



Economic Regulation Authority

Wholesale Electricity Market Rules and Gas Services Information Rules

Compliance report for the period 1 January 2022 to
30 June 2022

31 July 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 January 2022 to 30 June 2022. The report includes information to assist participants to meet their compliance obligations.

Reducing the current backlog of investigations remains a compliance priority for the ERA. The ERA completed 163 investigations into market participants' compliance with the WEM Rules and GSI Rules this reporting period. The majority of these matters (140) concerned the WEM Rules, and 23 related to the GSI Rules. Most of the investigations concerned compliance with dispatch or dispatch instructions (40), requirements to log outages (37) or late payment of invoices (22).

The ERA also commenced a monitoring project within this reporting period, assessing the requirements for market participants to submit written details outlining the reasons balancing submissions were submitted after balancing gate closure.² Preliminary observations from this project indicate that in many instances where a balancing submission was made after gate closure, no notification was provided to AEMO.

Section 3 of 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.

Terms capitalised in this report are terms defined under Chapter 11 of the WEM Rules and Schedule 1 of the GSI Rules.

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), 1 July 2022, Rule 7A.2.11, ([online](#))

2. Compliance update

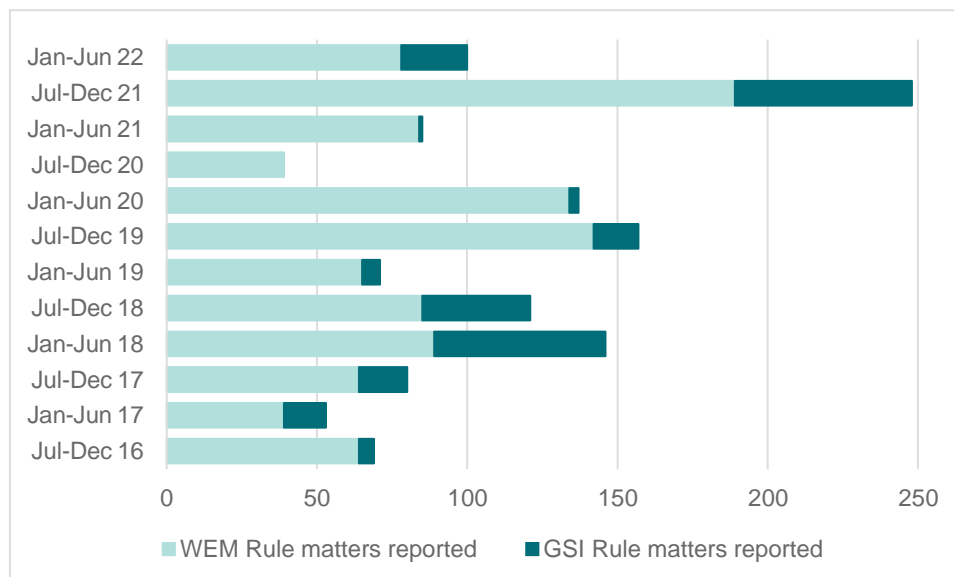
The ERA's compliance functions include monitoring market participants' compliance with the WEM Rules and GSI Rules and investigating alleged breaches of these rules.

2.1 Alleged breach reports

Participants, including 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.^{3,4} The ERA records details of alleged breaches that it becomes aware of in its compliance monitoring register.⁵ The ERA must investigate all the alleged breaches that are recorded to determine whether a breach occurred.

In this reporting period, 1 January 2022 to 30 June 2022, the ERA recorded 78 alleged WEM Rule non-compliance matters and 22 alleged GSI Rule non-compliance matters in its compliance monitoring register (Figure 1).⁶

Figure 1: Alleged breach reports recorded as at 30 June 2022⁷



Source: ERA data

Of the 100 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 six to nine breaches being self-reported every reporting period.

