

## **SUPPLY PROCUREMENT 2008**

### ***Expression of Interest – Invitation to potential suppliers***

#### **1. Supply Procurement 2008**

##### **Objective**

The overall objective of Synergy's wholesale supply procurement program is the procurement of Capacity Credits and, where relevant, associated electricity and environmental rights to meet Synergy's portfolio needs, including the displacement of volumes stipulated in the Vesting Contract<sup>1</sup>.

The displacement of Vesting volumes is governed by the Vesting Contract<sup>2</sup> and the Ministerial Direction<sup>3</sup>.

Supply Procurement 2008 will focus on Synergy's:

- tendered Displacement obligations applicable for Capacity Years 2011/12 (generally as outlined in the Annual Displacement Statement of Opportunities (**ADSOO**), 30 November 2007<sup>4</sup>);
- negotiated Displacement in accordance with the Vesting Contract or supplies outside the Vesting Contract (for example, contestable sales) may also be included at Synergy's discretion; and
- renewable energy needs from 2010 (which may contribute towards Synergy's tendered or negotiated Displacement obligations).

In order to allow the participation at this stage of the process of a broad range of potential suppliers and achieve the optimal supply mix for Synergy, the procurement requirements are on the broadest reasonable terms, and include supplies from both renewable and non-renewable sources.

For the information of potential suppliers, whether or not they are successful in Supply Procurement 2008, Synergy expects to conduct further supply procurement processes in future years to meet its outstanding obligations under the Vesting Contract and its other supply needs. However the requirements in these future processes may depend amongst other things on the outcome of Supply Procurement 2008.

##### **Requirements**

Synergy's supply objectives to be addressed through the Supply Procurement 2008 process are, subject to terms of the Vesting Contract, as follows:

- Supplies will be provided under the terms of the Electricity Supply Contract (ESC) provided by Synergy and customised with each tenderer;
- Displacement of at least 200 MW of Capacity Credits commencing for the 2011/12 Capacity Year, though Synergy reserves the right to displace a greater or lesser amount of Capacity Credits;
- Sourcing electricity associated with the displaced Capacity Credits as nominated by Synergy in accordance with the ESC; and
- Sourcing renewable energy supplies to meet Synergy's portfolio requirements.

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<sup>1</sup> See Section 4 on reference documents

<sup>2</sup> See Section 4 on reference documents

<sup>3</sup> See Section 4 on reference documents

<sup>4</sup> See Section 4 on reference documents

Potential suppliers should note that subject to achieving acceptable commercial prices and other terms, Synergy intends to procure a significant proportion of these overall requirements from renewable sources.

Synergy currently contemplates that tenderers will be able to make offers for:

- part of the above Displacement amount or for greater amounts of Displacement, up to the limits described in the Vesting Contract and the ADSOO, in discussion with Synergy;
- Displacement of Capacity Credits from renewable sources together with environmental rights to meet Synergy's MRET (and/or RETWA) obligations and/or its own customer demands for renewable energy, commencing in either the 2010/11 or 2011/12 Capacity Years; and/or
- The supply of the relevant Capacity Credits, electricity and/or environmental rights for the term that is agreed with Synergy for each offer.

### **Procurement Process**

To address these requirements, a flexible approach has been developed, seeking:

- procurement based on Synergy's integrated portfolio needs;
- to engage known potential suppliers in the procurement process to allow available existing and new capacity to participate in the process;
- expressions of interest from potential suppliers, demonstrating their financial and other capabilities to provide Capacity Credits, electricity and/or environmental rights;
- streamlined tender processes (consistent with probity considerations), with call for tenders to be issued around April 2008 and tenders to close around June 2008; and
- progressive appointment of preferred tenderer(s) commencing by early August 2008 for any (renewable) offers commencing for the 2010/11 Capacity Year, and seeking to conclude all appointments arising from this tender process by the fourth Quarter 2008.

### **Synergy governance**

The Manager, Power Procurement is responsible for the management of the process and reports to the Head of Wholesale.

A Steering Group comprising senior Synergy executives has been established.

The Probity Auditor attends Steering Group meetings.

### **Probity of the process**

Synergy is committed to ensuring that every stage in the Process is conducted with due adherence to procedural fairness. The independent probity auditor has been appointed to oversee the probity of the process.

