

# Wholesale Electricity Market Rules and Gas Services Information Rules

## Compliance Report

30 September 2017

Economic Regulation Authority

WESTERN AUSTRALIA

## Economic Regulation Authority

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## Contents

<b>1</b>	<b>Background</b>	<b>1</b>
<b>2</b>	<b>Compliance update</b>	<b>1</b>
2.1	Alleged breach reports	1
2.2	Quarterly non-compliance with Dispatch Instructions investigations	3
2.3	Investigation outcomes and enforcement actions	4
2.4	Stakeholder engagement	5
<b>3</b>	<b>Report on Electricity Review Board matters</b>	<b>5</b>
3.1	Proceedings brought before the Electricity Review Board	5
3.2	Findings of the Electricity Review Board	6
3.3	Orders made by the Electricity Review Board	6
3.4	Civil Penalties imposed by the Economic Regulation Authority	6

# 1 Background

Since 1 July 2016 the Economic Regulation Authority (**Authority**) has been responsible for the compliance and enforcement functions in the Wholesale Electricity Market (**WEM**) Rules and the Gas Services Information (**GSI**) Rules.

The Authority previously published six-monthly reports under clause 2.13.26 of the WEM Rules and rule 167(1) of the GSI Rules. These reports only needed to contain matters that had been brought before the Electricity Review Board and details of any civil penalties imposed by the Authority.

The Authority has undertaken a review of the reporting requirements and adopted the revised structure of this report. This report provides new information on the Authority's compliance activities in section 2, as well as the Electricity Review Board related matters in section 3.

## 2 Compliance update

The core activities of the Authority's compliance and enforcement functions are monitoring participants' compliance with the WEM Rules and GSI Rules and investigating alleged breaches.

This section provides an update on these activities for the period 1 July 2016 to 30 June 2017. This includes summary details of alleged breaches reported to the Authority and the outcomes of breach investigations carried out during the period.

This section also includes information on the Authority's quarterly dispatch instruction non-compliance process as well as stakeholder engagement activities.

### 2.1 Alleged breach reports

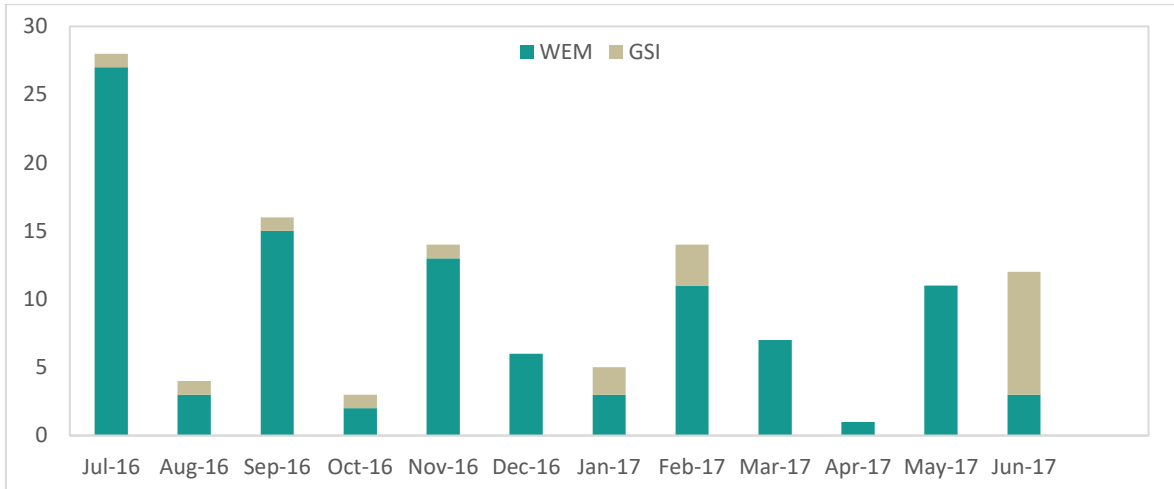
The Authority maintains a register of alleged breach reports. This register includes breach reports from external parties and those identified by the Authority.