³ Wholesale Electricity Market Rules (WA), 1 July 2022, Rules 2.13.2, 2.13.4, 2.13.8, 2.13.9A and 2.13.9C, ([online](#))

⁴ Gas Services Information Rules (WA), 17 December 2021, Rule 165A(1) and 165A(3), ([online](#))

⁵ Economic Regulation Authority, 2020, *Market Procedure Monitoring Protocol*, step 6.1, ([online](#))

⁶ 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 30 June 2022, the ERA recorded 1,306 alleged WEM Rule and GSI Rule breaches in the compliance monitoring register.

⁷ Since last reporting period, the ERA identified two duplicated matters in the compliance monitoring register. Both were cancelled reducing the number of matters recorded last period from 1,028 to 1,026.

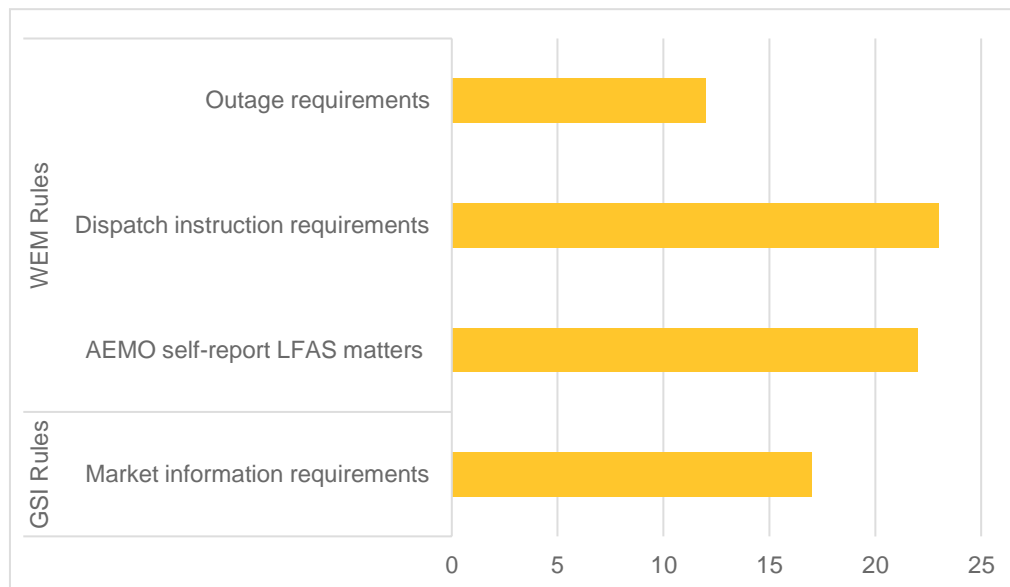
The largest category of alleged WEM Rule breaches has typically concerned compliance with dispatch instructions, this continued to be the case for this reporting period (Figure 2). There were 23 alleged breaches in the “dispatch instruction requirements” category between 1 January 2022 and 30 June 2022. The number of alleged breaches in this reporting period is consistent with previous reporting periods. These breaches were reported by AEMO, self-reported by market participants or identified by the ERA during the quarterly monitoring process referred to in section 2.2.

AEMO self-reported 22 matters concerning alleged breaches of the LFAS rules. In each of these matters, AEMO failed to make the required manual changes to ensure that sufficient LFAS was enabled. AEMO has implemented changes to its IT user interface and increased the level of monitoring and reporting of LFAS enablement to reduce the risk of future non-compliance.

The number of alleged breaches concerning outage requirements recorded this reporting period was lower than the prior reporting period. This is consistent with the lower overall levels of non-compliance with dispatch, outage and balancing submission clauses discussed in section 2.2.

Alleged breach reports concerning GSI Rules “market information requirements” significantly increased from six matters to 17 matters this reporting period.⁸ AEMO reported 16 of these matters. In most cases, the reports concerned late provision of information to AEMO. Participants should be aware that where information is provided after a rule deadline, this will constitute non-compliance. The late provision of information may also cause delays to other market processes. Some participants have improved compliance in this area by reviewing processes to ensure sufficient controls are in place for the timely provision of market information.