The probity auditor can be contacted directly by an interested party to discuss matters of probity with respect to the process.

The contact details of the probity auditor are set out below:

Mr Mauri Mucciacciaro  
BDO Consultants (WA) Pty Ltd  
PO Box 7426  
Cloisters Square PERTH WA 6850  
Phone: (08) 9360 4200

**Governing law**

The laws of Western Australia govern Supply Procurement 2008.

**Communications and requests for information or clarification**

All communications in relation to the process should be addressed to the Manager, Power Procurement (other than matters relating solely to probity) using the contact details listed below.

All requests for information or clarification of matters associated with the process should be directed to the Manager, Power Procurement. No one is authorised by Synergy to provide information or to clarify matters in relation to this invitation, other than the Manager, Power Procurement or a person with the express authorisation of the Manager, Power Procurement.

**Contact details**

The Manager, Power Procurement may be contacted as follows (or as notified from time to time by Synergy):

Trevor Harvey  
Synergy  
GPO Box K851  
PERTH WA 6842  
Telephone: (+61 8) 6212 1466  
Email: [manager.powerprocurement@synergyenergy.com.au](mailto:manager.powerprocurement@synergyenergy.com.au)

## **2. Expression of Interest**

### **Purpose of the EOI**

The purpose of this EOI is to describe Synergy's requirements and to invite potential suppliers to express interest in participating in Supply Procurement 2008.

Synergy intends to enter into an Electricity Supply Contract with the Preferred Tenderer(s) for the supply, as appropriate, of Capacity Credits, associated electricity, Green Power Rights, RECs and/or any other relevant environmental rights.

### **Discussion with potential suppliers**

Appropriate representatives of Synergy will be available to engage in discussions with interested parties during the EOI period (ie up to the date prior to the date of lodgement). These discussions will however be limited by the time available.

Synergy will, if it considers this appropriate in the circumstances, communicate outcomes from these discussions of a general and non-confidential nature to all potential suppliers.

### **Assessment Process**

Each EOI will be assessed on the basis of the demonstrated ability to provide the following to meet Synergy's requirements:

- Capacity Credits commencing in the 2011/12 Capacity Year;
- Capacity Credits from renewable sources commencing in either the 2010/11 or 2011/12 Capacity Years;
- Associated electricity; and/or
- Where relevant Green Power Rights, RECs and other environmental rights.

The basis of this assessment will be the financial and other capabilities needed to meet Synergy's requirements as demonstrated by an appropriate selection of the following attributes:

- Term of supply contract offered.
- Capacity Credits, associated electricity and/or environmental rights offered.
- Indicative pricing.
- Financial structure of the potential supplier.
- Experience of the potential supplier.
- Ability (or plans) to provide Capacity Credits and associated electricity.
- Firm arrangements in place for, (or progress towards), key enablers such as site tenure and preparation, network access, fuel delivery, design and construction, operation and finance.
- The extent to which approvals are in place (in particular development and environmental approvals) or the degree of progress towards those approvals.
- Status of project with ERA and IMO.
- The technical robustness and risk of the proposal.

- The inherent risks of the project and the extent to which these risks are being passed onto Synergy.
- The existence of significant barriers to meeting Synergy's requirements.

### **Principles for Content of an EOI**

The overriding principle is that an EOI should contain adequate information to demonstrate that the supplier is capable of meeting Synergy's requirements, and to allow Synergy to proceed with the assessment. Potential Suppliers should note the following in relation to the EOI:

- **Voluminous documentation is not required and may hinder the assessment process.**
- **Detailed technical specifications are not required.**
- **The underlying principle is that information is required to be provided to the extent it is necessary to allow the assessment to be carried out.**

Potential suppliers are advised to familiarise themselves with the information, requirements and conditions that pertain to this invitation. The potential supplier can submit an EOI by completing the prescribed form set out in this invitation, preparing the required information and lodging it in the specified manner with the Manager, Power Procurement at the address indicated no later than the required lodgement date and time. A potential supplier that duly submits an EOI is a respondent.

If the respondent is a consortium, joint venture or other such association of parties, all participants must be named and a representative nominated as an authorised single point of contact for the respondent.

An EOI submitted by a respondent will not constitute an offer contractually binding on the respondent, but will form part of the basis upon which Synergy will select a those respondents which will be invited to submit a tender.

