



Economic Regulation Authority

Wholesale Electricity Market Rules and Gas Services Information Rules

Compliance report for the period 1 July 2021 to 31
December 2021

31 January 2022

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1. Summary

The Economic Regulation Authority is responsible for the compliance and enforcement functions in the Wholesale Electricity Market (WEM) Rules and in the Gas Services Information (GSI) Rules.¹

This report provides participants and other interested parties with a summary of the ERA's compliance activities for the reporting period 1 July 2021 to 31 December 2021. The report includes information to assist participants to meet their compliance obligations.

The ERA completed 92 investigations into market participants' compliance with the WEM Rules and GSI Rules this reporting period. Most of these matters (73) were investigations into market participants' compliance with dispatch instructions, balancing submission requirements and outage requirements. The remaining matters concerned requirements to acknowledge operating instructions, and rule obligations for participants to provide the Australian Energy Market Operator (AEMO) with information.

The ERA also completed a monitoring project this reporting period that considered market participants' compliance with the balancing submission accuracy and outage submission requirements of the WEM Rules. The ERA found six participants in breach of the WEM Rules. These breaches were mostly caused by isolated incidents of human error. Generally, the ERA found that there was a high level of compliance by market participants with the balancing submission and outage requirements.

The new generator performance standards framework commenced in the previous reporting period. The ERA is required to publish a list of exempt transmission connected generating systems.² One exemption was granted during this reporting period. The full list, which includes all exemptions that have been granted, is available on the ERA website.³

This report includes information to satisfy the requirements of clause 2.13.26 of the WEM Rules and clause 167(1) of the GSI Rules. These clauses require the ERA to publish six-monthly reports summarising matters brought before the Electricity Review Board, and details of any civil penalties imposed by the ERA.^{4,5} Section 3 of the report contains this information.

¹ Comparative data is presented in this report from the 1 July 2016. This is the date that the ERA became responsible for the compliance and enforcement functions in the WEM Rules and the GSI Rules.

² Wholesale Electricity Market Rules (WA), 18 December 2021, Rule 3A.3.1.

³ Economic Regulation Authority, 'Exempt Transmission Connected Generating Systems', 15 December 2021, ([online](#)).

⁴ Wholesale Electricity Market Rules (WA), 18 December 2021, Rule 2.13.26.

⁵ Gas Services Information Rules (WA), 17 December 2021, Rule 167(1).

2. Compliance update

The ERA's compliance functions include monitoring market participants' compliance with the WEM Rules and GSI Rules and investigating alleged breaches of these rules.

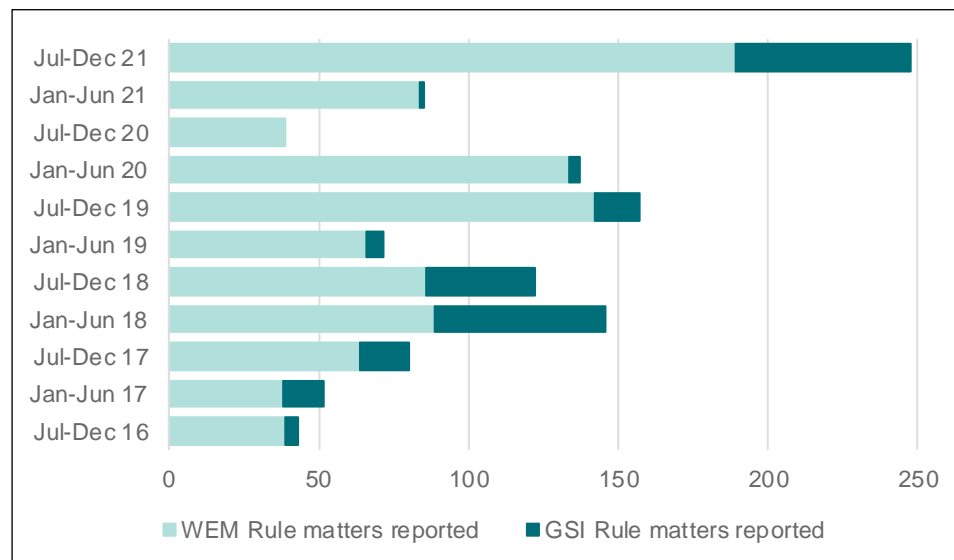
2.1 Alleged breach reports

Participants and AEMO may report alleged breaches of the WEM Rules and GSI Rules to the ERA. The ERA also identifies alleged breaches of the WEM Rules and the GSI Rules.^{6,7} The ERA records details of alleged breaches that it becomes aware of in its compliance monitoring register.⁸ All the alleged breaches recorded require investigation by the ERA to determine whether a breach occurred.