Figure 2: Largest categories of alleged breaches reported 1 January 2022 to 30 June 2022



Source: ERA data

⁸ Gas Services Information Rules (WA), 17 December 2021, Rule 56(1), 59(1) & (2), 59.1.b, 60, 64(1), 70(1), 74(4), 77(1), 78(1), ([online](#))

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

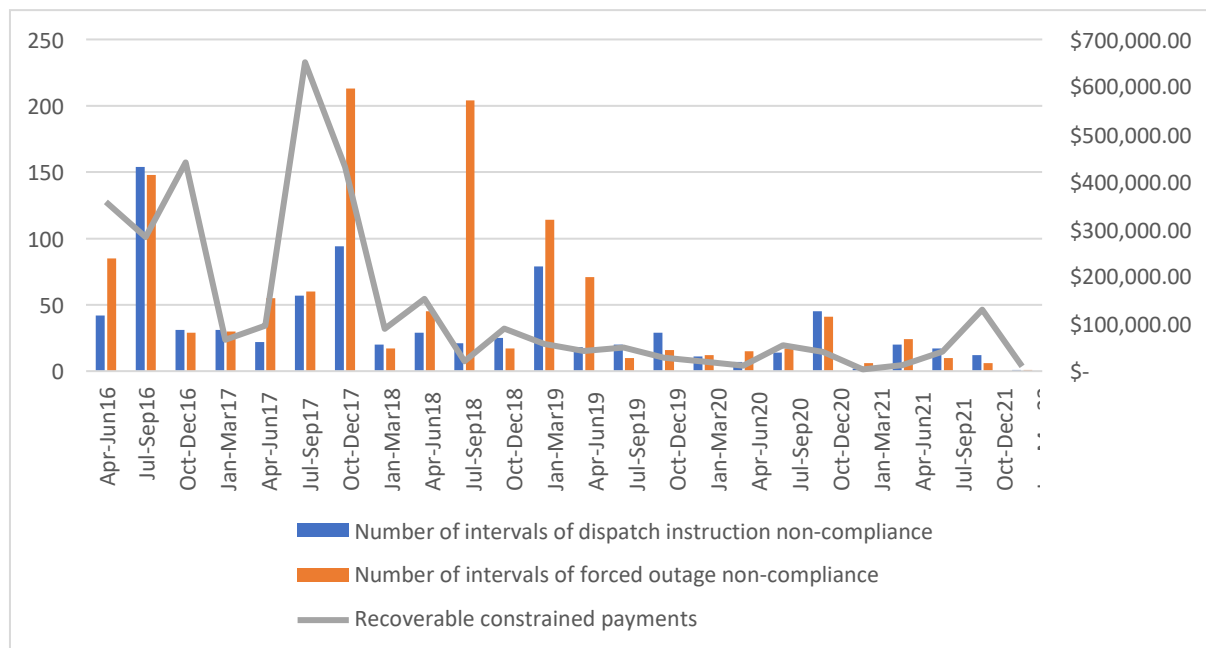
The quarterly investigation process is carried out to meet the requirements of clause 7.10.8 of the WEM Rules. The ERA also considers whether any constrained payments received by participants resulting from non-compliant behaviour should be recovered.⁹

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 held 13 meetings with market participants during the reporting period.

Figure 3 shows quarterly results from this process between April 2016 and March 2022.

Figure 3: Quarterly non-compliance with dispatch instructions process

(Investigations completed between 1 April 2016 and 31 March 2022)



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 January to March 2022 quarter had the lowest value of recoverable constrained payments and the lowest level of dispatch and outage non-compliance since the ERA became responsible

⁹ 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.

for this process in 2016. The low level of non-compliance follows ongoing proactive actions taken by participants to improve their compliance.

Participants have improved compliance by undertaking measures including, for example, ongoing education sessions and placing process information sheets within view of relevant personnel. Participants have improved compliance by placing emphasis on the importance of communicating relevant matters to AEMO and logging outages.

2.3 Compliance monitoring – balancing submissions made after gate closure

The ERA commenced a monitoring project during the current reporting period to assess if balancing submissions made after balancing gate closure complied with the relevant notification requirements.