The respondent submitting an EOI will nevertheless be bound by the terms and conditions in this invitation and when submitting the EOI is taken to have warranted to Synergy that:

- the information contained in the EOI is true, accurate and not misleading;
- the respondent will inform Synergy immediately if at any time during the process it becomes aware of any fact, matter or circumstance that makes, or could reasonably be expected to make, any part of its EOI untrue, inaccurate or misleading; and
- the respondent is acting solely on its own behalf and not as trustee or agent for (or otherwise for the benefit of) any other person (other than any consortium, joint venture or other such association of parties notified to Synergy by the respondent).

### **Information required in an EOI response by a respondent**

Respondents, in submitting responses to this invitation, are required to submit responses to the following items as set out in the tables in Annexure A to this Invitation.

- 1 Respondent information
- 2 Financial capability
- 3 Power project operating experience

- 4 Power project development experience (if a new power plant is proposed)
- 5 Compliance issues
- 6 Indicative proposal (including pricing)

Respondents are required to respond to each item (other than item 4 in the case that a new power plant is not proposed). Where relevant, a respondent that is a consortium, etc. should submit responses on behalf of each participant. As the responses to the items below will form part of the EOI assessment process, Respondents are advised that a failure to respond adequately to all of the items listed below may result in them not being invited to participate in the tender process.

### **Comments on ESC**

Respondents are also invited to comment on the ESC however proposed changes should be limited in scope. It is unlikely that any major changes in the legal or commercial structure of the ESC will be made prior to its issue in the tender phase.

Copies of the ESC are available to potential suppliers by following the process given in the section of this invitation on reference documents.

Synergy also draws the attention of potential suppliers to the ability to comment on the ESC during the tender phase as set out in the section below on assessment of tenders.

### **Lodgement**

Two (2) hard copies of the EOI and all attached documents must be placed in a sealed package.

The sealed package must also include an electronic version of the complete EOI on a CD ROM. The electronic version should be in Microsoft ® Word 2000 format or, if the Respondent does not have access to a copy of certain documents in Word, those documents may be provided in Adobe 8.

The sealed package containing the EOI must be clearly marked:

Expression of Interest – Supply Procurement 2008  
Manager, Power Procurement  
Synergy  
228 Adelaide Terrace  
PERTH WA 6000  
From: [Respondent]

The sealed package containing the EOI should be lodged in person at the Ground Floor Reception, 228 Adelaide Terrace, Perth and should be lodged on:

**Tuesday, 11, March 2008, between 8:30 am and 10:30 am WDT.**

Synergy reserves the right to modify the lodgement time and date as it sees fit and at its sole discretion, and to accept late lodgement by all or any potential suppliers.

### **Selection for tender phase**

Those respondents that, on the basis of the available information, meet Synergy's requirements may be invited to enter into an RFT Agreement with Synergy and participate in the tender phase of Supply Procurement 2008. The RFT Agreement is available on Synergy's website; see section 4 on reference documents.



Synergy reserves the right to not invite potential suppliers to participate in the tender phase if they have not demonstrated in their EOI that their tender can be expected to be capable of acceptance by Synergy. Details of the requirements for the tender phase are given in the next section.

Synergy reserves the right not to proceed to the tender phase, and also to select tenderers that did not lodge an EOI.

### 3. Tender Phase

**Note: This is a brief outline of the tender phase, as currently envisaged. Synergy will provide full details to those potential suppliers that are selected to participate in the tender phase and execute an RFT Agreement.**

#### **Tender Process**

Synergy intends to use the following process:

- Selected potential suppliers will be invited to participate in the tender process. This is to be on a date yet to be determined but likely to be issued in early April 2008.
- The first step is for the relevant potential supplier to execute an RFT Agreement with Synergy.
- On execution of the RFT Agreement, the relevant tenderer will be issued the request for tender.
- During the tender process each tenderer will have the opportunity to enter into discussions with Synergy to clarify the scope of the process, the tender requirements and the drafting of the ESC.
- Synergy will, if it considers this appropriate in the circumstances, communicate outcomes, from these discussions of a general and non-confidential nature to all tenderers.
- Tenders will be due on a date yet to be determined but likely to be during June 2008.

