

Our reference: 30033551  
Enquiries: Simon Thackray  
Telephone: [REDACTED]  
Email: [simon.thackray@synergy.net.au](mailto:simon.thackray@synergy.net.au)

2 August 2023

Economic Regulation Authority  
Level 4, Albert Facey House,  
469 Wellington Street, Perth WA 6000

via email to: [publicsubmissions@erawa.com.au](mailto:publicsubmissions@erawa.com.au)

## **DRAFT DETERMINATION ON AUSTRALIAN ENERGY MARKET OPERATOR'S ALLOWABLE REVENUE 6 IN-PERIOD FORECAST CAPITAL EXPENDITURE ADJUSTMENT**

Synergy welcomes the opportunity to make a submission in response to the Economic Regulation Authority's (**ERA**) draft determination on the Australian Energy Market Operator's (**AEMO**) sixth allowable revenue (**AR6**) in-period forecast capital expenditure adjustment (**draft determination**).

AEMO is seeking an additional \$47.11 million of forecast capital expenditure in addition to the \$61.5 million already approved for the period 2022/23 to 2024/25. Synergy understands the majority (96%) of the additional forecast capital expenditure is to address cost over-runs in relation to the Wholesale Electricity Market (**WEM**) reform program and the remainder being for sustaining capital expenditure for the WEM and gas services information platform. In addition, Synergy understands AEMO anticipates making an additional in-period submission to the ERA by March next year.

Synergy supplies electricity to more than 1 million residential and commercial customers and as the state's largest electricity generator and retailer, incurs around 45% of the WEM fees.

As Synergy noted in its 8 March 2022 [submission](#) in response to the ERA's issues paper on AEMO's sixth allowable revenue proposal, the ERA is required under section 26 of the Economic Regulation Authority Act 2003, amongst other matters, to:

"have regard to the need to promote regulatory outcomes that are in the public interest and the long-term interests of consumers in relation to the price, quality and reliability of goods and services..."

The ERA also has an obligation relevantly under clause 2.22A.5(b) of the WEM Rules to take into account:

“only costs which would be incurred by a prudent provider of the services provided by AEMO in performing its functions, acting efficiently, to achieve the lowest practicably sustainable cost of performing AEMO’s functions, while effectively promoting the Wholesale Market Objectives”.

The ERA in its draft determination provisionally approved \$46.94 million and made modest adjustments to sustaining capex projects to conform with the funding proposal guidelines on contingency and labour costs. Synergy understands the need for the ERA’s draft determination on AEMO’s proposal and considers the ERA has given due regard to the risk of AEMO being under funded which may delay the WEM reform program at a critical point.

Synergy notes that AEMO’s supporting information provided re-forecast costs over the whole of the AR6 period. The main reason reported for this approach was because it was not straightforward to report on incremental differences as most of the project was underway. Given that another in-period submission is pending by March next year, Synergy considers greater attention and transparency needs to be given to making this information available to market participants, especially given AEMO has estimated an increase in market fees of \$0.30 per MWh on top of a projected near doubling the fees from AR5.

It is important to recognise that market participants rely on accurate capex and opex forecasts so they can budget for market fee liability. Therefore, underestimating the complexity of the reforms and / or developing and adapting IT systems or procuring specialised capability at short notice can have financial consequences to market participants. Synergy remains concerned about the growing and significantly high level of investment proposed for the AR6 period and associated contingency and considers the level of independent investment scrutiny needs to be enhanced.

For example, the ERA has determined a key reason<sup>1</sup> for the cost overrun is due to the program not managing to reduce risk and new resourcing and technical risk materialising. Synergy supports ensuring the WEM reform program is delivered on time. However, Synergy considers going forward, uncertainty and cost overruns should not be accepted as the norm to substantiate material proposed cost increases.

The ERA should be satisfied that effective processes are in place to identify and manage risk including ensuring AEMO’s risk management processes are consistent with what would be expected by a prudent service provider acting efficiently to achieve the lowest practicably sustainable cost. Synergy considers it is in AEMO’s and Market Participants’ interests to better understand the risks and uncertainty associated with investments AEMO must make to establish and continue to evolve the WEM.

---

<sup>1</sup> [ERA draft determination](#), page 11.

Synergy in its 28 April 2022 [submission](#) recommended the ERA publishes its final determination in a format that establishes a baseline to facilitate effective annual reporting. This includes highlighting the strengths and weaknesses in AEMO's forecasting method and investment/project governance approach, in-housing strategy and providing constructive feedback and context (positive and negative) on what improvements can be made. As the independent economic regulator, Synergy considers the ERA is best placed to make this objective assessment. Synergy considers the latest request for an AR6 in-period forecast capital expenditure adjustment reinforces Synergy's earlier recommendation to the ERA.

Synergy understands the ERA has considered the implications of underfunding or overfunding AEMO including the potential that unused forecast capital expenditure may be used for other projects that may not otherwise meet the regulatory test. However, the draft determination does not clarify whether the ERA has considered whether any previously approved AR funding could be diverted to offset (or partially offset) the latest AEMO funding request. Synergy suggests (if not already done so) that this analysis be conducted and the results published as part of the ERA's final determination.

Synergy reiterates its previous [submission](#) that it recognises the challenges facing AEMO with regard to accurately forecasting and delivering a program as large and complex as the WEM Reform Program. Synergy acknowledges that as the market and system operator, AEMO is best placed to understand and ultimately control the costs associated with the establishment of the new market arrangements and continued evolution of the WEM. It is therefore appropriate AEMO be given opportunity to adjust and improve its governance processes, and that the regulatory regime placed upon it does not impede AEMO's ability to deliver market development activities on time or in full. However, AEMO's costs incurred by Market Participants must be evidenced to be efficient.

Synergy confirms that this submission can be made public. Should you require further information regarding any of the comments made in this submission, please contact me.

Yours sincerely



**SIMON THACKRAY**  
**HEAD OF REGULATION AND COMPLIANCE**