

Market Procedure

Monitoring Protocol

| XX Month 2017

Economic Regulation Authority

WESTERN AUSTRALIA

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Version History

Version	Effective Date	Summary of Changes
1.0	12 September 2006	Market Procedure for Prudential Requirements as at Market Start
2.0	17 October 2008	The Independent Market Operator made changes to the procedure resulting from PC_2008_10
3.0	19 September 2016	Amendments made under clause 1.17.1 of the Wholesale Electricity Market Rules (transitional provision) to reflect the transfer of the Independent Market Operator's compliance and enforcement functions to the Economic Regulation Authority.
<u>4.0</u>	<u>XX Month 2017</u>	<u>A full review of this Market Procedure was carried out by the Economic Regulation Authority after transfer of the compliance and enforcement function.</u>

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1 Monitoring Protocol Background

The Monitoring Protocol ~~covers-sets out~~ the processes by which the Economic Regulation Authority (ERA) ~~will-monitors~~ Rule Participants' compliance with the *Wholesale Electricity Market Rules* (**Market Rules**) and Market Procedures.

The Monitoring Protocol is required under Market Rule Market Rule 2.15.1 -and is a Market Procedure pursuant to Market RuleMarket Rule 2.15.7.

~~This Monitoring Protocol is made in accordance with Market Rule 2.15.1.~~

~~The contact details for the ERA in relation to its compliance and enforcement functions are as follows:~~

~~Phone: (08) 6557 7901~~

~~Fax: (08) 6557 7999~~

~~Email: market.compliance@erawa.com.au~~

~~Post: PO Box 8469, PERTH BC WA 6849~~

1.1 Interpretation

In this ~~procedure~~Monitoring Protocol, unless the contrary intention is expressed:

- (a) terms used in this procedure have the same meaning as those given in the Market Rules (made pursuant to the *Electricity Industry (Wholesale Electricity Market) Regulations 2004*);
- (b) to the extent that this procedure is contrary or inconsistent with the Market Rules, the Market Rules shall prevail to the extent of the inconsistency;
- (c) a reference to the Market Rules or Market Procedures includes any associated forms required or contemplated by the Market Rules or Market Procedures;
- (d) words expressed in the singular include the plural and vice versa; and
- (e) the following terms have the following meanings:

"Market Regulations" means the *Electricity Industry (Wholesale Electricity Market) Regulations 2004*;

"Regulation" means a regulation in the Market Regulations.

1.2 Purpose

1.2.1 ~~Market Rule 2.15.2 requires the Monitoring Protocol to set out how the ERA will implement its obligations under the Market Rules to monitor Rule Participants' behaviour for compliance with the Market Rules and Market Procedures.~~

1.2.2 ~~Market Rule 2.15.3 requires the Monitoring Protocol to specify: The purpose of the Monitoring Protocol is to:~~

- (a) ~~outline~~ the ERA's monitoring processes for assessing compliance by Rule Participants with the Market Rules and Market Procedures;
- (b) ~~outline~~ a process for Rule Participants to report alleged breaches of the Market Rules and Market Procedures;
- (c) ~~outline~~ processes for investigating alleged breaches;
- (d) specify guidelines for the ERA when issuing warnings about alleged breaches; and
- (e) Specify the procedure for bringing proceedings in respect of specified Category B or C Market Rule breaches before the Energy-Electricity Review Board.

~~1.3 Overview of the Monitoring Protocol~~

~~Pursuant to the Market Rules, the ERA monitors the behaviour of Rule Participants for compliance with the Market Rules and Market Procedures. The ERA is required to develop a monitoring protocol to outline how it implements this obligation.~~

1.2.3 ~~In addition, the Market Rules require The Australian Energy Market Operator (AEMO) to develop and implement a Monitoring and Reporting Protocol and seek approval of the ERA for that Monitoring and Reporting Protocol (Market Rule 2.15.6A). These additional protocols are outside the scope of this procedure. The ERA also has functions to monitor the effectiveness of the Market under clause 2.16 of the Market Rules. This is procedure does not include any protocols for the ERA's functions under clause 2.16 of the Market Rules monitoring the effectiveness of the Market.~~

1.3 Compliance Contact Points

1.3.1 ~~The contact details for the ERA in relation to its compliance and enforcement functions are:~~

Attention: Assistant Director, Compliance and Enforcement, Energy Markets

Phone: (08) 6557 7901

Fax: (08) 6557 7999

Email: market.compliance@erawa.com.au

Post: PO Box 8469, PERTH BC WA 6849

1.3.2 The Market Rules provide that as part of its compliance functions, the ERA may require information from and meet with Rule Participants in relation to compliance matters. To assist with these processes, the ERA may from time to time make a written request to Rule Participants to nominate a primary contact person for all the organisation's Market Rule and Market Procedure non-compliance related matters. The Rule Participant may be requested to provide the following contact details to the ERA via email to market.compliance@erawa.com.au:

Name of person:

Position title:

Organisation (if agent for Rule Participant):

Rule Participant:

Telephone Number/s:

Email address:

1.4 — Monitoring compliance by Rule Participants

~~1.4.1~~—The ERA is required to monitor Rule Participants' compliance with the Market Rules and Market Procedures (Market Rule 2.13.2) The ERA is required to have processes and systems in place to enable it to monitor Rule Participants' behaviour. (Market Rule 2.13.3).

~~1.4.2~~—In addition to its own monitoring activities, the ERA has a reporting relationship with AEMO. (Market Rules 2.13.8 and 2.13.9C) This reporting relationship is outlined in a separate Market Procedure, Monitoring and Reporting Protocol.

1.4 Compliance Approach

1.4.1 The ERA's approach is aimed at encouraging compliance by Rule Participants with the Market Rules and Market Procedures with the target of achieving high levels of compliance. Under this approach the ERA will seek to:

- (a) assist Rule Participants to understand their obligations, noting that the responsibility for meeting compliance obligations rests with the individual participant;
- (b) identify potential breaches, investigate these and identify any subsequent education or other prevention or enforcement actions required;
- (c) ensure the investigation process is conducted in an efficient and professional manner, including applying procedural fairness and ensuring investigation decisions are informed by the relevant facts;
- (d) ensure that its compliance responses to breaches are proportionate to the circumstances of the non-compliant behaviour;

(e) apply a risk based model to its compliance activities, including its monitoring processes, investigation processes and enforcement actions.

1.4.2 The risk based model referred to in paragraph 1.4.1(e) involves assessing the compliance risk associated with an obligation or set of obligations under the Market Rules and/or Market Procedures. These assessments will assist in determining the focus, priority and outcomes of our compliance activities (e.g. setting monitoring targets, prioritising investigations and determining the actions that the ERA considers appropriate in response to breaches).

1.5 Reporting Compliance by AEMO

1.5.1 The ERA must provide to the Minister a report on AEMO's compliance with the Market Rules and Market Procedures annually following the process outlined in Market Rules 2.14.5B to 2.14.5D. The report will contain:

- (a) results of any audits performed; and
- (b) results of any investigations undertaken.

1.5.2 AEMO has the discretion to determine if the report outlined in Step 1.5.1 should be deemed a Public Report for the purpose of its confidentiality status. In determining the publication status of the report, AEMO will consider the Wholesale Market Objectives outlined in Market Rule 1.2.1.