Over the 2016/17 financial year, the Authority registered a total of 121 alleged breach reports<sup>1</sup> (**Figure 1**).

The largest number of alleged breaches registered occurred in July 2016 (28 matters in total). This coincides with the transfer of the compliance function, including 22 open alleged breach matters, from the Independent Market Operator to the Authority on 1 July 2016.

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<sup>1</sup> Note, an alleged breach report may consist of multiple individual breach events.



**Figure 1: Alleged Breaches registered by the Authority**

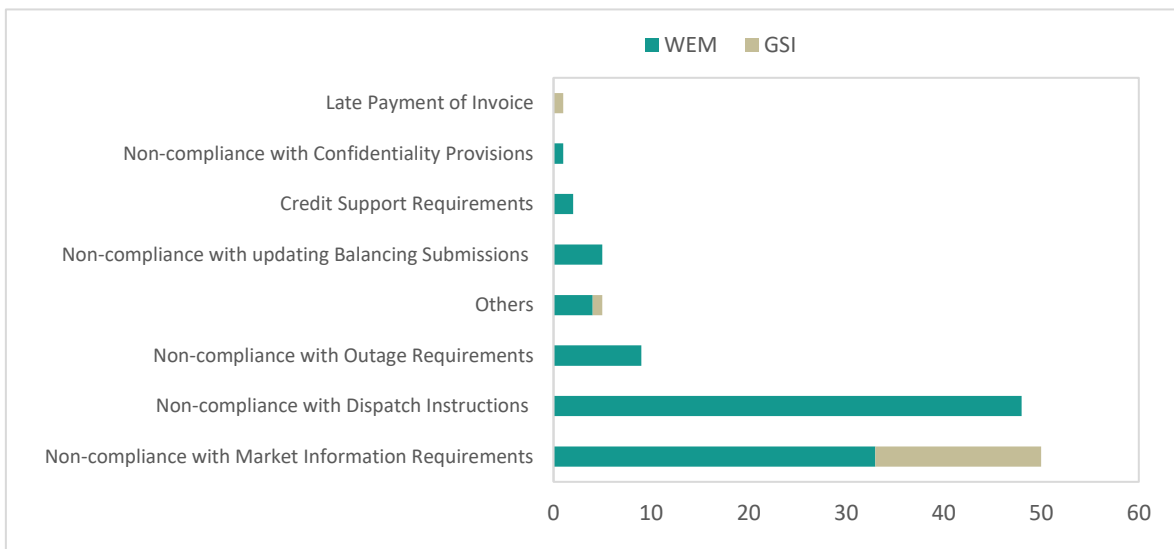
**Figure 2** below shows alleged breaches reported by issue. Participants’ non-compliance with market information requirements accounted for 41 percent of total alleged breaches (50 reports). These matters include cases where participants failed to submit data/information by the deadline, or provided incorrect data/information.

Participants’ non-compliance with dispatch instructions under the WEM Rules accounted for 40 percent of total alleged breaches (48 reports).

Non-compliance with WEM Rule obligations to update Balancing Submissions and comply with Outage requirements accounted for 12 percent of the breaches reported since 1 July 2016 (14 reports).

Rule obligations concerning dispatch, Balancing Submissions and Outages are central to ensuring the economic and efficient operation of the electricity market and the dispatch process. The Authority has a quarterly process for investigating these obligations. Section 2.2 below provides further details on this process.

Of the 121 reports for the period, 19 were alleged breach reports of the GSI Rules. The majority of these involved non-compliance with information requirements (17 reports). This is consistent with the fact that the majority of obligations in the GSI Rules are data provision requirements.



**Figure 2: Alleged Breaches registered by issue in 2016/17**

## 2.2 Quarterly non-compliance with Dispatch Instructions investigations

The Authority undertakes a quarterly process to investigate non-compliance with clause 7.10.1 of the WEM Rules. This rule requires participants to comply with dispatch instructions issued by System Management. These investigations are carried out under clause 7.10.8 of the WEM Rules.

