduction

To ensure that the Wholesale Electricity Market (WEM) operates effectively, the WEM Rules establish general trading obligations for market participants. Since 1 October 2023, these obligations require market participants to:

- Offer prices that reflect only the costs that a market participant without market power would include in a profit-maximising price offer (WEM Rule 2.16A.1).
- Avoid conduct that is false, dishonest, or has the purpose or the effect of distorting or manipulating prices in the WEM (WEM Rule 2.16A.3).

The obligations were binding on all participants making offers in the Short-Term Energy Market (STEM) and Real-Time Market, including the Frequency Controlled Essential System Services (FCESS) and energy markets. The ERA monitors and enforces compliance with the WEM Rules.

The ERA publishes and maintains the Offer Construction Guideline (OCG) and Trading Conduct Guideline (TCG) to provide guidance to market participants on general trading obligations and forming offers that are compliant with the WEM Rules.

The ERA must engage in a public consultation process when it updates the OCG or TCG. This report outlines the ERA's amendments to the OCG and TCG, after considering stakeholder feedback on two rounds of consultation in September 2024 and November 2024, following changes to the WEM Rules over the same period.

As noted in section 4 of this report, the revised OCG and TCG will take effect on the Trading Day commencing on 1 February 2025.

## 1.1 Changes to the WEM design and the need for review

On 8 August 2024, Energy Policy WA (EPWA) published an Exposure Draft of the *FCESS Cost Review Amending Rules* for consultation. EPWA proposed amendments to the WEM Rules that affected the ERA's regulatory guidance to market participants on their general trading obligations. The amendments deleted WEM Rule 2.16A.1, and amended the definition of an Irregular Price Offer by making reference to a newly defined term, an "Economic Price Offer".<sup>1,2</sup>

On 5 September 2024, the ERA published a first draft of the OCG and TCG and a Draft Report for consultation. The ERA received seven submissions, from Alinta Energy, Bluewaters, Perth Energy, Shell Energy, Summit Southern Cross, Synergy and a confidential party.<sup>3</sup>

On 29 October 2024, the Minister for Energy approved the *WEM Amendment (FCESS Cost Review) Rules*. Schedule 2 of the Amending Rules, which came into effect on 20 November 2024, included further changes addressing stakeholder feedback on the Exposure Draft.

On 5 November 2024, the ERA published a second draft of the OCG and TCG and a Second Draft Report and sought stakeholder feedback. The second drafts included changes to reflect changes to the Amending Rules since the Exposure Draft, as well as stakeholder feedback

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<sup>1</sup> WEM Rule 2.16A.2 was also deleted which pertained to how the ERA determined prohibited conduct under WEM Rule 2.16A.1.

<sup>2</sup> The term, 'Economic Price Offer', was added in the new WEM Rule 2.16C.6A.

<sup>3</sup> All reports, drafts and submissions are available on the ERA's website ([online](#)).

on our first draft. The ERA also reflected changes made by EPWA to the definition of an Economic Price Offer, to now include reference to “the Market Participant's reasonable expectation of the sum of all efficient variable costs for the provision of the relevant Market Service” and that the Market Participant's reasonable expectation is to be based on the information available at the time the Market Participant's price offer was made.

The ERA received five submissions on its second draft, from Alinta Energy, Shell Energy, Synergy and the Expert Consumer Panel.<sup>4</sup> The feedback and the ERA's response is detailed in Appendix 3 and summarised below:

- Most submissions supported the ERA's decision to restore the recovery of FCESS runway costs in market participants' price offers. This was supported by all submitters except the Expert Consumer Panel, which raised concerns with this decision on the grounds that it increases electricity costs to consumers.
- Alinta Energy and Shell Energy suggested redrafting section 2.1.1 of the OCG. This section requires market participants to update their price offers before gate closure if new information becomes available that would change the market participant's reasonable expectations. Alinta Energy and Shell Energy suggested drafting changes that would enable a market participant to *make reasonable endeavours* to update its offer before gate closure. The ERA agrees that in some circumstances, market participants may not be able to change their offers if they receive new information shortly before gate closure, for example, where a duty trader wishes to revise the offer in response to a change in the pre-dispatch schedule but is unable to obtain appropriate internal approvals within the timeframe.
- Synergy raised several concerns about lack of clarity in the OCG and TCG on offers at or below a facility's efficient variable cost. Synergy also considered that the TCG provides insufficient guidance on the types of conduct which may breach WEM Rule 2.16A.3(c).<sup>5</sup>

This final report is prepared pursuant to WEM Rule 2.16D.4 and contains the following matters:

- amendments to the OCG and TCG.
- reasons for the amendments to the OCG and TCG.
- a summary of the submissions received by the ERA to the second period public consultation with the ERA's responses to those issues.
- the date that the amendments to the OCG and TCG will commence.