2 Monitoring

2.1 Monitoring Processes

2.1.1 The ERA is required to monitor Rule Participants' compliance with the Market Rules and Market Procedures (Market Rule 2.2A.1(a) and Market Rule 2.13.2). The ERA is required to have processes and systems in place to enable it to monitor Rule Participants' behaviour in accordance with the Monitoring Protocol (Market Rule 2.13.3) and the Monitoring Protocol is required to specify these processes (Market Rule 2.15.3(a)).

2.1.2 In addition to its own monitoring activities, the ERA has a reporting relationship with AEMO. (Market Rules 2.13.8 and 2.13.9C) This reporting relationship is outlined in a separate Market Procedure, Monitoring and Reporting Protocol. The ERA will monitor Rule Participants' compliance using various methods, including but not limited to:

- Market Intelligence: Information received from stakeholders that may identify matters requiring further investigation;
- Market Monitoring: Analysis of market data through a suite of tools and systems (e.g. bidding and pricing information, dispatch data, outage data etc) which may identify potential areas of non-compliance;

- Targeted compliance activities: Targeted reviews of Rule Participants may be carried out to assess compliance with specific Market Rule obligations or groups of obligations, or areas identified as being of particular compliance concern or where monitoring is required because the Market Rules provide for special arrangements;
- Reporting: AEMO (including in its capacity as System Management) has obligations to notify the ERA if it becomes aware of an alleged breach of the Market Rules or Market Procedures. Additionally Rule Participants and other stakeholders may report alleged non-compliant behaviour, including voluntary reports of the Rule Participant's own non-compliant behaviour.

2.1.3 The ERA will apply a risk based model to prioritise the focus of its monitoring activities. The information collected through the above methods will be assessed to identify potential areas of non-compliance that warrant further investigation.

2.1.4 The ERA will collect information from Rule Participants as required to carry out its compliance monitoring activities.

2.2 AEMO's Role (including in its capacity as System Management) to Support ERA in Monitoring Compliance

2.2.1 AEMO must support the ERA's function to monitor compliance (Market Rule 2.13.9A). AEMO (including in its capacity as System Management) supports the ERA's compliance monitoring processes by:

(a) providing access to market data, including through the use of and/or access to AEMO systems;

(b) Notifying the ERA if it becomes aware of an alleged breach of the Market Rules or Market Procedures in accordance with Market Rules 2.136A, 2.13.8 and 2.13.9C.

2.2.2 The Market Rules require AEMO to develop and implement a Monitoring and Reporting Protocol and seek the ERA's approval for that Monitoring and Reporting Protocol (Market Rule 2.15.6A). The purpose of AEMO's Monitoring and Reporting Protocol is to specify how AEMO (including in its capacity as System Management) will support the ERA's compliance monitoring role.

2.2.3 Rule Participants should refer to AEMO's Monitoring and Reporting Protocol for further information on AEMO's processes in relation to its support role.

3 Breach reporting

3.1 Reporting Processes for Breach Allegations

1.6 — Non-compliance Reporting by Rule Participants

1.6.1 — In addition to its own monitoring, the ERA may also be notified of compliance issues by:

a) — ~~a Rule Participant discovering its own non-compliant behaviour. The non-compliant Rule Participant may:~~

- ~~voluntarily report themselves to the ERA.~~

- ~~be required to provide information to the ERA, under the Market Rules or Market Procedures, that reports or evidences the non-compliant behaviour;~~

b) a Rule Participant discovering non-compliant behaviour by another Rule Participant. A Rule Participant may inform the ERA, in writing, if it considers that another Rule Participant is in breach of the Market Rules or Market Procedures and may also provide evidence of the breach, in writing, on discovery of the non-compliant behaviour.

1.6.2 — Where AEMO (including in its function as System Management) considers that another Rule Participant has breached the Market Rules or Market Procedures, it must notify the ERA of the alleged breach, in writing, on discovery of the non-compliant behaviour.

3.1.1 A Rule Participant may notify the ERA if it considers that it or another Rule Participant is in breach of the Market Rules or Market Procedures and may also provide evidence of the breach (Market Rule 2.13.4). The processes for this are required to be set out in this Monitoring Protocol (Market Rule 2.15.3(b)).

~~4.6.33.1.2~~ The Any breach notification should must be in writing and contain:

- (a) the name of the Rule Participant and contact details for the person responsible for the notification;
- (b) the name of the Rule Participant who is alleged to have breached the Market Rules or Market Procedures;
- (c) the specific clauses in the Market Rules or Market Procedures alleged to have been breached;
- (d) the dates and times on which the alleged breach occurred;
- (e) a description of the reasons that the notifying Rule Participant has for considering a breach may have taken place, including any evidence of the ~~potential-alleged~~ breach; ~~and~~
- (f) if the breach is by the notifying Rule Participant, a description of the reasons for the breach, including any mitigating circumstances and any proposed remedies;
- (g) details of any known impact to the market or Rule Participants;-
- (f)(h) any other information considered relevant.

~~3.1.3~~ ~~1.6.4~~ ~~The contact details for~~ Notifications of alleged non-compliance matters referred to in paragraph 3.1.26 above should be sent by email to:

~~_____ reporting any alleged breaches of the Market Rules or the Market Procedures to the ERA are as follows:~~

~~Phone: (08) 6557 7900~~ 7901

~~Fax: (08) 6557 7999~~

Email: market.compliance@erawa.com.au

If email is not possible, then the notification may be sent by the following means:

Facsimile: (08) 6557 7999

Post: PO Box 8469, PERTH BC WA 6849

~~1.6.43.1.4~~ ~~1.6.5~~ ~~_____ On receiving a written notification under paragraph 3.1.2 above,~~ the ERA will record the alleged breach of the Market Rules or Market Procedures details in its cCompliance Monitoring monitoring Registerregister, as referred to in section 6.1 of this Monitoring Protocol.

~~3.1.5~~ ~~1.6.6~~ ~~_____ The ERA will provide a letter of~~ written acknowledgement to the notifying Rule Participantreporting party within three business days of receipt of any written notification of alleged non-compliant behaviour.

~~1.6.7~~ ~~_____ Under most circumstances the ERA will notify the Rule Participant alleged to be non-compliant. The notification will set out:~~

- ~~a) that the Rule Participant is alleged to have committed a breach;~~
- ~~b) a summary of the alleged non-compliant behaviour; and~~
- ~~c) a contact person at the ERA to discuss the matter and processes.~~

~~1.6.8~~ ~~_____ However, the ERA has discretion not to provide such notification if the ERA reasonably believes that doing so would prejudice an investigation.~~

~~1.6.9~~

~~3.1.6~~ When investigating the alleged breach in accordance with the processes set out in section 4.1 of this Monitoring Protocol, the ERA will consider whether it is appropriate to not disclose to the Rule Participant alleged to have committed the breach the identity of the Rule Participant notifying the non-compliant behaviour. In exercising this discretion the ERA will take into consideration any request for anonymity from the party alleging the breach.