#### **Assessment of Tenders**

In accordance with the Ministerial Direction:

Synergy must notify tenderers that one key objective of the acquisition of Capacity Credits and the electricity by Synergy is to minimise the cost of Capacity Credits and the electricity to be acquired by the Synergy from the preferred tenderer(s) (clause 2(c) of the Ministerial Direction).

Tenderers must submit the ESC as part of their tender with any amendments required by them marked on it and Synergy must advise tenderers that amendments should be minimal (clause 2(d) (ii) of the Ministerial Direction).

The overall approach to assessment of tenders by Synergy is intended to seek to:

- minimise the risk-adjusted cost to Synergy of Capacity Credits, associated electricity and/or environmental rights to be provided; and
- maximise the value and competitiveness of Synergy's supply portfolio.

In this context, Synergy desires to build up a portfolio of supply contracts with different durations to meet its Capacity Credit, electricity and environmental rights requirements going forward.

Some key aspects of the assessment process are intended to be:

- Scenario based assessment, in recognition of the many external factors (including the cost of carbon).
- Explicit assessment of the impact on Synergy of the supply term of each tender. In the context of the overall approach to assessment of tenders, and Synergy's supply portfolio needs, a shorter supply term will generally

be preferred. Synergy will consider supply terms proposed by tenderers and this matter will be discussed with each tenderer during the process.

- Explicit assessment, in the context of the overall assessment of tenders and Synergy's supply portfolio needs, of the impact on Synergy of the quantum of Capacity Credits and associated electricity offered in each tender. Synergy will consider tenderers' proposals and this matter will be discussed with each tenderer during the tender phase.
- Assessment of the inherent and other risks in the proposal and the extent to which these risks are mitigated by the tenderer or are passed on to Synergy
- Explicit assessment of the impact on Synergy of other costs that arise in the WEM as a result of proposed projects (for example, the impact of a capacity surplus in the WEM; a change in the Reserve Capacity Requirement and any impact on energy costs).

### **Appointment of Preferred Tenderers**

As indicated above Synergy may appoint more than one preferred tenderer and that these may be progressively appointed commencing from early August 2008. The target is to conclude all appointments arising from Supply Procurement 2008 by the fourth Quarter 2008.

This is subject to Synergy's right, at its sole discretion, not to appoint any preferred tenderers.

It is intended that offers which commence in the 2010/11 Capacity Year, if any, will be dealt with first, in particular any new facilities that are seeking IMO capacity certification.

#### 4. Reference documents

Each potential supplier should make its own enquiries and satisfy itself that it has adequate knowledge of the WA electricity industry including industry structure, government policy and legislation, and the structure of the WEM.

The following lists of reference sources are not intended to be exhaustive.

Particular organisations that may be helpful in this regard are:

Office of Energy	<a href="http://www.energy.wa.gov.au/">http://www.energy.wa.gov.au/</a>
Western Power	<a href="http://www.wpcorp.com.au/">http://www.wpcorp.com.au/</a>
Independent Market Operator	<a href="http://www.imowa.com.au/">http://www.imowa.com.au/</a>
Economic Regulation Authority	<a href="http://www.era.wa.gov.au/">http://www.era.wa.gov.au/</a>

The following is a list of documents that may be helpful, and a source for each document is given<sup>5</sup>. In case of difficulty, potential suppliers may contact the Manager, Power Procurement:

##### **Vesting Contract**

<http://www.energy.wa.gov.au/cproot/1065/8842/Vesting%20Contract%20-%20v22112007.pdf>

##### **Overview of the Vesting arrangements**

[http://www.energy.wa.gov.au/cproot/813/5579/Overview%20of%20the%20Vesting%20Arrangements%20\(Final\).pdf](http://www.energy.wa.gov.au/cproot/813/5579/Overview%20of%20the%20Vesting%20Arrangements%20(Final).pdf)

[Annual Displacement Statement of Opportunities, 30 November 2007](#)

[http://www.synergy.net.au/PDF\\_Documents/Annual\\_Displacement\\_Statement\\_2007.pdf](http://www.synergy.net.au/PDF_Documents/Annual_Displacement_Statement_2007.pdf)

##### **Ministerial Direction**

[http://www.energy.wa.gov.au/cproot/741/4429/Exposure%20Mechanism%20-%20Ministerial%20Direction%20\(V12\)%20-%20FINAL.pdf](http://www.energy.wa.gov.au/cproot/741/4429/Exposure%20Mechanism%20-%20Ministerial%20Direction%20(V12)%20-%20FINAL.pdf)

##### **Electricity Supply Contract (ESC)**

On request from the Manager, Power Procurement. To receive a copy of the ESC potential suppliers will be required to enter into the confidentiality agreement referenced below.

