

Our Ref: #35871064  
Enquiries: [REDACTED]  
Telephone: [REDACTED]

14 October 2024

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

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

### **ERA CONSULTATION: WEM PROCEDURE: PORTFOLIO DETERMINATION**

Synergy welcomes the opportunity to provide a submission to the Economic Regulation Authority (**ERA**) on its revised WEM Procedure: Portfolio Determination (**Portfolio Paper**) issued in September 2024. Synergy is of the understanding that the ERA's proposed amendments to the Portfolio Paper are required to ensure consistency with EPWA's proposed amendments to the Wholesale Electricity Market Rules (**WEM Rules**) as per EPWA's "*FCESS Cost Review Exposure Draft - Proposed Wholesale Electricity Market (WEM) Amending Rules*" (**FCESS Rules**).

Synergy's detailed drafting comments in relation to the proposed amendments to the Portfolio Determination are set out in Annexure A.

Synergy thanks the ERA for this submission opportunity.

Yours sincerely

[REDACTED]  
[REDACTED]  
[REDACTED]

## Annexure A – Synergy’s detailed comments on the drafting of the WEM Procedure: Portfolio Determination

Synergy’s Detailed Comments on the Portfolio Paper					
#	Section Ref.	Page Ref.	Classification	Issue	Suggestion
1	2.3	4	Major	Synergy considers that the ERA should also have regard to the Offer Construction Guideline when investigating suspected breaches of WEM Rule 2.16C.5, noting that this is required by the WEM Rules under clause 2.16C.6(b). Synergy therefore proposes that an amended version of the previous paragraph 2.3.3 should be reinstated into the proposed Portfolio Paper. Synergy proposes new paragraph 2.3.2A be included to address this concern.	<b><u>2.3.2A (new)</u></b> The ERA will have regard to the Offer Construction Guideline when investigating suspected breaches of WEM Rule 2.16C.5.
2	2.3	4	Clarification	Synergy seeks clarity as to the reasoning behind the proposed removal of existing paragraph 2.3.9. Synergy considers that this paragraph should be reinstated into the Portfolio Paper to provide guidance to Market Participants. Synergy proposed that the original drafting is reinstated as new paragraph 2.3.5A.	<b><u>2.3.5A (new)</u></b> A STEM Submission or a Real Time Market Submission is not made in bad faith under WEM Rule 2.16A.3(b) if, at the time it is submitted, the Market Participant had a genuine intention to honour the terms of that STEM Submission or Real Time Market Submission, if the material conditions and circumstances upon which the STEM Submission or Real Time Market Submission was based remained unchanged until the relevant Trading Interval [WEM Rule 2.16A.5].
3	3.1.2(b) and Appendix 2(b)(ii)	5 and 16	Major	Synergy considers that the Portfolio assessment undertaken needs to consider the level of control for shared trading desks and does not consider that a service only arrangement, where there is no element of control, should not be captured under this test. If these arrangements are captured, it could lead to unintended consequences and create barriers for smaller Market Participants. Synergy proposes that the paragraph is amended to address this concern. Synergy also raised this concern in its submission to EPWA on the FCESS Rules.	<b><u>3.1.2(b) and Appendix 2(ii)</u></b> Registered Facilities which are registered to a Market Participant, or wholly or partly owned by a Market Participant, or wholly or partly controlled by a Market Participant or another entity, including by way of a shared trading desk (excluding arrangements that do not allow for one party to control the behaviour of another), must be allocated to the same Portfolio.
4	3.1 - General	4 to 7	Major	As raised above in item 3 of this table, Synergy considers that the Portfolio assessment needs to be cognisant of the level of control for shared trading desk arrangements, and such arrangements should be captured under this test. This approach to shared trading desk arrangements should be applied in general throughout section 3.1 of the Portfolio Paper.	

**Synergy's Detailed Comments on the Portfolio Paper**

#	Section Ref.	Page Ref.	Classification	Issue	Suggestion
5	3.1.15	7	Typographical	Synergy considers that the reference to WEM Rule 2.16B.3A may be in error as this considers that the reference should instead refer to WEM Rule 2.16B.4.	<p><b>3.1.15</b></p> <p>Market Participants must provide declarations to the ERA in accordance ....</p> <p>...</p> <p><del>[WEM Rule 2.16B.3A]</del> [WEM Rule 2.16B.4]</p>
6	4.2.2	9	Typographical	Suggest the definition of the Rolling Test Window is amended to use the already defined term Trading Month for ease of reading. Note that Synergy proposed similar suggestion in relation to the definition of the Rolling Test Window in its submission to EPWA on the FCESS Rules.	<p><b>4.2.2</b></p> <p>The Rolling Test Window is <del>a consecutive three-month period of Trading Days, commencing at 8:00AM on the first day of a month and ending at 8:00AM on the first day of a month. A Rolling Test Window does not overlap with any other Rolling Test Window, with a new Rolling Test Window commencing immediately after the end of the proceeding Rolling Test Window.</del> a rolling period of three consecutive Trading Months, commencing at the start of the first Trading Day of a Trading Month and ending at the end of the last Trading Day of a Trading Month. A Rolling Test Window does not overlap with any other Rolling Test Window, with a new Rolling Test Window commencing immediately after the previous one ends, with no overlap between.</p>