~~1.6.10~~ ~~_____ Where the notification by a Rule Participant results in an ERA decision regarding the potential rule breach, including bringing proceedings before the Energy~~

~~Review Board, the ERA will inform the Rule Participant of the decision in accordance with Section 1.10 of this protocol.~~

~~1.7 Compliance Monitoring Register~~

~~1.7.1 The ERA will maintain a Compliance Monitoring Register. (Market Rule 2.13.10)~~

~~1.7.2 The ERA must record in the Compliance Monitoring Register:~~

- ~~(a) any potential breaches of the Market Rules and Market Procedures that it identifies through its own monitoring activities;~~
- ~~(b) any potential breaches of the Market Rules and Market Procedures that AEMO (including in its function as System Management) identifies through its monitoring activities; and~~

~~1.7.3 any potential breaches of the Market Rules and Market Procedures notified by any other Rule Participant in accordance with section 1.56 of this protocol.~~

~~1.7.4 The Compliance Monitoring Register will contain:~~

- ~~a) a unique identifier for each potential breach of the Market Rules or Market Procedures;~~
- ~~b) the status of the potential breach of the Market Rules or Market Procedures—whether it is still under investigation, whether the ERA or the Energy Review Board has come to any decisions;~~
- ~~c) the Rule Participant potentially in breach of the Market Rules or Market Procedures;~~
- ~~d) the date when the potential breach was notified;~~
- ~~e) the Rule Participant who identified the potential breach, including contact details;~~
- ~~f) the specific clauses in the Market Rules or Market Procedures alleged to have been breached;~~
- ~~g) the dates and times on which the alleged breach occurred;~~
- ~~h) records of any investigation activities carried out concerning the potential breach, including meetings with the Rule Participant or other parties, information collected and equipment inspected;~~
- ~~i) a catalogue of information collected about the potential breach, including the circumstances surrounding the potential breach and evidence confirming or refuting the potential breach;~~
- ~~j) records of any findings the ERA may have as to whether it is reasonable to believe non-compliant behaviour took place;~~

- ~~k) records of any warnings issued by the ERA to the Rule Participant, including any Rule Participant response;~~
- ~~l) records of ERA decisions concerning Category A decisions, including penalties and orders given;~~
- ~~m) records of ERA decisions to take Category B or C breaches to the Energy Review Board and the decision of the Energy Review Board, including penalties and orders given; and~~
- ~~n) records of Rule Participant compliance with any decisions of the ERA or the Energy Review Board concerning a breach of the Market Rules or Market Procedures.~~

4 Investigations

~~1.7.5 AEMO has the discretion to determine if the report outlined in Step 1.5.1 should be deemed a Public Report for the purpose of its confidentiality status. In determining the publication status of the report, AEMO will consider the Wholesale Market Objectives outlined in Market Rule 1.2.1.~~

~~e) —~~

1.84.1 Investigating Alleged Breaches Investigation Process

4.1.1 The ERA will generally become aware of an alleged breach of the Market Rules and/or Market Procedures through the monitoring processes referred to in paragraph 2.1.2 of this Monitoring Protocol, noting that these cover both internal and external processes.

4.1.2 For the avoidance of doubt, the term ‘alleged breach’ and its other grammatical forms when used in this section 4, refers to matters where the ERA forms the view that it has sufficient information to reasonably suspect a breach of the Market Rules and/or Market Procedures has occurred and that the matter can therefore be escalated for investigation.

4.1.3 Prior to making the assessment referred to in paragraph 4.1.2, the ERA may undertake detailed analysis, including examining data and other information available, and/or seeking further information from Rule Participants. This analysis may also include monitoring of specific or general behaviours by Rule Participants.

4.1.4 Where the ERA forms the view that a matter identified through its monitoring processes is not an alleged breach, then the investigation processes set out in this Monitoring Protocol do not apply and the ERA may choose to deal with the matter by other means.

4.1.5 Where the ERA forms the view that a matter identified through its monitoring processes is an alleged breach of the Market Rules or Market Procedures, then

upon becoming aware of this, the ERA is required to investigate the matter (Market Rule 2.13.10).

4.1.6 The processes for investigating alleged breaches are required to be set out in this Monitoring Protocol (Market Rule 2.15.3(c)).

4.1.7 The general investigation process will usually involve the following phases and steps:

(a) Assessment phase: This phase covers the following steps:

- The ERA will record details of the matters alleged to be in breach in its compliance monitoring register;
- The ERA will determine the priority of the investigation by carrying out an initial compliance risk assessment. This will involve assessing the potential consequence of the alleged breach and/or likelihood of re-occurrence to form a view on whether the matter should be investigated as a priority over other alleged breach matters.

(b) Investigation phase: This phase covers the following steps:

- The ERA will notify the party alleged to be in breach and seek information (Note, the timing of this notification will depend on whether such notification could prejudice the investigation);
- The ERA will gather evidence from relevant parties (e.g. documentary evidence, oral evidence etc) to establish the facts of the matters alleged to be in breach;
- The evidence gathered will be recorded and stored appropriately;
- The party alleged to be in breach will be informed of the ERA's preliminary findings, once formed, and will be given the opportunity to respond to these preliminary findings;
- During the course of the investigation the ERA may meet with the party alleged to be in breach (this may occur at any stage during the investigation process);
- Any further information provided by the party alleged to be in breach will be taken into consideration when finalising the investigation;
- The investigation findings will be documented in an internal investigation report.

(c) Outcome phase: This phase covers the following steps:

- On conclusion of an investigation, the ERA will notify the parties of the outcome of the investigation, including whether a breach has occurred and the compliance response that the ERA considers appropriate;
- Where the ERA's compliance response recommends the implementation of any actions by the Rule Participant alleged to be in breach, the ERA may follow up on the progress of implementation of these actions;

- Where applicable, the ERA will commence enforcement actions;
- The ERA will record the outcomes of its investigations in its compliance monitoring register.

4.1.8 Note, the phases and steps identified above are intended as a general outline of the investigation process.

4.1.9 The ERA will apply its discretion in determining the most appropriate method to investigate any alleged breach, including the level of enquiries that need to be made and how they will be made, the extent to which it will investigate the matter and the compliance action that the ERA considers appropriate in response to the alleged breach.

4.1.10 For matters of a minor nature and/or that need to be dealt with expediently, a less formal approach may be used to investigate the matter (e.g. telephone enquiries) and potentially resolve the issues. For other matters, particularly complex matters, a formal detailed investigation approach may be applicable.

4.1.11 Each investigation will be carried out in a manner appropriate to the circumstances of the matters alleged to be in breach.

~~1.8.1—On becoming aware of an alleged breach of the Market Rules or Market Procedures, the ERA is required to investigate the behaviour at issue. (Market Rule 2.13.10).~~

~~1.8.2—Where the ERA considers that an alleged breach notified by a Rule Participant relates to a matter already under investigation, the ERA may join the two investigations.~~

~~1.8.3—Where the ERA considers that an alleged breach notified by a Rule Participant has already been investigated, and the notification does not give rise to any new information or factors to justify further investigating the matter, the ERA may have regard to the previous investigation and not investigate the matter further.~~

~~1.8.4—Where an alleged breach notified by a Rule Participant relates to a matter in which the ERA has already concluded that no breach occurred, the ERA may have regard to its previous decision, and the factors giving rise to it, and not reopen the matter.~~

~~1.8.5—The purpose of Steps 1.810.3 to 1.810.4 is to prevent the ERA having to reinvestigate previously settled matters.~~

4.2 Investigation Powers

4.2.1 Clause 2.13.12 of the Market Rules provides that as part of an investigation the ERA may:

- (a) require information and records from Rule Participants; and
- (b) conduct an inspection of a Rule Participant's equipment.