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<sup>4</sup> The ERA received two submissions from the Expert Consumer Panel. All submissions are published on the ERA's website ([online](#)).

<sup>5</sup> WEM Rule 2.16A.3(c) prohibits market participants from engaging in conduct that has the purpose, or has or is likely to have the effect, of distorting or manipulating prices in the WEM.

## 2. Offer construction guideline

The OCG outlines the general trading obligations of the market participants in the STEM and Real-Time Market for energy and FCESS.

To form price offers consistent with Economic Price Offers in the WEM Rules, a market participant can offer a price up to its reasonable expectation of the sum of all efficient variable costs for the provision of energy or FCESS, including costs incurred under long-term take-or-pay contracts.

### 2.1 Summary of amendments

#### 2.1.1 Changes from second consultation period

The ERA has made the following amendment following the second consultation period:

- The wording in section 2.1.1 has been updated to ensure consistency with WEM Rule 7.4.2(c). Specifically, this change requires that where new or revised information becomes reasonably available to the Market Participant, and that information results in changes to the Market Participant's reasonable expectation, *the Market Participant must use reasonable endeavours* to update the relevant price offer in the relevant Market Submission for the relevant Dispatch Intervals before Gate Closure.

#### 2.1.2 Changes from first consultation period

The following changes made following the first round of consultation have been retained in the final OCG and TCG:

- The current allowance to include FCESS runway costs in energy offers remains but is subject to a future review.
- The reference to “independent expert advice” (section 3.1 of the September 2024 draft of the OCG) was amended to “able to be independently verified by applying good electricity industry practice” as the intent was not accurately reflected in the proposed amendment.
- Sections in the OCG were restructured for ease of navigation:
  - Chapter 1 includes mostly stylistic changes such as clarifying purpose of the guideline and including a new “interpretation” section for various terms, definitions and references used in the OCG. The chapter also contains information in relation to the ERA's monitoring and compliance activities relevant to offer construction, and record-keeping obligations for Market Participants.
  - Chapter 2 outlines a Market Participant's price offer obligations. The price offer obligations relate to the construction of an Economic Price Offer which requires the Market Participant to form a reasonable expectation of the sum of all its efficient variable costs that it expects to incur at the time the offer is made. This chapter expands on how a reasonable expectation may be formed, and what constitutes efficient variable costs. Chapter 2 includes commentary on treatment of uncertainty in the formation of a reasonable expectation.
  - Chapter 3 provides guidance for constructing offers. The content of this chapter remains largely unchanged from the previous draft apart from section 3.1, which has been moved to Chapter 2 of the OCG.

- Section 4.2 of the previous draft (“Below Cost Offers”) of the OCG has been deleted.
- Remaining chapters are unchanged although some chapter titles were updated to better reflect their content.

### **2.1.3 Changes retained from first draft report**

The ERA has retained the following changes set out in the first draft report:

- Deleting references to WEM Rule 2.16A.1 and WEM Rule 2.16A.2, and where relevant, replaced with references to WEM Rule 2.16C.6A or WEM Rule 2.16C.5.
- Removing references to the ERA’s obligation to determine that the market participant had market power at the time of offering the relevant prices in the STEM submission or Real-Time Market submission.
- Deleting reference to the removed WEM Rule 2.16C.11 as it was based on WEM rule 2.16A.1 which has also been deleted.
- Removing section 3 which explains how the ERA tests for the presence of market power.
- Noting record keeping obligations for material and/or material constrained portfolios.
- Introducing a new example based on the ERA’s observations in monitoring the market since 1 October 2023. Example 21 explains the costs which can be claimed in the FCESS market for a Contingency Reserve Raise if market participant’s maximum capacity is higher than its enablement maximum for Contingency Reserve Raise.
- Updating figures (where relevant) to the more current numbers (such as the Australian Energy Market Operator’s market fees).