In this reporting period, 1 July 2021 to 31 December 2021, the ERA recorded 189 alleged WEM Rule non-compliance matters and 59 alleged GSI Rule non-compliance matters in its compliance monitoring register (Figure 1).⁹ This is the highest number of alleged breaches ever recorded in a reporting period since the ERA became responsible for the compliance and enforcement functions in the WEM Rules and GSI Rules on 1 July 2016.

While this was the highest number of alleged breaches recorded in any reporting period, most of the alleged breaches occurred prior to 1 July 2021 but were only reported to the ERA during this reporting period. The increased volume of matters received by the ERA during this reporting period was due to AEMO clearing its backlog of outstanding alleged breach reports. The ERA also has a backlog of alleged breach matters as discussed in section 2.4.

Figure 1: Alleged breach reports recorded as at 31 December 2021



Source: ERA data

⁶ Wholesale Electricity Market Rules (WA), 18 December 2021, Rules 2.13.2, 2.13.4, 2.13.8, 2.13.9A and 2.13.9C.

⁷ Gas Services Information Rules (WA), 17 December 2021, Rule 165A(1) and 165A(3).

⁸ Economic Regulation Authority, 27 July 2020, *Market Procedure Monitoring Protocol*, step 6.1.

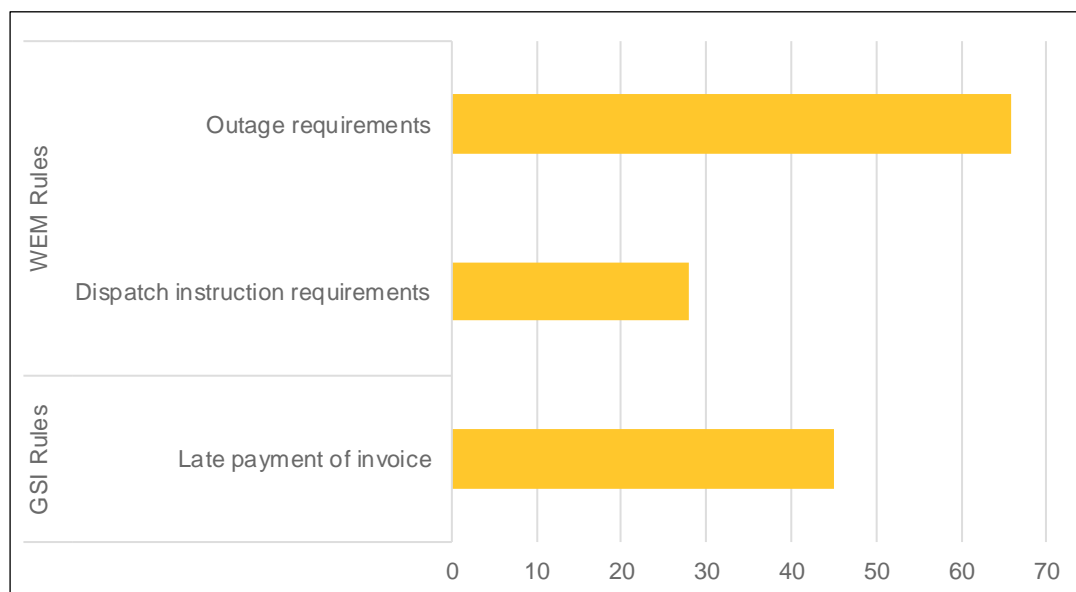
⁹ The ERA became responsible for the compliance and enforcement functions in the WEM Rules and the GSI Rules on 1 July 2016. Between 1 July 2016 and 31 December 2021, the ERA recorded 1,208 alleged WEM Rule and GSI Rule breaches in the compliance monitoring register.