~~1.8.6 In conducting investigations, the ERA has the power to:~~

- ~~a) require information and records from Rule Participants, including searching premises; and~~
- ~~b) inspect Rule Participants' equipment.~~
- ~~c) (Regulations Part 5, Division 2; Market Rule 2.13.12).~~

4.2.2 Clause 2.13.13 of the Market Rules requires Rule Participants to cooperate with an investigation of an alleged breach of the Market Rules or Market Procedures, including:

- (a) providing the ERA with any information requested in a timely manner; and
- (b) allowing reasonable access to equipment for the purpose of an inspection.

~~4.2.3 The~~At any time during the course of an investigation the ERA may meet with the Rule Participant on one or more occasions to discuss the alleged breach and avenues for actions to -rectifying it (Market Rule 2.13.11).

~~1.8.74.2.4~~ Where the ERA requires information, records or access to equipment or seeks a meeting, it will ~~may make a~~ confirm the request in writing by email, facsimile or post to the person nominated as the primary compliance contact for the Rule Participant as provided under paragraph 1.3.2 of this Monitoring Protocol, or any other appropriate officer from the Rule Participant's organisation that the ERA considers appropriate. The ERA will indicate a reasonable timeframe ~~in~~ within which ~~it~~ the ~~considers any~~ required information and records should be provided.

~~1.8.8 Where the ERA decides that, in the course of its investigation, it needs to search the Rule Participant's premises for documents or records or to inspect the Rule Participants' equipment, it must follow the requirements set out Part 5, Division 2 of the Market Regulations. These relate to:~~

- ~~(a) an officer or employee of the ERA as authorised persons, in accordance with Regulation 23;~~
- ~~(b) application for search warrants, in accordance with Regulation 24;~~
- ~~(c) announcements before entry, in accordance with Regulation 25;~~
- ~~(d) giving details of the warrant to the occupier, in accordance with Regulation 26; and~~
- ~~(e) provision of copies of seized documents, in accordance with Regulation 27; and retention and return of seized documents, in accordance with Regulation 28.~~

~~1.8.9 Rule Participants must cooperate with ERA investigations, including providing information and records in a timely manner and allowing reasonable access to equipment as requested. (Market Rule 2.13.13)~~

~~4.2.5 The Rule Participant may request the ERA extend the timeframe to comply with the request referred to in paragraph 4.2.4 in writing. The ERA must consider the individual circumstances of the request and advise the Rule Participant of whether the extension has been granted, and if so details of the extension, and if not, the reasons for not granting the extension~~

~~1.8.104.2.6~~ In the event that a Rule Participant does not cooperate with an ERA investigation, the ERA may appoint an independent person to investigate the matter and to provide a report or other documentation as required. The Rule Participant under investigation is liable for the costs, unless the ERA otherwise determines, and must assist the person undertaking the investigation. (Market Rule 2.13.14).

~~4.2.7 Where the ERA decides that, in the course of its investigation, it needs to execute a search warrant, it must follow the requirements set out in Part 5, Division 2 of the Market Regulations. These relate to:~~

~~(a) authorisation of an officer or employee of the ERA, in accordance with Regulation 23;~~

~~(b) application for search warrants, in accordance with Regulation 24;~~

~~(c) announcements before entry, in accordance with Regulation 25;~~

~~(d) giving details of the warrant to the occupier, in accordance with Regulation 26; and~~

~~(e) provision of copies of seized documents, in accordance with Regulation 27; and retention and return of seized documents, in accordance with Regulation 28.~~

~~1.8.11 The ERA may meet with the Rule Participant on one or more occasions to discuss the alleged breach and avenues for rectifying it. (Market Rule 2.13.11) Where the ERA is of the view that the potential breach of the~~

~~Market Rules or Market Procedures is ongoing and serious, it will urgently seek such a meeting.~~

~~4.8.12 At the conclusion of its investigation, the ERA will record in its Compliance Monitoring Register whether it considers, given the evidence available, a breach of the Market Rules or Market Procedures has taken place.~~

4.3 Investigation Outcomes

~~4.3.1 At the conclusion of an investigation the ERA will make a determination on whether it reasonably believes that a breach has occurred.~~

~~4.3.2 Where the ERA determines that a breach has occurred, the ERA will consider the compliance action appropriate in response to the breach. The ERA has statutory compliance responses available to it under the Market Rules and the Market Regulations (e.g. warnings, civil penalties and orders), and also administrative responses, such as providing education advice and seeking a voluntary compliance program.~~

~~4.3.3 In determining the appropriate compliance response referred to in paragraph 4.3.2, the ERA will apply a risk based approach to assess the compliance risk associated with the obligations determined to have been breached. The assessment will consider the consequence and/or likelihood of the breach/es including the following factors:~~

- ~~- financial impacts;~~
- ~~- Power System Security and Power System Reliability impacts;~~
- ~~- health and safety risks;~~
- ~~- market operations process impacts;~~
- ~~- any direct adverse impacts to other Rule Participants;~~
- ~~- the Rule Participant's compliance history;~~
- ~~- whether the behaviour is systemic, repetitive or ongoing;~~
- ~~- whether the breach was self-disclosed;~~
- ~~- actions taken by the Rule Participant to address the breach;~~
- ~~- the Rule Participant's compliance processes;~~
- ~~- whether the non-compliant behaviour is deliberate.~~

~~4.3.4 Subject to paragraphs 4.3.5 and 4.3.6, at the conclusion of its investigation, the ERA will notify the Rule Participant alleged to be in breach of the outcome of the~~

investigation. The notification must be in writing and include the following information:

- (a) the clauses of the Market Rules or Market Procedures alleged to be in breach;
- (b) a summary of the facts of the matters investigated;
- (c) the ERA's determination of whether a breach has occurred or not;
- (d) in the case where a breach has been determined, the reasons for the determination;
- (e) the compliance response that the ERA considers appropriate.

4.3.5 In some circumstances where the ERA's investigation has not substantiated the breach allegation, it may not be necessary to notify the Rule Participant alleged to be in breach, of the outcome. This is more likely to be the case where there has been no need to contact the party alleged to be in breach during the course of the investigation and/or the ERA determines that there is insufficient information to warrant investigation.

4.3.6 In circumstances where the ERA reasonably believes a breach has occurred and it commences proceedings before the Electricity Review Board, notification of these proceedings to the Rule Participant alleged to be in breach will occur as part of the process for these proceedings. In these circumstances the ERA has discretion not to provide the notification referred to in paragraph 4.3.4.

4.3.7 The ERA may also notify the Rule Participant who reported the breach of the investigation outcome, where that party is different to the Rule Participant alleged to be in breach, if the ERA considers this to be appropriate and permitted under the confidentiality provisions of the Market Rules.

4.3.8 Table 1 below provides guidance on the potential investigation outcomes, available compliance responses and when these may apply. This information should be read in conjunction with the factors set out in paragraph 4.3.3 above. Table 1 is a guide only – each matter investigated must be considered on a case by case basis having regard to the individual circumstances applicable to that matter. The ERA will aim to ensure that investigation outcomes arrived at are fair, consistent and proportionate to the circumstances of the non-compliant behaviour.