## 3. Trading Conduct Guideline

The TCG provides guidance on the prohibited conduct described in WEM Rule 2.16A.3:<sup>6</sup>

A Market Participant must not engage in conduct in the STEM or Real-Time Market that:

- (a) is false, misleading or deceptive, or likely to mislead or deceive;
- (b) is fraudulent, dishonest or in bad faith; or
- (c) has the purpose, or has or is likely to have the effect, of distorting or manipulating prices in the Wholesale Electricity Market.

### 3.1 Summary of amendments

#### 3.1.1 *Changes from second consultation period*

The ERA has not made any material changes, except correcting minor typographical errors, following the second consultation period.

#### 3.1.2 *Changes from first consultation period*

The ERA has retained the following changes from the first round of consultation:

- The ERA introduced two new examples as requested in submissions received during the first consultation period:
  - Example 8, which illustrates when withholding capacity will not be in breach of WEM Rule 2.16A.3(c).
  - Example 11, which is on predatory pricing in the Real-Time Market that could discourage investment and would likely breach WEM Rule 2.16A.3.

#### 3.1.3 *Changes retained from first draft report*

The ERA retained the changes to the TCG set out in the first draft report:

- Change due to amendments to the test name in WEM Rule 2.16C from “Market Power Test” to “Materiality Test”.
- Adding a note explaining when it is no longer mandatory for a facility to accredit for FCESS.
- Changing references from WEM Rule 2.16A.1 to WEM Rules 2.16C.4, 2.16C.5, or 2.16C.6.
- Minor changes in Examples 4 and 5 to better reflect the operation of the new market.
- Adding new examples based on the ERA’s observations in monitoring the market since 1 October 2023:
  - Example 9 (previously Example 8) illustrates when withholding capacity has the effect of distorting energy prices and may be in breach of WEM Rule 2.16A.3.

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<sup>6</sup> Wholesale Electricity Market Rules (WA), 1 January 2025, rule 2.16D.1(b) ([online](#)).

- Example 10 (previously Example 9) explains when the application of avoidable fixed costs may result in breach of WEM Rule 2.16A.3.
- Minor changes to grammar and readability.

## **4. Commencement date**

The revised OCG and TCG will take effect on the Trading Day commencing on 1 February 2025.

## **Appendix 1 Offer Construction Guideline (amended)**

The Offer Construction Guideline containing the ERA's final changes is available on the ERA's website ([online](#)). A tracked changes version is also published, which shows changes since the ERA's second draft published for consultation.

## **Appendix 2 Trading Conduct Guideline (amended)**

The Trading Conduct Guideline containing the ERA's final changes is available on the ERA's website ([online](#)). A tracked changes version is also published, which shows changes since the ERA's second draft published for consultation.

## Appendix 3 Summary of stakeholder submissions and ERA's responses

Topic	Summary of feedback	Stakeholder	ERA response
<b>Offer Construction Guideline</b>			
Appropriate response if a Market Participant is required to dispatch at a technically infeasible level.	<p>Shell Energy considers that the examples in the Guidelines could be expanded to provide clearer guidance to participants. This would be most beneficial in Trading Conduct Guideline “Example 6: FCESS market offer calculation” where the example lacks consideration of interactions at an operational plant level. Some of these operational considerations include:</p> <ul style="list-style-type: none"> <li>• Technical minimum generation requirements</li> <li>• Physical plant constraints</li> <li>• The interaction between maintaining minimum generation and providing FCESS.</li> </ul> <p>Expanding the examples to describe how generators should balance these technical requirements with market conduct rules would greatly improve the utility of the examples to Market Participants and could help improve compliance.</p>	Shell Energy	<p>The WEM Rules contain provisions obligating AEMO to respect a generator's equipment limits [WEM Rules 3.2.5(a) and 3.5.4], and allow a market participant to not comply with a dispatch instruction if such compliance would damage equipment [WEM rule 7.10.2(a)]. The ERA considers these rules would normally work to ensure that generators are not required to operate in technically infeasible ways for extended periods of time.</p> <p>The ERA therefore does not consider specific examples need to be provided for infrequent situations not normally contemplated in the WEM Rules.</p>
	<p>Under the updated WEM Rules and the ERA's proposed amended OCG, Synergy considers that Market Participants are now left with no clarity or guidance on how to construct offers in circumstances where the cost to generate is not the only relevant factor in a decision regarding whether to generate or not generate, such as technical requirements.</p>	Synergy	
Inefficient Market Outcomes	<p>Synergy argues that the WEM Rules that applied prior to 20 November 2024 (i.e., before the commencement of the FCESS Rules), above-EVC pricing was arguably compliant when the offer prices were consistent with the prices a Market Participant without market power would offer. However, such pricing is now allowable only if it does not result in an inefficient market outcome.</p> <p>Specifically, what types of outcomes does the ERA considers meet the definition of an “<i>inefficient market outcome</i>”. For instance, Example 25 in section 7 of the OCG</p>	Synergy	<p>The ERA considers that the analysis required to determine inefficient market outcomes is, by its nature, context dependent and cannot be limited to specific modelling exercises or processes. The ERA also notes that section 7</p>

