

B E T W E E N :

ECONOMIC REGULATION AUTHORITY

Applicant

and

ELECTRICITY GENERATION AND RETAIL CORPORATION TRADING
AS SYNERGY

Respondent

ORDERS

Filed by: The Respondent
Date: 17 February 2021
Place: Perth

The Western Australian Electricity Review Board (**Board**) notes that, following conferral between the Respondent and the Australian Energy Market Operator (**AEMO**), it has issued a summons to AEMO for the production of documents in the form proposed by the Respondent on 17 February 2021, with a return date of 5 March 2021 (**Summons**).

The Board orders as follows:

1. The Respondent serve the Summons, a copy of which is attached hereto, and these directions, on AEMO by 5pm on 18 February 2021.
2. Production of the documents to the Board may be effected by uploading the documents to a cloud based documents storage system to which the parties and the Board have access shall be treated as production of the documents to the Board.

Confidentiality of certain information produced by AEMO pursuant to summons

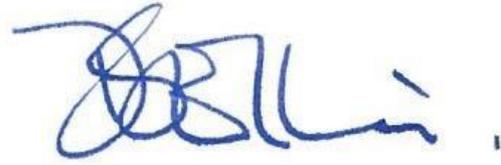
3. Any information produced by AEMO pursuant to Items 2(d) and (e) of the Summons (**Confidential Information**) shall be produced subject to the terms of these orders.
4. The only persons permitted to receive the Confidential Information are those persons or classes of persons listed in Schedule 1 (**Approved Person**).
5. Where the Respondent is advised by AEMO on or before 2 March 2021 that any Confidential Information was provided to AEMO by a named third party (**Source Person**), the Respondent will notify the Source Person by 3 March 2021:
 - (a) of the terms of the Summons and the nature of the proposed disclosure of Confidential Information;
 - (b) that, within 2 days of receipt of the notice, the Source Person may apply to the Board to be heard in relation to its objection to the disclosure;
 - (c) in the event that the Source Person applies to the Board, no disclosure will be made without further order of the Board.
6. Any person who receives the Confidential Information shall:
 - (a) keep the Confidential Information confidential at all times and not use the Confidential Information for any purpose other than the conduct of this proceeding;
 - (b) not disclose the Confidential Information or any part of it directly or indirectly to any person unless:
 - i. AEMO has consented to the disclosure in writing;
 - ii. where the Confidential Information was provided to AEMO by a Source Person, the Source Person has consented to the disclosure in writing; or
 - iii. the disclosure is expressly authorised by the Board.
7. Any person that receives the Confidential Information shall:

- (a) establish and maintain effective security measures to safeguard the Confidential Information from unauthorised access or use; and
 - (b) immediately notify the Board and AEMO and, if applicable, the relevant Source Person, of any suspected or actual unauthorised use, copying or disclosure of the Confidential Information of which he or she becomes aware.
- 8. In this proceeding, no reference to the Confidential Information shall be made in any open hearing.
- 9. If any Confidential Information is provided to the Board, that Confidential Information shall, subject to any directions of the Board, be held by the Board on a confidential basis.
- 10. At the conclusion of this proceeding, the Parties, by their respective Approved Persons acting on their behalfs, will ensure that:
 - (a) save as set out in sub-paragraph (b), all Confidential Information in their possession, and any copies made by them for their own use, is destroyed;
 - (b) in relation to electronic Confidential Information located in off-site servers as a result of automatic data back-up, they do not access or restore the Confidential Information from the server without the prior written consent of AEMO and/or the Board.

Other

- 11. Order 7(b) made by the Electricity Review Board on 17 December 2020 be amended so that the date by which the Applicant must make any application to the Board for a summons for the production of documents be extended to 1 April 2021.

12. The Parties, AEMO and any Source Person have liberty to apply on 48 hours notice.

A handwritten signature in blue ink, appearing to read 'J. Belli', with a horizontal line underneath it.