The largest categories of alleged WEM Rule breaches have typically concerned dispatch compliance obligations and outage obligations. This continued to be the case for this reporting period (Figure 2). These matters are discussed further in section 2.2.

The GSI Rule breach matters recorded this reporting period mostly concerned the late payment of invoices (45 matters). This category of alleged breaches has also been high in past reporting periods. The GSI Rules specify when invoices must be paid. Participants should be aware that where GSI invoices are not paid within 10 business days of receiving the invoice, then this will constitute non-compliance with the GSI Rules.¹⁰ Late payments may cause delays to AEMO's GSI processes.

In past ERA investigations, most late invoice payments were caused by internal business process failures. This included circumstances where obligations were not performed because personnel were on leave. There were also inconsistencies between payment terms coded in participants' payment systems and those required for GSI invoices. Participants must ensure they have sufficient controls in place for the timely payment of invoices.

Figure 2: Largest categories of alleged breaches reported 1 July 2021 to 31 December 2021



Source: ERA data

Of the 248 alleged breaches recorded this reporting period (Figure 1), participants self-reported six. The level of self-reported breaches has remained consistent in the past four reporting periods with around six to nine breaches being self-reported every reporting period. This is low, and is partly because self-reporting is not currently mandatory. The new WEM compliance framework that will be introduced as part of the Energy Transformation Strategy reforms will require market participants to self-report all non-compliances to the ERA. This means that participants will need to ensure that they have processes in place to identify and report their own non-compliances when the new market commences in October 2023.

The ERA is considering how it can assist participants with this new self-reporting obligation – for example, through the introduction of an online form or portal. Discussions of self-reporting with market participants will form part of the ERA's consultation process on the new compliance framework and related procedure changes. This is further discussed in section 2.5.1.

¹⁰ Gas Services Information Rules (WA), 17 December 2021, Rule 118(1).

2.2 Dispatch instruction, balancing submissions and outage quarterly investigation process

The ERA determines market participants' compliance with dispatch instructions, outages and balancing submissions during a quarterly investigation process.

During this process, the ERA analyses information contained in non-compliance reports and constrained payment data provided by AEMO to determine whether market participants have complied with the WEM Rules.

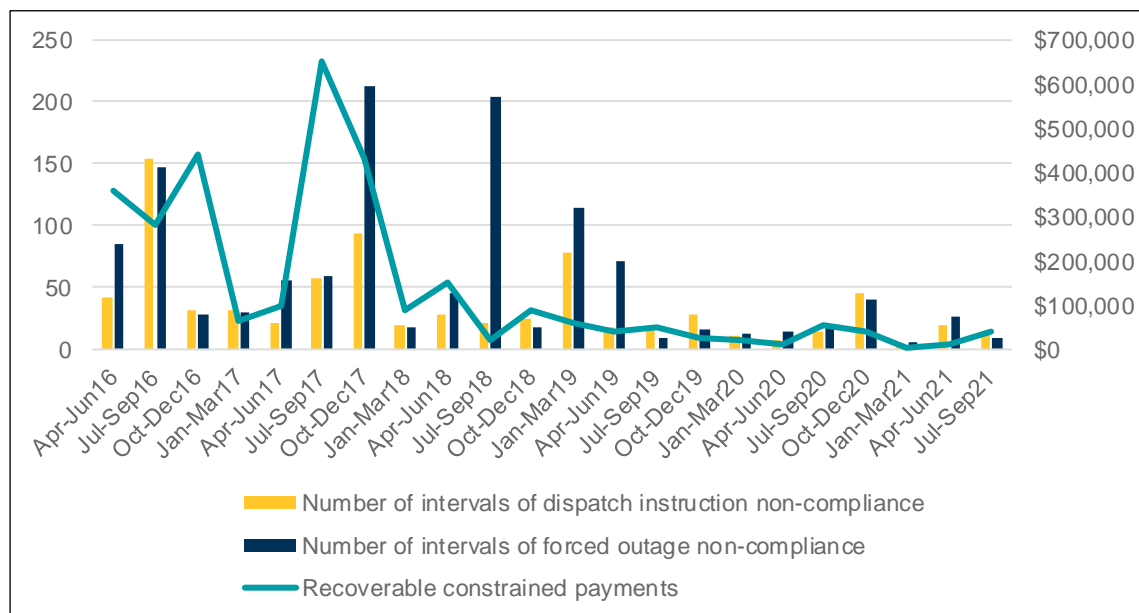
The quarterly investigation process is carried out to meet the requirements of clause 7.10.8 of the WEM Rules. The ERA also considers whether any constrained payments to non-compliant market participants need to be recovered.¹¹