Topic	Summary of feedback	Stakeholder	ERA response
	sets out a modelling process the ERA 'may' follow to determine whether Irregular Price Offers have resulted in "inefficient market outcomes". However, this section does not state what types of outcomes from the modelling would generally trigger the ERA's determination that an outcome is an "inefficient market outcome".		of the OCG provides guidance on what will constitute an inefficient market outcome. In the Second Draft Report, the ERA also referred to example 25 of the OCG and example 11 of the TCG as providing relevant guidance.
Inclusion of FCESS Runway Costs in Offers	<p>The Expert Consumer Panel (ECP) does not support inclusion of runway costs in offers and believes this issue needs further consideration.</p> <p>Contingency Reserve Raise (CRR) costs are a significant ongoing cost to the market primarily caused by the largest generators and so there needs to be an effective signal borne by large generators to reflect these costs that they cause, and not just passed through to the market.</p> <p>CRR runway costs for a facility are primarily determined by the chosen generator size and network connection design and are mostly independent of the amount of energy being generated. While these costs vary with the operational MW output of the generator, it is primarily the size of the generator and its network connection that determine the total CRR costs caused by that generator.</p> <p>Therefore, CRR costs are not variable costs and so should not be included in the efficient variable costs of energy that the OCG seeks to allow to be included in offers.</p>	Expert Consumer Panel	The ERA will examine the issue of recovery of runway costs through energy offers at a later time. Until this analysis is completed, the original allowance for inclusion of these costs in energy offers as set out in the OCG, has been reinstated.
	<p>Shell Energy welcomes the change from the first draft to restore the current treatment of FCESS runway costs in energy offers. It also supports the clarification of the intent of the use of independent expert advice to be "able to be independently verified by applying good electricity industry practice". These changes are appropriate as they support efficient market operation and limit the burden on market participants.</p> <p>Shell Energy recommends that, prior to any future review of FCESS runway costs, greater transparency of the WEMDE is required. Market participants currently only have a black box view of the WEMDE, particularly with regard to FCESS.</p>	Shell Energy	
	Alinta recognises the ERA's decision to retain the runway costs of Contingency Reserve Raise (CRR) as an efficient variable cost (EVC) component that can be	Alinta Energy	

Topic	Summary of feedback	Stakeholder	ERA response
	included in price offers. However, Alinta opposes the proposal to revisit this matter later as we maintain the view that this would prevent participants from recovering these costs and would undermine the WEM Objective to facilitate new entry and avoid discrimination.		
	Synergy supports the ERA's proposal to reinstate the existing treatment of the Contingency Reserve Raise runway costs as a valid component in energy offers and its consideration that the matter requires comprehensive assessment	Synergy	
Opportunity cost in offers	<p>In the ERA's second draft OCG, opportunity costs are proposed to be based on estimates (forecasts) by generators and Battery Energy Storage Systems (BESS) of market clearing prices (revenue) they would miss out on (foregone revenue) if they are not able to generate at peak times (during BESS Electric Storage Resource (ESR) obligation intervals) due to unexpectedly limited fuel or BESS state-of-charge.</p> <p>With the WEM's Benchmark Reserve Capacity Price (BRCP) now being based on the BESS reference technology and Gross Cost of New Entry (CONE), BESS facilities do not need to receive significant revenue from the real-time energy and ESS markets to be viable. Therefore, they do not need to include opportunity costs in energy market offers. They are likely to earn additional (supplementary) revenue by receiving the actual clearing price decided by other offers, which is likely to be significant without including BESS opportunity costs.</p> <p>The ECP also makes the following observations for the ERA to consider in this regard.</p> <p>If opportunity costs, as outlined in the draft OCG, are incorporated into price-quantity offers and the facility ends up setting the clearing price in an interval, has it potentially overestimated the opportunity cost (counterfactual clearing price), thereby resulting in a higher clearing price than what would be considered efficient?</p> <p>If the facility doesn't set the clearing price in an interval, then there is no need for it to have included opportunity costs in its offer because if it is dispatched it will get paid the clearing price set by other generators competitively and the price is efficient.</p> <p>If the facility doesn't set the clearing price, then it seems that the main purpose for suggesting that opportunity costs be included in BESS offers is for the facility to</p>	Expert Consumer Panel	<p>The ECP raises important points about the pricing of opportunity costs in a BESS's offers as part of their overall profitability. The ERA is assessing the appropriate offer construction for a BESS, and proposes to examine this issue further as part of that work.</p> <p>The ERA also notes that the OCG currently permits recovery of opportunity cost in offers.</p>