Presiding Member
Electricity Review Board

Schedule 1 - Approved Persons

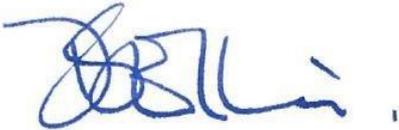
Persons approved to receive Confidential Information:

1. Nicola Cusworth, Economic Regulation Authority;
2. Greg Watkinson, Economic Regulation Authority;
3. Ray Challen, Economic Regulation Authority;
4. Jenness Gardner, Economic Regulation Authority;
5. Lorna Clarke, Economic Regulation Authority;
6. Sarah Costa, Economic Regulation Authority;
7. Rajat Sarawat, Economic Regulation Authority;
8. Bruce Layman, Economic Regulation Authority;
9. Manuel Arapis, Economic Regulation Authority;
10. Shibli Khan, Economic Regulation Authority;
11. Adrian Theseira, Economic Regulation Authority;
12. Matthew Knox, MinterEllison;
13. Lauren Zambotti, MinterEllison;
14. Adam Lippiatt, MinterEllison;
15. Kylie O'Keeffe, MinterEllison;
16. Annabel Falkner, MinterEllison;
17. James Case, MinterEllison;
18. Simon Adams, Squire Patton Boggs (AU);
19. Caroline Brown, Squire Patton Boggs (AU);
20. Ben Williams, Squire Patton Boggs (AU);
21. Yvonne Yap, Squire Patton Boggs (AU);
22. Swati Gupta, Squire Patton Boggs (AU);
23. Melanie Brown, Synergy (General Counsel);
24. Andrea Chapman, Synergy (Legal);
25. any independent expert retained by a Party for the purpose of the conduct of this proceeding;

26. any counsel retained by a Party for the purpose of the conduct of this proceeding;
27. any administrative or secretarial support of the persons or class of persons listed above; and
28. any other appropriate persons as ordered by the Board.

Attachment to directions of 17 February 2021

Summons requiring the production of documents
(Section 58(1) of the *Energy Arbitration and Review Act 1998*)

Electricity Review Board		No.: 1 of 2019	
		Summons requiring the production of documents	
Parties	Economic Regulation Authority		Applicant
	Electricity Generation and Retail Corporation trading as Synergy		Respondent
To	Australian Energy Market Operator Limited (ABN 94 072 010 327) C/- Cameron Parrotte, Executive General Manager – Western Australia Level 22, 530 Collins Street, Melbourne, Victoria 3000		
Order	You are ordered to produce this summons or a copy of it and the documents or things specified in the Schedule of documents. See details below.		
Last date for service	The last date for service of this summons is 18 February 2021.		
Issuing details	Issued at the request of:	Respondent	
	Address for service:	C/- Squire Patton Boggs, Lvl 21, 300 Murray St, Perth WA 6000	
	Email:	Caroline.Brown@squirepb.com	
	Date of issue:	18 February 2021	
			
		Presiding Member, Electricity Review Board	

Details of summons	You must comply with this summons —	
	(a) by attending the Electricity Review Board and producing this summons or a copy of it and the documents or things specified in the Schedule of documents below at the date, time and place specified below; or	
	(b) by uploading a copy of this summons and the documents or information specified in the Schedule of documents below (or a sub-set of these documents as agreed with the issuing party) to a cloud-based document storage system in which access to the information stored in the system is restricted to the parties named in Schedule 1, using reasonable endeavours to ensure that the documents or information are uploaded by the date specified below (or by such later date as agreed with the issuing party). (<i>See Notes 4-7</i>)	
	Date, time and place at which you must attend and produce this summons or a copy of it and the documents or things, unless you receive a notice of a later date or time from the issuing party, in which case the later date or time is substituted —	
	Date:	15 March 2021
Time:	10.00am	
Place:		
Address to which this summons (or copy) and documents or things may be delivered or posted:		
<p>Mr Scott Ellis Presiding Member Electricity Review Board Francis Burt Chambers Allendale Square Lvl 25, 77 St Georges Terrace Perth WA 6000</p>		
Schedule of documents		
The documents and things you must produce are as follows:		
<ol style="list-style-type: none"> 1. Unless otherwise expressly indicated, capitalised terms used in this document have the same meaning as those terms have in the <i>Electricity Industry (Wholesale Electricity Market) Rules</i> (as amended) (Market Rules). 2. For the period from the 1 January 2014 Trading Day to the end of the 10 July 2017 Trading Day and, where possible, for each Trading interval in each Trading Day in that period: <ol style="list-style-type: none"> a) Either: <ol style="list-style-type: none"> i. each Balancing Submission made by each Market Participant, including any Balancing Submissions for a Trading Interval that were later superseded by a re-submitted Balancing Submission, and the Loss Factors that AEMO, or its predecessor the IMO, used to produce the Forecast Balancing Merit Orders and Balancing Merit Orders; or ii. the Forecast Balancing Merit Orders and the Balancing Merit Order; b) a record of when each Balancing Submission was made by each Market Participant;; c) each forecast of the Relevant Dispatch Quantity published by AEMO, or its predecessor the IMO, including a record or details of when each forecast was published; d) any information obtained as part of the certification of reserve capacity process under chapter 4 of the Market Rules about the term, or supply period, of any contract or arrangement for the supply of gas for the following Market Participants: 		