Where a market participant submits a balancing submission after balancing gate closure, clause 7A.2.11 of the WEM Rules requires the participant to provide AEMO with written details:

7A.2.11. Where a Market Participant has submitted a Balancing Submission in accordance with clauses 7A.2.10(a) or 7A.2.10(b) after Balancing Gate Closure, the Market Participant must, as soon as reasonably practicable, provide AEMO with written details of the nature of the Internal Constraint or External Constraint, when it occurred and its duration.

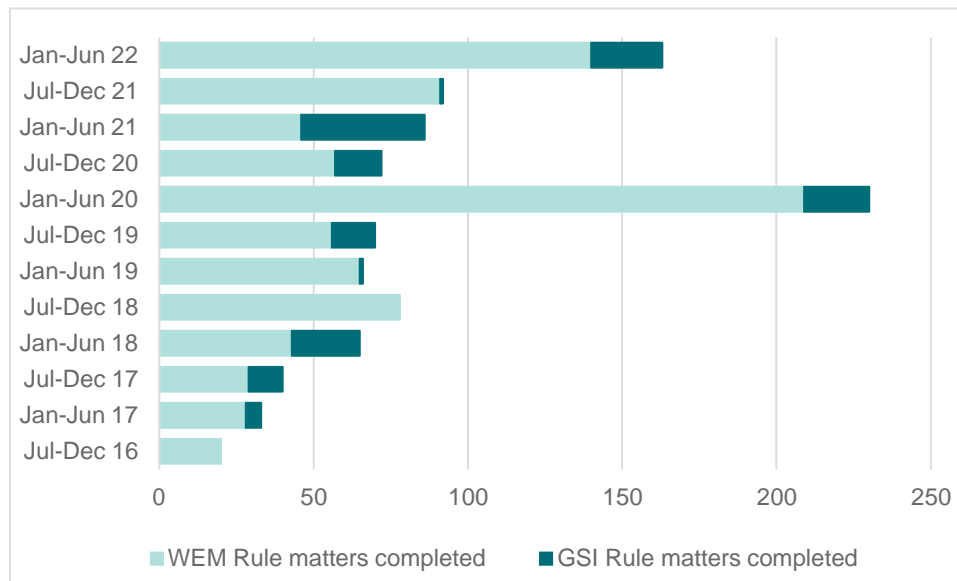
Notifications to AEMO for balancing submissions made after gate closure are necessary to ensure that submissions are made in compliance with the reasons outlined in chapter 7A.2.10 of the WEM Rules. In circumstances where no notification has been provided to AEMO, there is less certainty as to the reason an after gate closure submission was made. This may result in some participants non-compliantly acting on new information, such as a change in forecast balancing price, where compliant participants do not have the same opportunity.

The ERA assessed 223 instances where a balancing submission was made after gate closure from nine market participants. The ERA identified seven of the nine participants as potentially failing to provide notification to AEMO. The ERA expects to repeat the monitoring project over the next 12-month period.

The new WEM compliance framework that will be introduced as part of the Energy Transformation Strategy reforms will require market participants to keep certain records of submission changes. This means that market participants will need to ensure that their information technology systems have sufficient controls to identify and report their own activities when the new market commences in October 2023.

2.4 Completed investigations and compliance responses

The ERA currently has a backlog of 290 investigations to complete. During the reporting period the ERA completed 163 investigations. This is the second highest number of investigations completed by the ERA during a six month reporting period. The increased effort reflects the ERA's compliance priority to reduce its backlog of compliance investigations prior to the commencement of the new market design's compliance framework in October 2023.

Figure 4: Investigations completed between 1 July 2016 and 30 June 2022

Source: ERA data

The ERA has several responses available for participants who have breached the WEM Rules and GSI Rules.^{10,11,12} The compliance responses include issuing a participant a warning, imposing penalties, 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 163 investigations completed this reporting period. There were 136 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.

The largest breach category concerned market participants' failure to log outages. Outage non-compliance has increased compared to the previous six monthly reporting period. ERA monitors and investigates market participants' failure to log outages on a quarterly basis during the 7.10.1 process. Market participants advised the ERA that they have implemented compliance processes to ensure outages are logged when required to prevent future breaches of the WEM Rules' outage requirements.