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	<p>avoid being dispatched in non-ESR obligation intervals to conserve their charged energy for use in ESR obligation intervals, and similarly for unexpectedly-fuel-limited thermal generators to preserve fuel for use in intervals when prices are higher?</p> <p>It appears that the proposal to include opportunity costs in offers has been framed as the way for BESS to limit their generation to zero in intervals outside of the ESR obligation intervals, to preserve their charged energy (state-of-charge) for generating during the obligation intervals when their output is most valuable and needed. This mode of operation is good, but we consider it can be better achieved by limiting offer quantities (MW) rather than indirectly through offer prices in price-quantity offer pairs.</p> <p>If the BESS facilities output is bid at zero quantity (MW) in offers for intervals outside of the ESR obligation intervals, and then at appropriate quantity levels for different intervals within the ESR obligation window to achieve the desired output profile, this would allow them to preserve their state-of-charge for when it is most needed and valuable.</p>		
Minor Error	The reference to the WEM Rule “2.16C.6CA” in the first sentence of Section 2.1 of the OCG appears to be incorrect. It is not clear if this reference should be 2.16C.5 or 2.16C.6A.	Alinta Energy	The ERA has amended the relevant sentences in section 2.1 of the OCG to ensure consistency with the WEM Rules.
Information received too close to gate closure to update submissions	<p>Shell notes that section 2.1.1 of the revised OCG requires that Market Participants must update their price offers before Gate Closure upon receiving revised information that results in changes to a Market Participant’s reasonable expectation. This is a potentially impractical requirement that may lead to non-compliance despite best endeavours. Shell considers a more reasonable requirement would be for Market Participants to update their offers as soon as practicable. Shell has suggested revised wording for 2.1.1 below:</p> <p><i>2.1.1 – Where new or revised information becomes available to the Market Participant and that information results in changes to the Market Participant’s reasonable expectation, the relevant price offer in the relevant Market Submission must be updated <del>before Gate Closure</del> as soon as practicable.</i></p>	Shell Energy	The ERA acknowledges that occasionally market participants may not be able to update its offers in time prior to Gate Closure. The ERA has amended the relevant sentences in paragraph 2.1.1 to ensure consistency with WEM Rule 7.4.2(c).