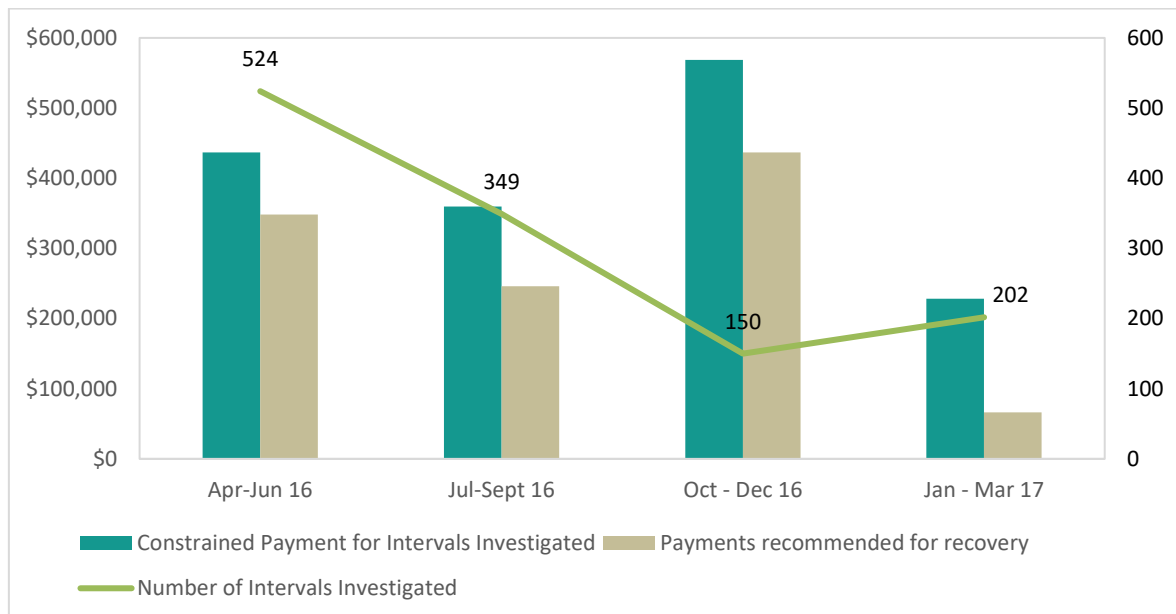
The investigations also consider whether any out of merit constrained off or on payments received by non-compliant participants needs to be recovered<sup>2</sup>.

The investigations use dispatch non-compliance reports and constrained payments data from the Australian Energy Market Operator<sup>3</sup>. Where non-compliance was identified, the Authority actively met with participants to review these issues.

The investigation process is time-bound to ensure that payment recoveries can be made in the applicable settlement cycle.

**Figure 3** shows the total number of intervals investigated by the Authority together with the value of the constrained payments associated with those intervals. Also shown is a summary of those intervals determined to be non-compliant and monies recoverable for investigations carried out in the 2016/17 financial year.

Common reasons for non-compliance with dispatch instructions during the period included plant operator errors, control system issues and equipment failure. None of these matters were identified as threatening power system security.



**Figure 3: Quarterly Non-compliance with Dispatch Instructions process**  
(Investigations completed between 1 July 2016 and 30 June 2017)

<sup>2</sup> Where a Market Participant's Facility's actual generated quantity was materially different from its balancing submission quantities then it may be entitled to Out of Merit constrained off or on compensation as per clause 6.16A of the WEM Rules, unless it was non-compliant with a Dispatch Instruction under clause 7.10.1.

<sup>3</sup> Including in its capacity as System Management.

The quarterly investigations also review whether participants have met their obligations to update Balancing Submissions and log Forced Outages under the WEM Rules. These obligations not only ensure that up to date information is available for the dispatch process, but are also key mitigation measures to prevent erroneous constrained payments.