As part of the quarterly investigation process, the ERA meets with relevant market participants to discuss the circumstances of the matters being investigated. The ERA met with five market participants in August and September 2021 for the April to June 2021 quarterly process and met with six market participants in November and December 2021 for the July to September 2021 quarterly process.

Quarterly results from this process between April 2016 and September 2021 are shown in Figure 3.

Figure 3: Quarterly non-compliance with dispatch instructions process

(Investigations completed between 1 April 2016 and 30 September 2021)



Source: ERA data

The data in Figure 3 shows that the number of intervals where participants did not comply with dispatch instructions or submit correct outages remained low during this reporting period. The value of recoverable constrained payments also remained low. The ERA can instruct AEMO

¹¹ 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 section 6.16A of the WEM Rules, unless it was non-compliant with a dispatch instruction under clause 7.10.1.

to recover constrained payments from market participants where those payments are associated with dispatch non-compliance. The low value of recoverable constrained payments corresponds to the low level of dispatch non-compliance for this reporting period as seen in Figure 3.

The low levels of non-compliance follow several actions taken by participants to improve their compliance from prior reporting periods. This includes implementing additional controls such as regular meetings between traders and plant personnel to communicate problems and resolve issues, and the use of bulletins, placards and information sheets displayed in prominent locations to assist traders and plant personnel to comply with trading and dispatch obligations. The ERA encourages participants to continue to maintain their compliance with these obligations.

2.3 Compliance monitoring

The ERA completed a monitoring project in the last quarter of 2021. The ERA reviewed market participants' compliance with the requirements to ensure the accuracy of their balancing submissions by comparing unavailable quantities in these submissions with outage records. Clause 7A.2.4 of the WEM Rules requires participants to reflect unavailable quantities for their facilities in their balancing submissions:

7A.2.4. A Balancing Submission must:

...

- (f) specify the available capacity and the unavailable capacity as determined under clause 7A.2.4A, 7A.2.4B or 7A.2.4C (as applicable) for each Trading Interval covered in the Balancing Submission.

Clause 7A.2.8 contains obligations for market participants to ensure the accuracy of their balancing submissions:

7A.2.8. A Market Participant (other than Synergy in relation to the Balancing Portfolio) must ensure that, for each Trading Interval in the Balancing Horizon for which Balancing Gate Closure has not occurred, its most recently submitted Balancing Submission in respect of its Balancing Facility and that Trading Interval accurately reflects:

- (a) all information reasonably available to the Market Participant, including Balancing Forecasts published by AEMO, the information provided by AEMO under clause 7A.3.1(c) and the latest information available to it in relation to any Internal Constraint or External Constraint;
- (b) the Market Participant's reasonable expectation of the capability of its Balancing Facilities to be dispatched in the Balancing Market;

The project considered whether corresponding outages had been submitted where a balancing submission recorded a facility as unavailable. Clause 3.21.7 of the WEM Rules requires participants to provide details of outages to AEMO:

3.21.7. Notwithstanding the requirements of clause 3.21.4 that a relevant Market Participant or Network Operator must inform AEMO of a Forced Outage or Consequential Outage as soon as practicable, a Market Participant or Network Operator must provide full and final details of the relevant Planned Outage, Forced Outage or Consequential Outage to AEMO no later than fifteen calendar days following the Trading Day

Inaccurate balancing submissions contribute to inaccurate forecast market prices. Further, failure to submit correct outage quantities may result in participants avoiding reserve capacity deficit refunds.¹²

The ERA examined balancing submission and outage data from AEMO for 2020/21 to identify significant discrepancies and/or patterns of discrepancies between the balancing submission unavailable quantities and outage reports for corresponding trading intervals.¹³

The ERA identified 806 intervals with significant discrepancies across 10 facilities registered to eight market participants. The ERA also identified minor discrepancies in a further 256 consecutive intervals.