- i. Alinta Sales Pty Ltd;
 - ii. NewGen Power Kwinana Pty Ltd;
 - iii. NewGen Neerabup Partnership;
 - iv. Western Energy Pty Ltd;
 - v. Merredin Energy;
 - vi. Goldfields Power Pty Ltd;
 - vii. Tronox Management Pty Ltd;
 - viii. Alcoa of Australia Limited; and
 - ix. Southern Cross Energy;
- e) the following information in respect of all Facilities other than Synergy's Facilities used by AEMO, or its predecessor the IMO, in its calculation of the Margin_Peak and Margin_Off-peak values under clause 3.13.3A(a) of the Market Rules:
- i. the variable operating costs and heat rates of each Facility, where available, broken down by Facility and into the component costs (such as fuel cost (\$/TJ or \$/MWh), variable operations and maintenance costs (\$/MWh and \$/h) and start-up/shut-down costs (\$/start and \$/shut-down));
- f) any operating requirements or restrictions for each Facility detailed in Standing Data as referred in Appendix 1 to the Market Rules, being:
- i. details of any energy limits of the facility [Appendix 1 (a) xii];
 - ii. the minimum stable loading level of the generator, expressed in MW [Appendix 1 (a) xiii];
 - iii. the minimum times to synchronisation in different states and the number of hours that must have elapsed since the facility last ran for it to be considered in each state [Appendix 1 (a) xvii];
 - iv. The minimum time before the facility can be restarted after it is shut down [Appendix 1 (a) xviii]; and
 - v. any output range between minimum dispatchable loading level and nameplate capacity in which the facility is incapable of stable or safe operation; [Appendix 1 (a) xv).;
- g) the Metered Schedules for each Scheduled Generator and each Non-Scheduled Generator;
- h) each Market Participant's Net Contract Position, Net Bilateral Position and Metered Balancing Quantity.

Notes

Last day for service	1. You need not comply with this summons unless it is served on you on or before the date specified in it as the last date for service of the summons.
Informal service	2. Even if this summons has not been served personally on you, you must, nevertheless, comply with it if you have, by the last date for service of the summons, actual knowledge of it and of its requirements.
Conduct money	3. You need not comply with this summons unless conduct money sufficient to meet your reasonable expenses of attending as required by the summons is handed or tendered to you a reasonable time before the date your attendance is required.
Production of a copy of this summons and documents or	4. Instead of attending before the Electricity Review Board and producing this summons (or a copy of it) and the documents or things, you may comply with this summons by uploading a copy of this summons and the documents or

things by uploading to a cloud-based document management system	information to a cloud-based document storage system by the date specified in the summons for production.
Production of a number of documents or things	5. If you produce more than one document or thing, you must include with them a list of them.
Production of copy instead of original	6. Unless the Schedule of documents says the original of a document listed in the Schedule is required, you may produce a copy of it instead.
	7. The copy of a document may be — <ul style="list-style-type: none"> (a) a photocopy; or (b) in an electronic form on a CD-ROM, DVD or USB device in any of the following electronic formats — <ul style="list-style-type: none"> .doc and .docx – Microsoft Word documents .pdf – Adobe Acrobat documents .xls and .xlsx – Microsoft Excel spreadsheets .jpg – image files .rtf – rich text format .gif – graphics interchange format .tif – tagged image format .csv – comma-separated values format any other file type agreed between the parties
Applications in relation to summons	8. You have the right to apply (before or after complying with this summons) to the Electricity Review Board for an order — <ul style="list-style-type: none"> (a) setting aside this summons (or a part of it); (b) giving directions in relation to removing from and returning to the Electricity Review Board, and the inspection, copying and disposal, of any document or thing that you produce or are required to produce by this summons; (c) giving other relief in respect of it. <p>Unless the Electricity Review Board has made such an order, a registrar may permit the parties to the proceeding to inspect, copy, or remove and return any document or thing you produce under this summons.</p>
Loss or expense of compliance	9. If you are not a party to the proceeding, and if not agreed with the issuing party, you may apply to the Electricity Review Board for an order that the issuing party pay an amount (in addition to conduct money and any witness’s expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with this summons.
Offence	10. Failure to comply with a summons without lawful excuse is an offence and may result in a penalty of \$10,000.