Table 1: Potential Investigation Outcomes

<u>Determination</u>	<u>Compliance Response</u>	<u>Circumstances where the Compliance Response may be applicable</u>
<u>No breach found</u>	<u>No further action</u>	<u>For matters where the investigation has concluded that there is insufficient evidence to support a breach determination</u>
<u>No breach found</u>	<u>Education advice</u>	<u>For matters where the investigation has concluded that there is insufficient evidence to support a breach determination but as part of the investigation the ERA identified opportunities for improvements to processes and/or controls, or other matters where there is a need to provide education and guidance to assist the participant.</u>
<u>Breach found</u>	<u>No further action</u>	<u>For matters where the breach had little to no consequence, action was taken to rectify the breach in a timely manner and</u>

<u>Determination</u>	<u>Compliance Response</u>	<u>Circumstances where the Compliance Response may be applicable</u>
		<u>actions have been implemented to reduce the risk of recurrence of the breach.</u>
<u>Breach found</u>	<u>Education advice</u>	<p>For matters where the breach had little to no consequence but there is a need to provide education and guidance to assist the participant meet its obligations and prevent future breaches.</p> <p><u>Follow up action may be necessary to ensure the guidance provided is followed through by the participant.</u></p>
<u>Breach found</u>	<u>Compliance program</u>	<p>For matters where there is a reasonable likelihood of future breaches and actions are required to be implemented by the participant to prevent this.</p> <p><u>The compliance program will seek to document the agreed actions and associated timelines.</u></p> <p><u>In some cases the compliance program will form part of other enforcement action, such as the issue of a warning or orders associated with civil penalty proceedings. In other cases, the compliance program will represent a voluntary program agreed between the participant and the ERA.</u></p>
<u>Breach found</u>	<u>Warning</u>	For matters where there are material consequences associated with the breach and/or there is a reasonable likelihood of future breaches, and the non-compliant behaviour warrants a formal reprimand.
<u>Breach found</u>	<u>Civil penalties</u>	<p>For matters where there are material consequences associated with the breach and/or there is a reasonable likelihood of future breaches, and the non-compliant behaviour warrants a monetary penalty.</p> <p><u>The Market Regulations prescribe different categories of civil penalties:</u></p> <ul style="list-style-type: none"> • <u>Category A civil penalties - The Authority may issue a notice demanding payment of the penalty;</u> • <u>Category B and C civil penalties – The Authority may bring proceedings before the Electricity Review Board (refer below).</u>
<u>Breach found</u>	<u>Electricity Review Board Proceedings</u>	<p>For matters where there are material consequences associated with the breach and/or there is a reasonable likelihood of future breaches, and the non-compliant behaviour warrants formal orders from the Electricity Review Board.</p> <p><u>The Market Regulations provide that if the Authority considers that a participant has contravened a provision of the Market Rules it may apply to the Electricity Review Board for one or more orders as set out in Regulation 33 (refer to paragraph 5.3.3 of the Monitoring Protocol).</u></p>

5 Enforcement

1.95.1 Warnings

5.1.1 This Monitoring Protocol must set out guidelines for the ERA when issuing warnings (Market Rule 2.15.3(d)).

4.9.45.1.2 Where the ERA reasonably believes that non-compliant behaviour has taken place, it may issue a warning to the Rule Participant. Table 1 in section 4.3 above provides guidelines of circumstances where a warning may be an appropriate compliance response.

4.9.2 The warning will be issued within two Business Days of the completion of the investigation.

4.9.35.1.3 Where the ERA, considers that ~~The~~ a warning is appropriate it must issue the warning ~~will be~~ in writing. Clause 2.13.10(d) of the Market Rules ~~and requires the warning to~~ set out:

- (a) the specific clause or clauses of the Market Rules or Market Procedures that are believed to have been breached;
- (b) a full description of the behaviour considered to be non-compliant;
- (c) a request for an explanation; and
- (d) a request to rectify the behaviour at issue, including a timeframe that the ERA considers to be reasonable to accomplish the request.

5.1.4 There are likely to be cases where ~~clause section~~ paragraph 5.130.3 (c) and/or 5.130.3 (d) are not applicable as follows:

(a) ~~clause section~~ paragraph 5.130.3(c) would not be applicable where, through the investigation process referred to in section 4 of this Monitoring Protocol, the ERA has already elicited an explanation from the participant prior to issuing any warning;

(b) ~~Clause section~~ paragraph 5.130.3(d) would not be applicable where the behaviour has already been rectified prior to the issue of any warning;

and in these circumstances the warning letter will note the above and not re-request this information.

4.9.45.1.5 The ERA may provide the warning by e-mail, facsimile or post to the person nominated as the primary contact for the Rule Participant under paragraph 1.3.2

or alternatively to a senior officer of the Rule Participant as the ERA considers appropriate.

~~4.9.5 The Rule Participant may request a meeting with the ERA to discuss the alleged breach and proposed resolutions. The ERA will not unreasonably refuse such a meeting.~~

~~4.9.65.1.6 Subject to paragraph 5.1.4, the ERA must specify in the warning the timeframe within which the Rule Participant is required to provide the explanation referred to in 5.1.3(c). The Rule Participant is required to provide the explanation within the specified timeframe, requested in the warning within five Business Days of receipt of the warning. The explanation is required to be in writing and may be provided to the ERA by e-mail, facsimile or post using the contact details provided in paragraph 1.3.1. The ERA may extend this timeframe, at the request of the Rule Participant, by providing confirmation in writing.~~

~~5.1.7 The Rule Participant may request the ERA to extend the timeframe to provide the explanation referred to in paragraph 5.1.3(c) in writing. The ERA must consider the individual circumstances of the request and advise the Rule Participant of whether the extension has been granted, and if so details of the extension, and if not, the reasons for not granting the extension.~~

~~4.9.75.1.8 On receipt of a response to a warning from by the Rule Participant to the ERA warning, the ERA will must record this in its record keeping system as soon as practicable and note that a response has been received in the Gcompliance Mmonitoring Rregister. (Market Rule 2.13.10).~~

1.105.2 ERA Decisions Civil Penalty Provisions

~~5.2.1 Regulation 30 of the Market Regulations deems certain Market Rules as “civil penalty provisions”. In Schedule 1 to the Market Regulations, these provisions have been allocated a category (A, B or C) and maximum penalty amounts payable for a breach. The Regulations are available at: https://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_1353_homepage.html~~

~~1.10.1 Pursuant to the Regulation 30 of the Market Regulations, certain Market Rules have been deemed “civil penalty provisions.” In Schedule 1 to the Market Regulations, these provisions have been allocated a category (A, B or C) and maximum penalty amounts payable for breach. The table at Appendix A provides the category allocated to the respective Market Rules provisions.~~

~~5.2.2 Category A Provisionscivil penalty provisions:~~

~~1.10.2 If as a result of an investigation, tThe ERA decides if that a breach of a Category A provision has occurred, (Market Rule 2.13.15) In making its decision, the ERA will take into account:~~

~~a) the results of its investigation as outlined in Section 1.8 above; and~~

~~the Rule Participant's response to an ERA warning, if any, as outlined in Section 1.9 above, it may issue a penalty notice in accordance with the Market Regulations (Market Rule 2.13.6(a)).~~

5.2.3 The penalty notice referred to in section 5.2.2 must:

- (a) be in writing;
- (b) state the name and address of the Market Participant;
- (c) state that the notice is given under Regulation 31 of the Market Regulations;
- (d) specify the category A civil penalty provisions considered to have been contravened;
- (e) provide details of the contravention, including the act or omission that the ERA considers constitutes the contravention;
- (f) specify the amount of the civil penalty;
- (g) inform the participant that the participant may apply to the Electricity Review Board for review of the ERA's decision to demand the civil penalty;
- (h) contain a statement informing the participant that if after 28 days from receiving the notice:
 - i. payment is not made; or
 - ii. an application has not been made to the Electricity Review Board for review of the ERA's decision to impose the penalty;

the ERA may apply to the Electricity Review Board for an order for the payment of a penalty

(Regulation 31(5)).