The second largest breach category in this reporting period was "Others" (26 matters). AEMO self-reported 17 of these matters. These matters mostly concern the preparation and publication of information, or the issuing of dispatch instructions in accordance with the dispatch criteria.

¹⁰ Wholesale Electricity Market Rules (WA), 1 July 2022, Rule 2.13.10, ([online](#))

¹¹ Electricity Industry (Wholesale Electricity Market) Regulations (WA), 1 July 2021, Regulation 31, ([online](#))

¹² Gas Services Information Rules (WA), 17 December 2021, Rule 171(3), ([online](#))

Figure 5: Investigation outcomes for the period 1 January 2022 to 30 June 2022

Source: ERA data

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. This includes the requirement for participants to submit generating monitoring plans to AEMO, or seek an extension to submit those plans, under clause 1.41.4 of the WEM Rules.¹³

During the reporting period the ERA completed six investigations concerning clause 1.41.4 of the WEM Rules. The ERA determined market participants breached clause 1.41.4 by failing to request an extension to submit a generator monitoring plan to AEMO by the deadline. Clause 1.41.4 requires that any requests for extension must be submitted to AEMO at least 20 business days before the generator monitoring plan is due.

To prevent future non-compliances with clause 1.41.4, many participants reported that they have implemented calendar reminder systems.

2.5 Stakeholder engagement and reports

2.5.1 New Compliance Framework

On 30 March 2022, the ERA held an online workshop with participants to discuss upcoming changes to the ERA's WEM Procedure: Monitoring Protocol and risk framework in response to the WEM Rule changes for the new market design. Participants provided

¹³ Generator monitoring plan are defined in the WEM Rules as a monitoring plan for a Transmission Connected Generating System in respect of the Registered Generator Performance Standards that apply to the Transmission Connected Generating System.

feedback and the ERA is in the process of updating the procedure and risk documentation. The ERA expects to undertake further consultation on the WEM Procedure in late 2022.

2.5.2 Report to the Minister on AEMO's compliance

On 28 April 2022, the ERA published its report to the Minister for Energy on AEMO's compliance with the WEM Rules.¹⁴ This report included AEMO's most recent audit reports and details of investigations carried out by the ERA.

During 2020/21 the total number of AEMO's non-compliance matters in the WEM audit report was similar to the previous audit period.¹⁵ AEMO self-reported most of these matters and the auditor did not rate any of these matters as material. No non-compliances were identified for the GSI Rules.

The auditor highlighted concerns with the adequacy of AEMO's controls in its system management business unit. This included deficiencies with AEMO's processes to manage its control documentation and inadequate processes to monitor the effective operation of its controls. The ongoing Energy Transformation Strategy reforms require AEMO to implement large-scale changes to its market operations and power system functions, increasing the risk of non-compliances. AEMO must have adequate processes for its controls to provide confidence that it is meeting its obligations under both the current market design and the new market design when it commences.

Given the audit findings, the ERA recommended that AEMO consider enhancing its procedures for controls, including managing control documentation and audit trails and monitoring the effective operation of controls.

¹⁴ Economic Regulation Authority, 'Report to the Minister for Energy on the Australian Energy Market Operator's compliance 2020/21 Wholesale Electricity Market Rules Gas Services Information Rules', ([online](#)) [accessed 5 July 2022].

¹⁵ The auditor reported three additional non-compliance matters in 2020/21 compared to the previous audit period.

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

The Electricity Review Board did not make any new orders during the reporting period concerning Application ERB 1 of 2019 (referred to in section 3.1 above).

Past orders published by the ERB are available on its website.¹⁶

3.4 Civil penalties imposed by the ERA

The ERA has not imposed any civil penalties under WEM Rule 2.13.16(a) or regulation 16 of the GSI Regulations in this reporting period.

¹⁶ Western Australian Energy Disputes Arbitrator, Electricity Review Board, ([online](#)), [accessed 19 July 2022]