The ERA met with the relevant market participants during May, June and July 2021 to understand the reasons for these discrepancies. Following these meetings, the ERA considered the additional information provided by market participants to assess their compliance with clause 7A.2.8 and clause 3.21.7 of the WEM Rules.

The ERA concluded that six market participants breached the WEM Rules. There were 12 matters where the ERA concluded that the relevant market participant had failed to accurately reflect the latest information available in its balancing submissions, in contravention of clause 7A.2.8 of the WEM Rules. There were a further 10 matters where market participants had failed to submit sufficient outages corresponding to their facility's unavailability, in contravention of clause 3.21.7 of the WEM Rules.

The monitoring project found that, overall, there was a high level of compliance from market participants with the balancing submission and outage logging requirements of the WEM Rules. The ERA concluded that the level of non-compliance with these rules was low with only 22 matters found to be in breach over a period of six months (which consisted of 406,272 trading intervals). Most of the breaches were caused by human error and the ERA did not identify any systemic compliance problems.

2.4 Completed investigations and compliance responses

The ERA currently has a backlog of 356 investigations to complete. The reason for this large backlog is that the current compliance framework in the WEM Rules requires the ERA to investigate all alleged breaches that it becomes aware of, irrespective of the compliance risk associated with the alleged breach. This means that every alleged breach report received must be recorded as a matter that requires investigating and must subsequently be investigated. To date, most of the alleged breaches reported to the ERA are minor matters.

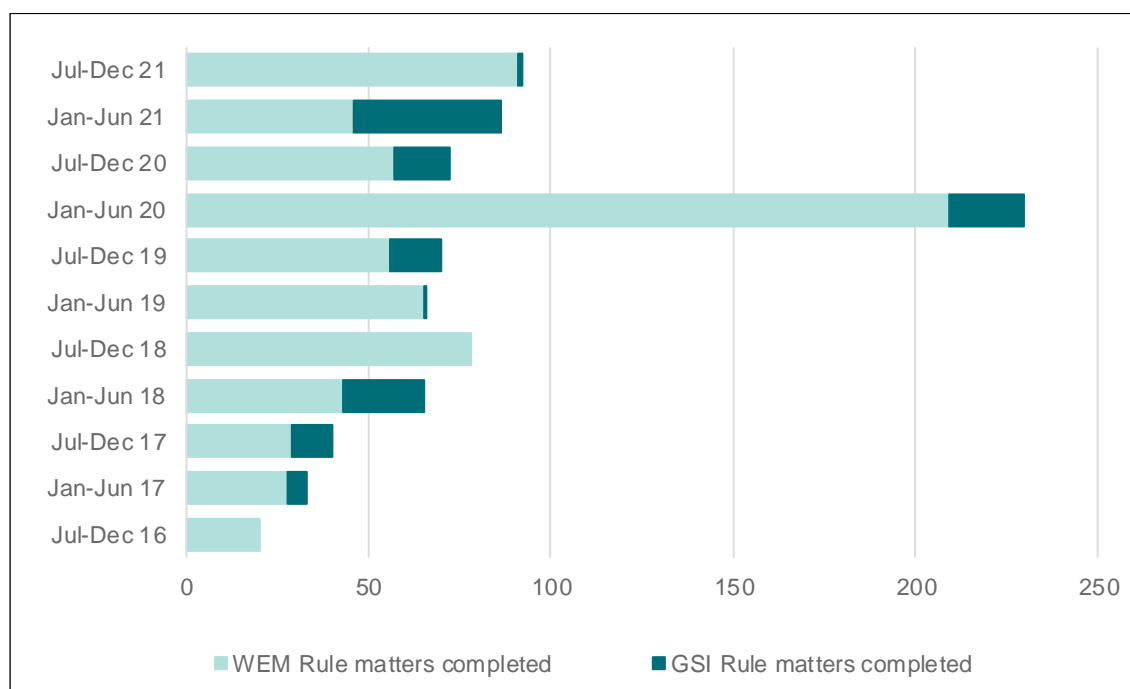
The Energy Transformation Strategy reforms introduce several improvements to the compliance framework in the WEM Rules, including the discretion for the ERA to investigate alleged breaches in accordance with a risk assessment process. This means, for example, that for minor compliance matters, the ERA may determine that no investigation is required. These matters would then not form part of the investigation backlog. However, the new compliance framework will only apply to alleged breaches that occur after the new market commences. This discretion will not apply to the ERA's current investigation backlog. Reducing the current backlog of investigations remains a compliance priority for the ERA.