##### **Confidentiality Agreement**

[http://www.synergy.net.au/About\\_Us/Power\\_Procurement/Process\\_Updates.html](http://www.synergy.net.au/About_Us/Power_Procurement/Process_Updates.html)

##### **RFT Agreement**

[http://www.synergy.net.au/About\\_Us/Power\\_Procurement/Process\\_Updates.html](http://www.synergy.net.au/About_Us/Power_Procurement/Process_Updates.html)

##### **Supply Procurement 2008 presentation**

On request from the Manager, Power Procurement

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<sup>5</sup> The documents and URL are given in good faith and were current when this invitation was prepared.

## Disclaimer

The terms set out in this Disclaimer apply to all information included in this invitation and all other information from time to time provided or made available by or on behalf of Synergy to a person or group in relation to the process being adopted by Synergy for Supply Procurement 2008, all of which information is together called the "**Information**".

All intellectual property in the Information vests in Synergy, unless Synergy expressly states otherwise.

Synergy, its employees, officers and advisers and their respective representatives are not liable in any way (including, but not limited to, by reason of negligence or negligent misstatement) to a potential supplier, or any other person for any claims, losses, costs and expenses incurred by the potential supplier or any other person:

- in relation to any aspect of the process; or
- in evaluating or acting upon all or any part of the Information, in responding to all or any part of the Process or otherwise acting in reliance on all or any part of the Information; or
- arising out of, or in connection with, any omission from, or any change, modification, update of, or addition to, all or any part of the Information (including, without limitation, any claim, loss, cost or expense arising from the potential supplier or any other person not being made aware of the change, update, modification or addition); or
- arising out of or in connection with all or any part of the Information or their use of it or a failure to receive it or any changes, modifications, updates or additions to it (including, without limitation, any failure to correctly download or view any Information on the Synergy internet site).

Synergy may in its absolute discretion from time to time change, modify, update or add to all or any part of the information in the Information, without notice.

Synergy does not make any representation or warranty as to the accuracy, reliability, currency, completeness or suitability for any particular purpose or purposes of all or any part of the Information. If a potential supplier relies on any of the Information, it does so entirely at its own risk.

The Information reflects various assumptions about a number of matters, and refers to estimated information and information sourced from third parties. These assumptions, estimates, forecasts and any third party information may or may not prove to be correct and may change from time to time. The Information does not amount to a recommendation, either expressly or by implication, with respect to generation capacity and does not purport to contain all information that a potential supplier may require. The Information may not be appropriate for all persons and it is not possible for Synergy and its respective representatives to have regard to the particular needs of each person who reads or uses the Information.

The Information and any materials issued by Synergy to correct or update the Information (**Further Terms**) are to be read subject to this Disclaimer. The provisions of this Disclaimer take precedence over any other provision of the invitation to which this Disclaimer is attached or any Further Terms that is inconsistent with or otherwise conflicts with any provision of this Disclaimer.

Synergy may use the Information to select, as it seems fit, and at its absolute discretion those potential suppliers which it will invite to participate in the Tender Phase of Supply Procurement 2008.

**ANNEXURE A**

1. Respondent information	
Full Name:	_____
Australian Business Number (ABN):	_____
Address of Respondent:	_____ _____ _____ _____ _____
Name of Representative:	_____
(authorised, single point of contact)	
Position of Representative:	_____
Telephone Number:	_____
e-mail Address:	_____
Notes:	
	By completing and returning this form, the Representative agrees for and on behalf of the Respondent that it has read, accepts and agrees to be bound by the terms and conditions set out in the Supply Procurement 2008 Expression of Interest – Invitation to potential suppliers and the Disclaimer set out on page 11 of that document.
Signed by the Representative:	_____
	For and on behalf of the Respondent
Date:	_____