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	<p>Alinta recommends the third paragraph in this section be updated as follows:  <i>'Where new or revised information becomes reasonably available to the Market Participant and that information results in changes to the Market Participant's reasonable expectation <u>for Dispatch Intervals within the Pre- Dispatch Schedule Horizon, the Market Participant must use reasonable endeavours to update the relevant price offer in the relevant Market Submission for the relevant Dispatch Intervals before Gate Closure.</u></i></p> <p>This improves consistency with the WEM Rules. Under 7.4.2, Market Participants must make "reasonable endeavours" to ensure Real Time Market Submissions for Dispatch Intervals within the Pre-Dispatch Schedule Horizon reflect all information "reasonably available" to the Market Participant.</p> <p>While Alinta supports the principle that Market Submissions be updated as soon as possible, for consistency with the WEM Rules, it suggests that the ERA consider including a 'reasonable endeavours' qualifier consistent with Rule 7.4.2.</p>	Alinta Energy	
Multiple fuel supply contracts	<p>In Synergy's submission to the Original Proposed Amendments (Synergy Original Submission), Synergy raised fundamental concerns that the OCG does not provide guidance to Market Participants with multiple fuels supply contracts, including long-term take-or-pay (LTTOP) fuel contracts, as to how to compliantly determine fuel input prices and price offers in certain circumstances.</p> <p>The ERA's Second Draft Report contains responses to the feedback received on the Original Proposed Amendments. The ERA's response to Synergy's concern as raised in the Synergy Original Submission is:  <i>"The OCG expressly addresses this question. The ERA notes that the OCG can only provide general guidance."</i><sup>5</sup></p> <p>Synergy understands the ERA is referring to section 3.2.1.2 of the OCG. Synergy understands the ERA's reference to the OCG only being able to provide "general guidance" means the ERA considers Synergy can request specific guidance under the process in clauses 2.16D.5 to 2.16D.14 of the WEM Rules. Synergy intends to request such specific guidance.</p>	Synergy	The OCG contains general guidance on the treatment of LTTOP fuel contracts in price offers. The ERA will consider specific requests for guidance made by any market participant in accordance with the WEM Rules.
Long term service agreements	The OCG allows recovery of service agreement costs if payment for services under those contracts are structured as variable payments. Synergy notes that fixed price service agreements are the normal approach to service contracts within	Synergy	The ERA observes that reference to variable and fixed operational and maintenance

Topic	Summary of feedback	Stakeholder	ERA response
	<p>the electricity industry. Further, Synergy considers entering variable cost service agreements will almost certainly result in higher overall costs for the same level of services.</p> <p>Synergy disagrees with the ERA's prohibition on including costs associated with fixed price service agreements as an allowable component in Market Participant's offer price construction. Synergy considers that this proposal will have the perverse outcome of incentivising Market Participants to enter into variable cost service agreements (at a higher overall cost to the Market Participant) to enable these costs to be included in the construction of offer prices. This will ultimately translate into higher costs for consumers.</p> <p>Synergy considers such costs are an allowable component of a Market Participant's offer prices under the WEM Rules because they are 'variable'.</p>		<p>(O&amp;M) costs in the OCG does not relate to the structure of the plant maintenance service agreements but rather reflects the nature of the cost. If the cost is incurred regardless of whether a facility is operating, this is a fixed cost. If the cost varies depending on the facility's operations, then this cost can be recovered in energy offers as it changes with the production of that level of electricity or number of starts. How market participants decide to structure their maintenance services agreements is that entity's commercial decision.</p>
Asymmetric risk	<p>Synergy requested the ERA to reconsider its prohibition in the OCG against Market Participants including a risk margin in their construction of offers. In its Second Draft Report, the ERA relevantly stated:</p> <p><i>"No example has been provided to support the existence of asymmetric risks faced by Market Participants."</i></p> <p>Synergy notes that there are many well-known asymmetrical risks in electricity markets, particularly in relation to electricity generation. For example, such asymmetrical risks include:</p> <p>Non-symmetrical and 'lumpy' concentrations of offer prices between the Energy Offer Price Floor and Energy Offer Price Ceiling. For example, unit commitment next to a 'step' reduction in offer prices can lead to large losses if load is lower than forecast, but only small increases in profit if load is higher than forecast.</p> <p>The allocation of FCESS costs to Facilities can be non-symmetrical, particularly for services which allocate these costs on the basis of a 'runway' methodology.</p>	Synergy	<p>An asymmetric risk exists when the potential for a loss may be greater than the potential for a gain. Normal market operations will expose a market participant to both upside and downside risks in the market. A market participant operating reasonably with commercial prudence and constructing its offers in accordance with the WEM Rules and the OCG will price offers in a way to balance those risks in the long term. A market participant's offers</p>