¹² For example, refunds of reserve capacity payments where a participant has submitted a forced outage.

¹³ Significant discrepancies were differences greater than 25% between outage MW quantities and balancing submission unavailable MW quantities or greater than the facility's tolerance range.

Figure 4 shows the number of investigations completed in each reporting period since 1 July 2016.¹⁴ The ERA completed 92 investigations in the most recent reporting period. In the prior periods, January to June 2021 and July to December 2020, it completed 86 and 72 investigations respectively.¹⁵ The ERA has been gradually improving its rate of completion of investigations, which is helping reduce the current backlog. However, the ERA intends to further improve the completion rate through the increased use of batch investigation processes in 2022 with the aim of significantly reducing the current backlog (for example, investigating multiple breach allegations concerning a single participant in a batch). The ERA consulted with stakeholders on this in October 2021 as discussed in section 2.5.1.

Figure 4: Investigations completed between 1 July 2016 and 31 December 2021



Source: ERA data

The ERA has several responses available for participants who have breached the WEM Rules and GSI Rules.^{16,17,18} The compliance responses include issuing a participant a warning and commencing proceedings before the Electricity Review Board. The ERA may also issue administrative responses including education advice. None of these responses were necessary during this reporting period.

Figure 5 summarises the outcomes of the 92 investigations completed this reporting period showing that all matters resulted in no further action. There were 69 investigations where a breach was determined but no further action was required, as the matters were considered low risk. For these matters, the ERA was satisfied that the market participants had implemented controls to mitigate the risk of the breach re-occurring.

¹⁴ The ERA became responsible for the compliance functions in the GSI and WEM Rules on 1 July 2016. Between 1 July 2016 and 31 December 2021 the ERA has completed 850 investigations.

¹⁵ In the January to June 2020 reporting period, several batch investigations of similar breaches were completed resulting in the higher number of completed matters for that period.

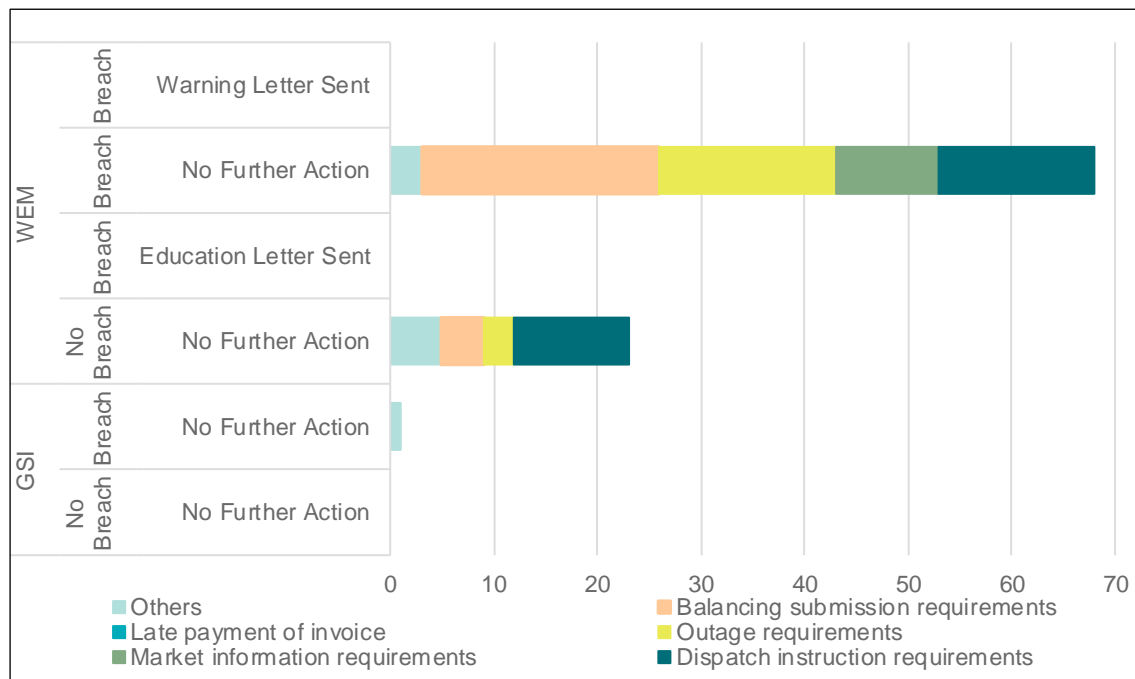
¹⁶ Wholesale Electricity Market Rules (WA), 18 December 2021, Rule 2.13.10.