Where material issues concerning a participant's compliance with Balancing Submission or Forced Outage requirements are evident, the Authority will carry out targeted investigations of these issues under clause 2.13.10 of the WEM Rules.

During 2016/17 the Authority carried out one targeted investigation of a participant for non-compliance with the Forced Outage requirements. The Authority issued a warning letter to the participant under clause 2.13.10(d) of the WEM Rules for its behaviour.

## 2.3 Investigation outcomes and enforcement actions

Where the Authority determines that a breach has occurred it has statutory compliance responses available to it (e.g. warnings and commencement of proceedings before the Electricity Review Board), and also administrative responses such as education advice.

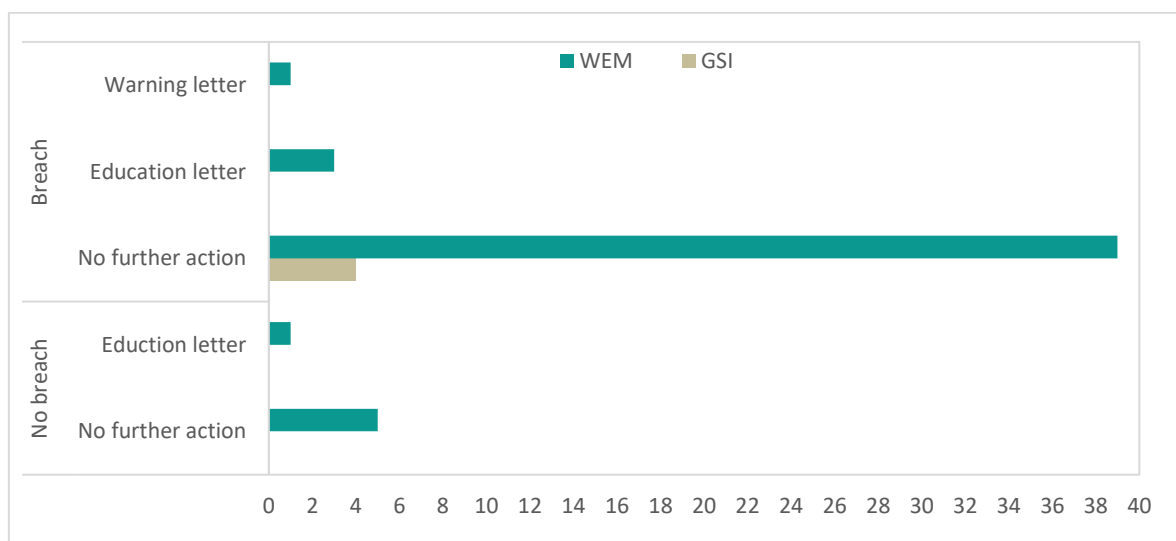
**Figure 4** below summarises the outcomes of investigations carried out by the Authority in the 2016/17 financial year. During the period the Authority conducted 54 breach investigations. Six investigations found no breach.

There were 43 investigations where a breach was determined but no further action was required as the matters were considered low risk. Of these matters, 28 were investigations of non-compliance with a dispatch instruction, eight concerned market information provisions, three were for outage non-compliance, two for non-compliance with balancing submission requirements and two were credit support matters.

For all these cases, after carrying out its investigations, the Authority was satisfied that the participants had implemented sufficient controls to mitigate the risk of the breach re-occurring.

The Authority issued four education advice letters to participants. In each of these cases, the Authority considered it appropriate to provide the participants with information to mitigate the risk of further non-compliance with the relevant obligation. Most of these matters related to non-compliance with outage rule requirements.

The Authority issued one warning letter as described earlier in section 2.2.



**Figure 4: 2016/17 Investigation Outcomes**

## 2.4 Stakeholder engagement

During the 2016/17 financial year, the Authority undertook stakeholder engagement activities to inform and assist participants with their WEM Rule and GSI Rule compliance obligations.