5.2.4 A Rule Participant issued with a penalty notice may seek review by the Electricity Review Board of the ERA's decision to issue the notice in accordance with the Market Regulations (Market Rule 2.13.17).

5.2.5 Where the ERA has made an application to the Electricity Review Board in the circumstances referred to in section 5.2.3(h), the Electricity Review Board may make an order that the participant pay the civil penalty if:

- (a) the ERA made the demand in accordance with the Market Regulations;
- (b) the participant has not paid the civil penalty; and
- (c) the participant has no applied to the Electricity Review Board for review of the ERA's decision to demand the amount.

- ~~1.10.3~~ If the ERA decides that a breach has not occurred, the ERA will notify the Rule Participant and the complainant, if any, of its decision. (Market Rule 2.13.16)
- ~~1.10.4~~ If the ERA decides that a breach has occurred, the ERA may, but is not required to, issue a penalty notice in accordance with the Market Regulations. (Market Rule 2.13.16)
- ~~1.10.5~~ Instances where the ERA may decide not to issue a penalty notice include isolated instances or accidental breaches, especially where action has been taken to rectify the breach and prevent a re-occurrence.
- ~~1.10.6~~ A Rule Participant issued with a penalty notice may seek review by the Energy Review Board, in accordance with the Market Regulations, of the ERA's decision. (Market Rule 2.13.17)
- ~~1.10.7~~ In accordance with Regulation 31, within 28 days of receiving a penalty notice a Rule Participant must:
- ~~a) pay the penalty to AEMO; or~~
 - ~~b) apply to the Energy Review Board for review.~~

~~1.10.8~~

5.2.6 In accordance with Regulation 37, any penalty payments received by AEMO must be distributed in accordance with the Market Rules. If the Market Rules do not provide for distribution of civil penalty amounts, the penalty payments will be credited to the Consolidated Fund.

5.2.7 If the ERA decides that a breach has not occurred in relation to a Category A civil Penalty, the ERA will notify the Rule Participant and the complainant, if any, of its decision (Market Rule 2.13.16).

~~1.10.9~~

~~Category B and C Provisions~~

- ~~1.10.10~~ The ERA may decide that a breach of a Category B or Category C provision has not occurred. In making its decision, the ERA will take into account:
- ~~(a) the results of its investigation as outlined in Section 1.8 above; and~~
 - ~~(b) the Rule Participant's response to an ERA warning, if any, as outlined in Section 1.9 above~~

~~1.10.11 If the ERA decides that a breach has not occurred, the ERA will notify the Rule Participant and the complainant, if any, of its decision.~~

~~1.10.12 If the ERA, after conducting an investigation, reasonably believes that a breach of the Market Rules has occurred, the ERA may, but is not required to, bring proceedings before the Energy Review Board. (Market Rule 2.13.18)~~

~~1.10.13 The Energy Review Board is able to order civil penalties for contravention of the Market Rules, pursuant to Regulation 33.~~

5.2.8 Category B and C civil penalty provisions:

The Monitoring Protocol must specify the procedure for bringing proceedings in respect of Category B or C Market Rule breaches before the Electricity Review Board (Market Rule 2.15.3(e)).

5.2.9 If as a result of an investigation, the ERA decides that a breach of a Category B or Category C Market Rule has occurred it may bring proceedings before the Electricity Review Board (Market Rule 2.13.18). The procedure for bringing proceedings before the Electricity Review Board is set out in section 5.3 of this Monitoring Protocol.

5.3 Electricity Review Board Proceedings

5.3.1 Regulation 32(1) provides that where the ERA considers that a Rule Participant has contravened a provision of the Market Rules, it may apply to the Electricity Review Board for one or more orders under Regulation 33.

5.3.2 The application referred to in paragraph 5.3.1 must be in writing and set out:

- (a) the ERA as the applicant;
- (b) the provision of the Market Regulations under which the ERA is making the application;
- (c) provide the details of the contravention of the Market Rules that the ERA considers has occurred, including the name and address of the participant alleged to have contravened the Market Rules; and
- (d) specify the nature of the order sought.

(Regulation 39).

5.3.3 The ERA may apply for, and the Electricity Review Board may make, one or more of the following orders under Regulation 33(1):

- (a) where the provision is a civil penalty provision, an order that the participant pay to AEMO an amount that does not exceed the maximum civil penalty prescribed in Schedule 1 of the Market Regulations;
- (b) an order that the participant cease within a specified timeframe, the act or omission constituting the contravention;

- (c) an order that the participant take action or adopt a practice to remedy the contravention or prevent the recurrence of a the contravention;
- (d) an order that the participant implement a specified program for compliance with the Market Rules;
- (e) an order suspending the participant's registration or any other specified right under the Market Rules for a specified period;
- (f) an order that the participant's Facility or Facilities be disconnected;
- (g) an order that the participant's registration be cancelled.

5.3.4 The processes governing proceedings brought before the Electricity Review Board for matters under regulation 33 are set out in Part 7 of the Market Regulations and Part 6 Division 2 of the *Energy Arbitration and Review Act 1998*.

5.3.5 The ERA may enforce an order of the Electricity Review Board through the Supreme Court (Regulation 34).

6 Recording and Reporting

6.1 Compliance Monitoring Register

6.1.1 The ERA must maintain a compliance monitoring register to record the following information:

- (a) Details of any alleged breaches of the Market Rules and Market Procedures that it identifies through its own monitoring activities;
- (b) Details of any alleged breaches of the Market Rules and Market Procedures that AEMO (including in its function as System Management) has reported through to the ERA;
- (c) Details of any alleged breaches of the Market Rules and Market Procedures notified by any other Rule Participant in accordance with section 1.6.1 of this protocol;
- (d) The outcomes of its investigation for the matters above.

1.116.2 ERA Reports of Monitoring Activities Electricity Review Board Proceedings

~~1.11.16.2.1~~ The ERA is required to must release a report at least once every six months which provides a summary of:

- (a) proceedings brought before the ~~Energy~~ Electricity Review Board, including any findings and orders by the ~~Board~~ Electricity Review Board; and
- (b) Penalty Notices issued by the ERA for Category A breaches unless the ERA's decision has been set aside by the ~~Energy~~ Electricity Review Board.

(Market Rule 2.13.26).

~~4.11.26.2.2~~ The ERA may, but is not required to, release a report on:

- (a) any one or more matters concerning Category A provisions for which the ERA issued a penalty notice; or
- (b) any one or more matters that have been referred to the ~~Energy Electricity~~ Review Board,

including the findings of the ERA and/or the ~~Energy Electricity~~ Review Board, as applicable, and any sanctions imposed by the ERA or the ~~Energy Electricity~~ Review Board.