¹⁷ Electricity Industry (Wholesale Electricity Market) Regulations (WA), 1 July 2021, Regulation 31.

¹⁸ Gas Services Information Rules (WA), 17 December 2021, Rule 171(3).

Twenty-three investigations this reporting period determined that the participant was not in breach and therefore no further action was required.

Figure 5: Investigation outcomes for the period 1 July 2021 to 31 December 2021



Source: ERA data

2.5 Stakeholder engagement and reports

2.5.1 Stakeholder engagement

On 21 October 2021, the ERA held an energy markets forum. At the forum, the ERA presented the changes to the ERA's functions and compliance obligations resulting from the Energy Transformation Strategy reforms and provided updates on energy markets projects that were underway or scheduled to commence in 2021/22.

During the forum, the ERA explained that its current compliance priority was to reduce the backlog of investigations prior to the commencement of the new compliance framework for the WEM. To achieve this, the ERA stated that it would increase the use of batch investigation processes in 2022.¹⁹ Stakeholders suggested that it would be beneficial for the ERA to provide market participants with details of their outstanding alleged breach investigation matters to assist with the batch investigation process. The ERA is currently compiling this information and will provide it to market participants in the coming months.²⁰

The ERA also commenced revising its monitoring protocol market procedure in preparation for the new compliance framework. The ERA intends to consult with stakeholders on these changes in late February/early March 2022.

¹⁹ An example of a batch investigation process is investigating multiple breach allegations concerning a single participant in a batch.

²⁰ The ERA must comply with the confidentiality provisions in the WEM Rules when providing this information to market participants.

2.5.2 *Report to the Minister on ERA's compliance*

The ERA is required to provide an annual report to the Minister for Energy on its own compliance with the WEM Rules. The ERA published its 2020/21 compliance report to the Minister in November 2021.²¹

The ERA engaged an independent auditor to assess its compliance for 2020/21.

The auditor confirmed the ERA's compliance with the WEM Rules, except for two non-compliances. The auditor concluded that no material consequences arose from these two non-compliances.

One non-compliance concerned an inadvertent disclosure of confidential information. The ERA acknowledges the importance of the information confidentiality obligations in the WEM Rules. To address this non-compliance, the ERA promptly implemented additional controls to prevent future breaches.

The second non-compliance concerned a minor delay in providing annual budget information to AEMO. The ERA has improved its processes for providing budget information to AEMO to prevent a future breach of this obligation.

The ERA will continue to ensure that it manages its compliance obligations under the WEM Rules, including its processes and controls for preventing non-compliance.

The 2020/21 report is available on the [ERA website](#).

2.6 Generator performance standards

The generator performance standards framework in Chapter 3A and Appendix 12 of the WEM Rules commenced on 1 February 2021.

The ERA is responsible for enforcing compliance with registered generator performance standards and generator monitoring plans under the new framework.

The framework applies to new and existing transmission connected generating systems.^{22,23} The new framework requires market participants with existing transmission-connected generating systems to have generator performance standards registered with Western Power by 31 January 2022, unless a registration extension has been approved by Western Power.