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	<p>For Facilities with emerging asset constraints or issues, the asset repair costs and Capacity Cost Refunds present a significant non-symmetrical risk. If an elevated, credible risk of a possibly catastrophic outage has been identified should the Facility's output occur at a particular level, or in some cases any level, the risk of operating is very asymmetrical because the Facility will either receive the Market Clearing Price(s) for energy and any services it provides, or it will experience a very costly outage.</p>		<p>cannot structurally over-recover in the long-run.</p> <p>Therefore, a risk margin additional to Efficient Variable Costs is not justifiable.</p>
<b>Trading Conduct Guideline</b>			
General concerns	<p>Alinta remains concerned that:</p> <ul style="list-style-type: none"> <li>the onus of proof of compliance with WEM Rule 2.16A.3 sits solely with the Market Participant including demonstration of its intention, conduct, and reasonable grounds for including a price, quantity or Ramp Rate Limit in a Submission.</li> <li>a Market Participant does not need to intend to cause harm or to obtain a benefit to be found as being in breach of WEM Rule 2.16A.3.</li> <li>the ERA does not need to determine that a Market Participant intended to mislead or deceive and that it only needs to be likely to mislead or deceive for a Market Participant to be found in breach of WEM Rule 2.16A.3.</li> </ul> <p>This approach can potentially undermine the WEM Objectives by exposing Market Participants to unnecessary compliance risk that may lead to overly conservative pricing and offer behaviour.</p>	Alinta Energy	<p>The ERA considers that Alinta's concerns are referring more to the interpretation of WEM Rule 2.16A.3 itself rather than guidance provided in the Guidelines. Potential changes to the WEM Rules are beyond the scope of the Guidelines.</p>
Offers below EVC	<p>Synergy notes that a 'short' contract position (i.e. a gentailer Market Participant with both generation and retail businesses that has a net contract position to buy from the real-time-market for energy) may create a financial incentive for Market Participants to offer at below cost, driving down the market price resulting in inefficient outcomes for the market overall.</p> <p>Synergy considers the ERA has not confirmed whether the ERA considers there are any circumstances, other than predatory pricing, where a Market Participant pricing offers below Efficient Variable Cost (EVC) can be a breach of the WEM Rules.</p>	Synergy	<p>The OCG provides guidance that a market participant's contract position should not affect how it constructs its offers based on Efficient Variable Costs (EVC) in the energy and FCESS markets.</p> <p>A market participant applying reasonableness, may choose to offer at a cost below its EVC</p>

Topic	Summary of feedback	Stakeholder	ERA response
			if there are valid commercial reasons to do so. However, the ERA may investigate further if the market participant's offer appears to distort market prices as prohibited by WEM Rule 2.16A.3.
Example 11	<p>Synergy does not consider Example 11 (predatory pricing) provides the clarity or guidance required by the WEM Rules about the baseline against which 'distortion' of market prices will generally be assessed.</p> <p>Under the FCESS Rules, a Market Participant will be entitled to offer at or below EVC, unless, inter alia, this 'distorts' market prices. Consequently, the baseline against which such a distortion is measured is not clear.</p> <p>Therefore, Synergy considers that under the FCESS Rules, there is a greater need for the ERA to provide clarity and guidance on the baseline it will measure such distortions against so that Market Participants can determine what conduct is prohibited under the WEM Rules and what conduct is compliant.</p>	Synergy	The TCG does not explicitly define what the ERA will consider to be a distortion of market prices because each case will have its own nuances that must be explored for the ERA to be satisfied that a market price distortion has occurred. The TCG provides several examples of prohibited conduct.
Trading Conduct under technical limitations	<p>Synergy considers an example should be included in the TCG to demonstrate that an offer that is below EVC is compliant when a participant is required to:</p> <ul style="list-style-type: none"> <li>• effect dispatch that reflects physical limitations of the Facility (e.g., to ensure a Facility is not required to be dispatched below its minimum stable generation level or to reflect instances where a Facility is physically required to hold at a particular level during its ramp up or ramp down processes); and</li> <li>• avoid risk of Forced Outages in circumstances where the Facility is being operated in a certain manner that increases the risk of Forced Outages.</li> </ul>	Synergy	<p>The ERA considers that Synergy's comments refer to matters that market participants, applying reasonableness, would already take into account when forming offers.</p> <p>Example 3 of the TCG covers a situation where a market participant revises its offer due to a risk of forced outage.</p> <p>Also see the ERA's first response in Appendix 3 regarding a Market Participant's response to</p>

Topic	Summary of feedback	Stakeholder	ERA response
			dispatch at a technically infeasible level.
Guidance on Rate of Change of Frequency (RoCoF) offer obligations	Synergy supports the ERA's proposed amendment to the TCG to include an additional example (Example 8) under section 3.3. Synergy considers that the inclusion of Example 8 provides clarity to Market Participants on their offer obligations in relation to RoCoF control services under the FCESS Rules and the conduct expected under clause 2.16A.3 of the WEM Rules.	Synergy	The ERA acknowledges Synergy's comments about Example 8 in the TCG.