~~4.11.36.2.3~~ ~~The ERA may release a report referred to in paragraph 6.2.2 where~~ ~~Where any significant incidents arise the ERA has the discretion to warranting the release of a report prior to the next scheduled six monthly report referred to in paragraph 6.2.1.~~

- ~~a) publish a report set out in Step 1.11.1 in less than six months following its previous report; and~~
- ~~b) publish a report set out in Step 1.11.2,~~

~~1.11.4~~ ~~Publication and circulation of the reports outlined in Steps 1.11.1 and 1.11.2 will be in accordance with clauses 2.13.27 and 2.13.31 of the Market Rules.~~

~~6.2.4~~ ~~Claims of confidentiality of information, in relation to information that may be published in the reports referred to in paragraphs set out in Steps 1.11.1 and 4.11.26.2.1 and 6.2.2, are to be considered by the ERA in accordance with Market Rule 10.2 which sets out relating to information confidentiality status and its classes. (Market Rule 2.13.30).~~

6.3 Report to Minister - AEMO's Compliance with the Market Rules and Market Procedures

~~6.3.1~~ ~~The ERA must provide to the Minister a report on AEMO's compliance with the Market Rules and Market Procedures annually following the process outlined in Market Rules 2.14.5B to 2.14.5D. The report will contain:~~

- ~~(a) results of any audits performed; and~~
- ~~(b) results of any investigations undertaken.~~

~~_____~~
~~_____~~ ***Appendix A - Categories of Rule Breaches and the Primary Mechanisms to Identify the Breaches***

~~_____~~ ***To the extent that this Appendix A and the Market Regulations are inconsistent, the Market Regulations prevail.***

Clause	Penalty classes	Description	Proposed monitoring
2.13.13	B	Participant must cooperate with an investigation including providing information and allowing access.	ERA will monitor whether participant cooperates
2.13.14 (a)	B	Participant must cooperate with investigation by person appointed by the ERA with regard to possible rule breach	The person investigating will report to the ERA
2.13.25	B	Participant must comply with ERA direction giving effect to ERB decision	ERA will follow up to confirm directions are complied with

Clause	Penalty classes	Description	Proposed monitoring
2.16.6(b)	B	Participants must provide information to ERA	The ERA to monitor
2.29.6	C	Participant must ensure that scheduled generator is able to respond to System Management output directions	AEMO (in its function as System Management) can notify the ERA where it considers that the equipment is not compliant
2.29.7	C	Participant must ensure that non-scheduled generator is able to decrease output on System Management instruction	AEMO (in its function as System Management) can notify the ERA where it considers that the equipment is not compliant

Clause	Penalty classes	Description	Proposed monitoring
2.29.8	B	Participant must ensure that dispatchable load is able to respond to System Management output directions	AEMO (in its function as System Management) can notify the ERA where it considers that the equipment is not compliant
2.30C.4	B	Participant must provide additional standing data if requested by AEMO	Monitored by AEMO
2.31.9	B	Networks must cooperate with registration tests for a facility	AEMO can record as it carries out registration process for facilities
2.32.4(a)	C	Participant must comply with suspension notice	Monitored by AEMO

Clause	Penalty classes	Description	Proposed monitoring
2.34.2	B	Participant must ensure standing data kept accurate	Monitored by AEMO (in its function as System Management)
2.34.3	B	Participant must ensure standing data kept accurate	Monitored by AEMO (in its function as System Management)
2.34.6	B	Participant must provide additional data to support standing data change if requested	Monitored by AEMO
2.35.1	A	Participants must maintain communication equipment with facilities	AEMO (in its function as System Management) can notify the ERA where it considers that the equipment is not compliant

Clause	Penalty classes	Description	Proposed monitoring
2.35.2	A	Participants must maintain communication equipment with facilities	AEMO (in its function as System Management) can notify the ERA where it considers that the equipment is not compliant
2.35.3	A	Participants must maintain communication equipment with facilities	AEMO (in its function as System Management) can notify the ERA where it considers that the equipment is not compliant
2.36.3	A	Participants must meet AEMO's IT security standards	Monitored by AEMO

Clause	Penalty classes	Description	Proposed monitoring
2.36.4	C	Participant may not operate IT system to deliberately undermine market systems	Monitored by AEMO
2.38.1	B	Participant must provide credit support	Monitored by AEMO
2.38.2	B	Participant must provide credit support	Monitored by AEMO
2.38.3	B	Participant must provide credit support	Monitored by AEMO
2.41.2	B	Participant must not make submission which could result in exceeding its trading margins	Monitored by AEMO

Clause	Penalty classes	Description	Proposed monitoring
2.42.4	C	Participant must respond to margin call	Monitored by AEMO
2.44.4	C	Participants must comply with directions given by the ERA or AEMO during market suspension	Monitored by the ERA and AEMO
3.4.6	C	Participants must comply with System Management directions and endeavour to assist System Management during high risk operating state	Monitored by AEMO (in its function as System Management)

Clause	Penalty classes	Description	Proposed monitoring
3.4.8	C	Participant must immediately inform System Management if cannot comply with direction	Monitored by AEMO (in its function as System Management)
3.5.8	C	Participants must comply with System Management directions and endeavour to assist System Management during emergency operating state	Monitored by AEMO (in its function as System Management)
3.5.10	C	Participant must immediately inform System Management if cannot comply with direction	Monitored by AEMO (in its function as System Management)

Clause	Penalty classes	Description	Proposed monitoring
3.6.5	C	Networks must implement load shedding plans	Monitored by AEMO (in its function as System Management)
3.6.6B	C	Networks must comply with manual disconnection instructions from System Management	Monitored by AEMO (in its function as System Management)
3.8.2(c)	B	Participants must supply reports on system incidents to AEMO	Monitored by AEMO
3.11.7A	C	EGC must make capacity available to System Management to provide ancillary services	Monitored by AEMO (in its function as System Management)

Clause	Penalty classes	Description	Proposed monitoring
3.16.4	B	Participants must provide MTPASA information	Monitored by AEMO (in its function as System Management)
3.16.7	B	Participants must provide MTPASA information	Monitored by AEMO (in its function as System Management)
3.16.8A	B	Participants must provide additional MT-PASA information requested by System Management within the specified timeframes	Monitored by AEMO (in its function as System Management)
3.17.5	C	Participants must provide STPASA information	Monitored by AEMO (in its function as System Management)

Clause	Penalty classes	Description	Proposed monitoring
3.17.6	C	Participants must update STPASA information if it changes	Monitored by AEMO (in its function as System Management)
3.18.7	C	Outage plans submitted by participants must represent good faith expectations	AEMO (in its function as System Management) can notify the ERA where it considers that the outage planning provisions have been breached
3.18.8	C	Participant must revise outage plan if it no longer plans to take equipment out of service	AEMO (in its function as System Management) can notify the ERA where it considers that the outage planning provisions have been breached

Clause	Penalty classes	Description	Proposed monitoring
3.18.9	C	Participant must revise outage plan if time changes	AEMO (in its function as System Management) can notify the ERA where it considers that the outage planning provisions have been breached
3.18.13 (d) (i)	C	Participants and networks resubmit outage plans after negotiation in case of schedule clash	AEMO (in its function as System Management) t can notify the ERA where it considers that the outage planning provisions have been breached

Clause	Penalty classes	Description	Proposed monitoring
3.19.1	C	Participant and networks must request approval for outage two days in advance	AEMO (in its function as System Management) can notify the ERA where it considers that the outage planning provisions have been breached
3.19.8	C	Participant and networks must comply with System Management rejection of outage	AEMO (in its function as System Management) can notify the ERA where it considers that the outage planning provisions have been breached

Clause	Penalty classes	Description	Proposed monitoring
3.20.2	C	Participant and networks must comply with System Management recall from outage	AEMO (in its function as System Management) can notify the ERA where it considers that the outage planning provisions have been breached
3.21.4	C	Participant and networks must inform System Management of forced outage	AEMO (in its function as System Management) can notify the ERA where it considers that the outage planning provisions have been breached