Western Power advised the ERA that as at 11 January 2022, there were no transmission-connected generating systems that have registered generator performance standards in place. Registration extensions have been granted to 38 transmission-connected generating systems. There are an additional 11 transmission-connected generating systems that have submitted extension requests that are still under assessment. Western Power advised that extensions will only be granted if the market participant has made reasonable progress towards registering their generator performance standards.²⁴ The ERA will continue to liaise

²¹ Economic Regulation Authority, 'Report to the Minister for Energy on the Economic Regulation Authority's compliance 2020/21', ([online](#)).

²² Wholesale Electricity Market Rules (WA), 18 December 2021, Chapter 11 Glossary Transmission Connected Generating System.

²³ Ibid, Rule 2.29.1(c).

²⁴ Generators that have received extensions from Western Power to lodge their generator performance standards are still required to comply with clause 3.3 of the Technical Rules for the South West Interconnected Network.

with Western Power to monitor market participants' compliance with the requirement to register their generator performance standards.²⁵

Western Power may exempt a market participant from the generator performance standards requirements in the WEM Rules. The ERA must publish and update the list of exempt transmission connected generating systems when notified of an exemption or revocation by Western Power. During the reporting period, Western Power notified the ERA that it had granted an exemption to one transmission-connected generating system, PPP_KCP_EG1. The list of exempt transmission connected generating systems is published on the ERA website.²⁶

Existing transmission-connected generating systems were also required to submit generator monitoring plans to AEMO by 1 August 2021. In December 2021, AEMO reported that it had processed 49 extensions for the provision of generator monitoring plans.²⁷

The ERA will continue to engage with Western Power and AEMO in preparation for receiving any non-compliance referrals with the requirements for generator performance standards and generator monitoring plans.

²⁵ If a market participant responsible for an existing transmission connected generating system does not have a registered generator performance standard for each technical requirement by the date and time agreed with Western Power, then Western Power must commence the dispute resolution process under section 1.42 of the WEM Rules.

²⁶ Economic Regulation Authority, 'Exempt Transmission Connected Generating Systems', 15 December 2021, ([online](#)).

²⁷ Australian Energy Market Operator, 'WA Electricity Consultative Forum (WAECEF)', WAECEF 34 – Meeting Pack – [AEMO Year in Review 2021](#), Perth, p. 21.

3. Report on Electricity Review Board matters

Clause 2.13.26 of the WEM Rules and clause 167(1) of the GSI Rules require the ERA to report on the following matters for the reporting period:

- a. Proceedings that have been brought before the Electricity Review Board.
- b. Findings of the Electricity Review board on matters referred to it.
- c. Orders made by the Electricity Review Board.
- d. Civil penalties imposed by the ERA 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.

3.1 Proceedings brought before the Electricity Review Board

Application 1 of 2019, brought to the Electricity Review Board by the ERA for an order of contravention of clause 7A.2.17 of the WEM Rules by Synergy pursuant to regulation 32(1) of the *Electricity Industry (Wholesale Electricity Market) Regulations 2004* (WA), continued this reporting period.

3.2 Findings of the Electricity Review Board

The Electricity Review Board did not decide on any matters concerning the WEM Rules or GSI Rules during this reporting period.

3.3 Orders made by the Electricity Review Board

There were no new orders made by the Electricity Review Board during the reporting period concerning Application ERB 1 of 2019 (referred to in section 3.1 above). However, the following order was published on the [Electricity Review Board's website](#) during the reporting period and has therefore been included in this report.

Orders – 17 May 2021

An order was made by the Electricity Review Board on 17 May 2021, with the document dated 31 May 2021. The order was published by the Electricity Review Board on its website within this compliance report period.

The Board granted Synergy leave to amend its statement of facts, issues and principal contentions. The 17 May 2021 orders also provided a deadline for the parties to exchange written closing submissions by 2 June 2021 and set down the date for parties' closing submissions to be heard on 8 June 2021. Closing submissions were heard by video link by the Electricity Review Board on 8 June and 9 June 2021.²⁸

²⁸ Order by Western Australian Electricity Review Board [17 May 2021](#).