<b>2. Financial capability</b>	
<p>2.1. The following information on the Respondent:</p> <p>2.1.1. If rated - latest credit rating, relevant rating agency, date of latest rating; or</p> <p>2.1.2. If not rated - Total Debt/Total Capitalisation ratio and Funds from Operations/Total Debt ratio and a copy of the source information.</p> <p>2.2. Intended approach to financing this project.</p> <p>2.3. If the preference is to use project finance, indicate the likely level of the intended equity contribution to be made by the Respondent as a proportion of the total equity requirement of the project.</p>	
<b>3. Power plant operating experience</b>	
<p>Briefly describe the Respondent's involvement in the last five years as the <b>principal</b> in the operation of power plants in service (list no more than four examples of power plants) in Australia or overseas covering the following areas:</p> <p>3.1. plant name and location.</p> <p>3.2. plant technology type and fuel.</p> <p>3.3. installed capacity, unit size and manufacturer and contact details.</p> <p>3.4. operating duty (peaking, mid-merit or base).</p> <p>3.5. capital cost of the plant.</p> <p>3.6. date on which the plant commenced operations.</p> <p>3.7. specific role of the Respondent in the operation of the power plant(s).</p> <p>3.8. the other participants (if any) and their specific roles in the operation of the power plant and contact details.</p> <p>3.9. power sale arrangements (eg. merchant operation, take-or-pay or other contract, counterparty, duration, etc).</p> <p>3.10. the equity participants and the amount of equity each provided.</p> <p>3.11. amount of any debt financing and its form (e.g., balance sheet, project financing).</p> <p>3.12. the institutions that provided any debt and referee contact details.</p> <p>3.13. experience of operating and in the commercial/trading environment in the WEM and</p> <p>3.14. experience in WA and WEM.</p>	

**4. Power project development experience (if a new power plant is proposed)**

Briefly describe the Respondent's involvement in the last five years as the **principal** in the development of power projects involving the designing, financing, constructing and commissioning of power plants in service (list no more than four examples of power plants) in Australia or overseas covering the following areas:

- 4.1. project name and location.
- 4.2. plant technology type and fuel.
- 4.3. installed capacity, unit size and manufacturer and contact details.
- 4.4. operating duty.
- 4.5. capital cost of the project.
- 4.6. date on which the project commenced operations.
- 4.7. specific role of the Respondent in the development of the power plant(s).
- 4.8. the other participants (if any) and their specific roles in the development of the power plant and contact details.
- 4.9. sale arrangements in respect of power and/or environmental rights, as appropriate.
- 4.10. the equity participants and the amount of equity provided.
- 4.11. amount of any debt financing and its form (e.g., balance sheet, project financing).
- 4.12. institutions that provided any debt and referee contact details.
- 4.13. lead time to design, construct and commission.
- 4.14. experience in WA and the WEM.
- 4.15. date and details of completion success against budget, target completion date and acceptance performance parameters.

<b>5. Compliance issues</b>	
5.1.	Briefly describe the ownership structure of the Respondent, the activities in which it is involved and its governance arrangements in Australia or overseas.
5.2.	List whether the Respondent has a corporate presence in Western Australia or other Australian states. If the Respondent does not currently have a presence in Western Australia, outline the process by which it intends to establish this presence if successful in the Process.
5.3.	Indicate the Respondent's preparedness to develop and implement an Australian Industry Participation Plan (see <a href="http://www.aip.gov.au">http://www.aip.gov.au</a> ) to demonstrate the manner in which it would optimise the use of local suppliers, if applicable.
5.4.	Provide reports (statutory or otherwise) for the last two years describing the performance with respect to environmental and work place health and safety of the Respondent (or its constituent or related bodies).
<b>6. Indicative proposal</b>	
6.1.	Installed capacity, Capacity Credits, Green Power Rights, RECs and any other environmental rights (if appropriate) to be available to support the supply proposal or to be created by the proposed project.
6.2.	Generation technology type (e.g. gas turbine, steam turbine, biomass, wind etc).
6.3.	Fuel type, if applicable.
6.4.	Indicative capacity factor, availability and reliability for the proposed power plant (including supporting information).
6.5.	Indicative installed location of proposed power plant.
6.6.	Indicative heat rate of proposed power plant on a higher heating value basis quoted at ISO standard conditions.
6.7.	Respondent's desired duration of supply period under the ESC (for discussion with Synergy).
6.8.	Respondent's indicative prices for Capacity Credits, electricity and environmental rights, as relevant.