Clause	Penalty classes	Description	Proposed monitoring
3.21A.2	C	Participant seeking to conduct a commissioning test must request permission from System Management	Monitored by AEMO (in its function as System Management)
3.21A.6	C	Participant that no longer plans to conduct commissioning test must inform System Management	Monitored by AEMO (in its function as System Management)
3.21A.12	C	Participant must conform to the approved commissioning test plan	Monitored by AEMO (in its function as System Management)

Clause	Penalty classes	Description	Proposed monitoring
3.21A.1 3(a)	C	Participant that cannot conform to the approved commissioning test plan must inform System Management	Monitored by AEMO (in its function as System Management)
3.21B.1	C	Participant must seek permission from System Management before decommissioning a scheduled generator holding capacity credits	Monitored by AEMO (in its function as System Management)
3.21B.2	C	Permission under 3.21B.1 must be sought at least 2 hours in advance and specified information must be provided	Monitored by AEMO (in its function as System Management)

Clause	Penalty class	Description	Proposed monitoring
4.5.4	C	Participants provide LT-PASA information to AEMO	Monitored by AEMO
4.27.5	B	Participants must provide reports to AEMO on expected planned outages where RC of market underperforming	Monitored by AEMO
6.5.1A	B	Generator and Dispatchable Load Participants must make Resource Plan submission	Monitored by AEMO

Clause	Penalty classes	Description	Proposed monitoring
6.6.3	C	Generator must not offer prices that do not reflect its reasonable expectation of short run marginal cost	Monitored by AEMO and the ERA
6.7.3	C	Generator must not specify quantities in a bilateral submission that exceed the quantity of energy it is contracted to supply	Monitored by AEMO and the ERA??

Clause	Penalty classes	Description	Proposed monitoring
6.7.4	C	Customer must not overstate consumption as indicated by its net contract position that cannot be explained by forecasting or loss factors.	Monitored by AEMO and the ERA??
6.19.9	B	Participants, networks and System Management must inform AEMO of events that could result in Market Advisory	After the fact AEMO may assess whether any participant could have reasonably known about the circumstances and informed it

Clause	Penalty class	Description	Proposed monitoring
7.5.5	C	Participant may only issue fuel change notification where it has lost or obtained non-liquid fuel supply	Monitored by AEMO (in its function as System Management)
7.6A.2(g)	C	EGC must notify System Management if it unable to comply with a dispatch plan.	Monitored by AEMO (in its function as System Management)
7.6A.3(e)	C	EGC must notify System Management if it unable to comply with a dispatch instruction	Monitored by AEMO (in its function as System Management)

Clause	Penalty class	Description	Proposed monitoring
7.6A.5(e)	B	EGC and System Management must make records available to the ERA on request	Monitored by the ERA
7.6A.6	B	EGC and System Management must keep all records created by rule 7.6A	Monitored by the ERA
7.9.1	C	Participant must confirm with System Management synchronisation of generating units in advance	AEMO (in its function as System Management) can notify the ERA where it considers that the synchronisation and desynchronisation provisions have been breached

Clause	Penalty classes	Description	Proposed monitoring
7.9.3	C	Participant must coordinate with System Management synchronisation of generating units where requested	AEMO (in its function as System Management) can notify the ERA where it considers that the synchronisation and desynchronisation provisions have been breached
7.9.5	C	Participant must confirm with System Management desynchronisation of generating units in advance	AEMO (in its function as System Management) can notify the ERA where it considers that the synchronisation and desynchronisation provisions have been breached

Clause	Penalty class	Description	Proposed monitoring
7.9.7	C	Participant must coordinate with System Management desynchronisation of generating units where requested	AEMO (in its function as System Management) can notify the ERA where it considers that the synchronisation and desynchronisation provisions have been breached
7.9.9	C	Participant must comply with System Management permissions on synchronisation	AEMO (in its function as System Management) can notify the ERA where it considers that the synchronisation and desynchronisation provisions have been breached

Clause	Penalty classes	Description	Proposed monitoring
7.9.10	C	Participant must comply with System Management permissions on desynchronisation	AEMO (in its function as System Management) can notify the ERA where it considers that the synchronisation and desynchronisation provisions have been breached
7.9.12(a)	C	Participant must inform System Management where it cannot comply with System Management desynchronisation rejection	AEMO (in its function as System Management) can notify the ERA where it considers that the synchronisation and desynchronisation provisions have been breached

Clause	Penalty classes	Description	Proposed monitoring
7.10.1	C	Participant must comply with resource plan, dispatch instructions or directions from System Management	Monitored by AEMO (in its function as System Management)
7.10.3	C	Participant must inform System Management where it cannot comply	Monitored by AEMO (in its function as System Management)
7.10.6A (a)	C	Participant that cannot comply with a request to provide an explanation dispatch instruction must notify System Management	Monitored by AEMO (in its function as System Management)

Clause	Penalty classes	Description	Proposed monitoring
7.11.7	C	Participants and networks must comply with System Management directions in dispatch advisory	Monitored by AEMO (in its function as System Management)
7.11.9	C	Participants, networks and the ERA must inform System Management of events that could result in Dispatch Advisory	After the fact AEMO (in its function as System Management) may assess whether any participant could have reasonably known about the circumstances and informed it

Clause	Penalty classes	Description	Proposed monitoring
8.1.3	B	Metering Data Agent must operate to metering protocol	AEMO will record where its interactions with the Metering Data Agent lead it to believe the Metering Data Agent is not operating to the protocol (e.g. the process for missing data is not operating), and participants can also notify the ERA

Clause	Penalty classes	Description	Proposed monitoring
8.3.1	B	Metering Data Agent must maintain meter registry	Participants can notify to the ERA where they do not consider that the Metering Data Agent is meeting the meter registry requirements
8.3.3	B	Metering Data Agent must respond to AEMO information request related to facility registration	Monitored by AEMO

Clause	Penalty classes	Description	Proposed monitoring
8.3.5	B	Metering Data Agent must inform AEMO of changes in participants at meters	Participants can notify to the ERA where they do not consider that the Metering Data Agent is meeting the protocol requirements
8.4.1	B	Metering Data Agent must provide meter information on schedule	Monitored by AEMO
8.5.2	B	Metering Data Agent must respond to AEMO notification of metering dispute	Monitored by AEMO

Clause	Penalty classes	Description	Proposed monitoring
8.8	B	Metering Data Agent must provide meter data requested by AEMO for purposes of rules	Monitored by AEMO
9.1.2(e)	B	Participants must assist AEMO to produce necessary tax invoices etc.	Monitored by AEMO
9.3.2	B	Metering Data Agent must provide settlement ready meter data to AEMO	Monitored by AEMO
9.22.5	B	Participants must use EFT mechanism	Monitored by AEMO

Clause	Penalty classes	Description	Proposed monitoring
9.23.3	B	Participant must inform AEMO if a suspension event happens to it (e.g. bankruptcy, losing its licence)	Monitored by the ERA and AEMO
9.24.7	C	Participant must pay AEMO settlement amount in full by due time	Monitored by AEMO
10.1.2	B	Participants must retain information	This will primarily be detected as part of any other investigation under the rules, where it is revealed the participant's records are not adequate.

Clause	Penalty classes	Description	Proposed monitoring
10.2.4	B	Participants cannot release confidential information	The affected participant can notify the ERA