On 16 March 2017 the Authority released its procedure change proposal for the Monitoring Protocol for public consultation. The changes proposed to the protocol were targeted at improving transparency of the Authority's WEM Rule compliance processes.

Public submissions were received from AEMO, Alinta Energy and Synergy supporting the proposed changes and providing minor suggested revisions to the protocol.

The Monitoring Protocol sets out how the Authority carries out its WEM Rule monitoring and investigation processes, as well as details on how participants can report breaches. The updated version of the Monitoring Protocol commenced on 1 July 2017 and can be found on the Authority's [website](#).

On 31 March 2017 the Authority held an Energy Markets Stakeholder Forum. An overview of the Authority's WEM and GSI compliance function was provided at this forum.

As part of its quarterly non-compliance with dispatch instructions process, the Authority held 16 meetings with participants, prior to finalising its investigations on these matters over the course of the 2016/17 financial year.

## 3 Report on Electricity Review Board matters

This section details the matters required to be reported on under clause 2.13.26 of the WEM Rules and rule 167(1) of the GSI Rules. These matters are:

- a. proceedings that have been brought before the Electricity Review Board;
- b. findings of the Electricity Review Board on matters referred to them;
- c. orders made by the Electricity Review Board; and
- d. civil penalties imposed by the Authority under clause 2.13.16(a) of the WEM Rules or regulation 16 of the GSI Regulations, where the Electricity Review Board has not set these aside.

The reporting periods continue on from previous reports<sup>4</sup>. For WEM Rule matters, the reporting period below is 1 April 2017 to 30 September 2017. For GSI Rule matters, the reporting period below is 1 July 2017 to 30 September 2017. In subsequent reports the Authority intends to align these reporting periods.

### 3.1 Proceedings brought before the Electricity Review Board

As noted in previous reports, on 5 May 2016 following an investigation by the Authority, the Independent Market Operator made an application for orders against Vinalco Pty Ltd (application No. 1 of 2016)

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<sup>4</sup> Refer to [WEM compliance reports](#) webpage and [GSI compliance reports](#) webpage.



The application was made pursuant to regulation 32(1) of the *Electricity Industry (Wholesale Electricity Market) Regulations 2004*.

The application alleged that Vinalco Pty Ltd contravened clause 7A.2.17 of the Market Rules. Clause 7A.2.17 states:

*Subject to clauses 7A.2.3, 7A.2.9(c) and 7A.3.5, a Market Participant must not, for any Trading Interval, offer prices in its Balancing Submission in excess of the Market Participant's reasonable expectation of the short run marginal cost of generating the relevant electricity by the Balancing Facility, when such behaviour relates to market power.*

On 1 September 2017 the Electricity Review Board published its decision on application No. 1 of 2016 as referred to in sections 3.2 and 3.3 below.

No new matters have been brought before the Electricity Review Board during the relevant reporting period.

### 3.2 Findings of the Electricity Review Board

The Electricity Review Board released its findings for application No. 1 of 2016 on 1 September 2017.

The Electricity Review Board found that Vinalco Pty Ltd contravened clause 7A.2.17 of the Market Rules during the period 23 February 2014 to 24 March 2014 and also 9 June 2014 to 30 June 2014.

The decision together with reasons is published on the Electricity Review Board's [website](#).

There were no other matters decided upon by the Electricity Review Board during the relevant reporting period.

### 3.3 Orders made by the Electricity Review Board

The Electricity Review Board's orders for application No. 1 of 2016 were that Vinalco Pty Ltd pay the market operator:

- \$1,000 for the first contravention that occurred during the period 23 February 2014 to 24 March 2014; and
- \$1,500 for the second contravention that occurred during the period 9 June 2014 to 30 June 2014.

Details of the orders are available in the decision documentation published on the Electricity Review Board's [website](#).

There were no other orders made by the Electricity Review Board during the relevant reporting period.

### 3.4 Civil Penalties imposed by the Economic Regulation Authority

The Authority imposed no civil penalties during the relevant reporting period.