

# Wholesale Electricity Market Rules and Gas Services Information Rules

Compliance Report for the period 1 July 2017 to  
31 December 2017

31 January 2018

**Economic Regulation Authority**

WESTERN AUSTRALIA

## Economic Regulation Authority

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## 1 Background

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

Clause 2.13.26 of the Wholesale Electricity Market (**WEM**) Rules requires the ERA to publish six-monthly reports on matters that have been brought before the Electricity Review Board and details of any civil penalties imposed by the ERA.

Rule 167(1) of the Gas Services Information (**GSI**) Rules contains similar reporting obligations.

In September 2017 the ERA published a revised report structure. The new structure not only included the Electricity Review Board matters but also information on the ERA's compliance activities for the period 1 July 2016 to 30 June 2017.

This report continues the use of the new structure for the reporting period 1 July 2017 to 31 December 2017.

## 2 Compliance update

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

This section provides an update on these activities for the current reporting period. This includes summary details of alleged breaches reported to the ERA and the outcomes of breach investigations carried out during the period.

This section also includes information on the ERA's quarterly Dispatch Instruction non-compliance process as well as stakeholder engagement activities.

### 2.1 Alleged breach reports

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

In the current reporting period 82 alleged breach reports were registered (**Table 1**). Since 1 July 2016 when the ERA became responsible for the compliance and enforcement functions, a total of 205 alleged breach reports have been registered.

**Table 1: Alleged breach reports registered by the ERA<sup>1</sup>**

	Jul-Dec 16	Jan-Jun 17	Jul-Dec 17	Total
<b>WEM matters</b>	65	39	66	<b>170</b>
<b>GSI matters</b>	5	14	16	<b>35</b>
<b>Total<sup>2</sup></b>	<b>70</b>	<b>53</b>	<b>82</b>	<b>205</b>

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

<sup>2</sup> In the ERA's [report](#) for the period 1 July 2016 to 30 June 2017, the number of alleged breaches registered for the period was reported as 121. The actual number of breaches registered for that period was 123.

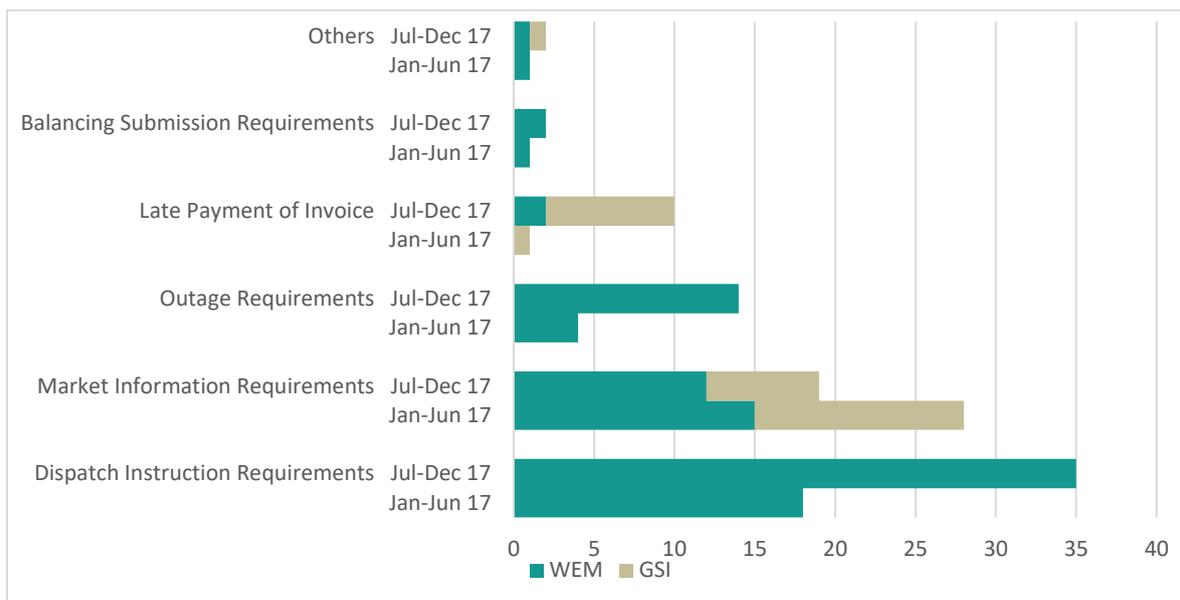
The majority of alleged breach reports received by the ERA were from the Australian Energy Market Operator (**AEMO**). AEMO has obligations to support the ERA with monitoring participants' compliance with the WEM Rules and the GSI Rules<sup>3</sup>.

Since 1 July 2016, a small number of matters (six) were self-reported by participants other than AEMO<sup>4</sup>. Self-reporting of breaches by a participant is an indication that the participant understands its compliance obligations and has reasonable compliance processes in place to identify and address non-compliance. The ERA encourages self-reporting by participants.

**Figure 1** shows alleged breaches reported by issue for the reporting period. Reports for the prior period, January to June 2017, are also shown.

Participants' non-compliance with Dispatch Instructions under the WEM Rules accounted for 42.7% of total alleged breaches (35 reports) during the reporting period. Non-compliance with WEM Rule obligations to update Balancing Submissions and comply with outage requirements accounted for 20.7% of the breaches reported since 1 July 2017 (17 reports). The ERA has a quarterly investigation process for investigating Dispatch Instruction, Balancing Submission and outage non-compliance as discussed in section 2.2.

The number of reports of participants' non-compliance with market information requirements decreased this reporting period to 19 reports, compared with 28 reports during the January to June 2017 period. Contributing to the higher volume of matters registered in the prior period is a batch of 11 alleged breaches for participants that had failed to update contact information on the Market Web Site and the Gas Bulletin Board.



**Figure 1: Alleged breach reports by issue**

## 2.2 Quarterly non-compliance with Dispatch Instructions investigations

Rule obligations concerning dispatch, Balancing Submissions and outages are central to ensuring the economic and efficient operation of the electricity market and the dispatch

<sup>3</sup> For example, refer to clauses 2.13.8, 2.13.9A and 2.13.9C of the WEM Rules.

<sup>4</sup> Including System Management.

process. The ERA has a quarterly process for investigating non-compliance with these obligations.

The ERA's quarterly process assesses participants' compliance with clause 7.10.1 of the WEM Rules. This rule requires participants to comply with Dispatch Instructions issued by System Management. These investigations are carried out under clause 7.10.8 of the WEM Rules.

The investigations also consider whether any out of merit constrained off or on payments received by non-compliant participants needs to be recovered<sup>5</sup>.

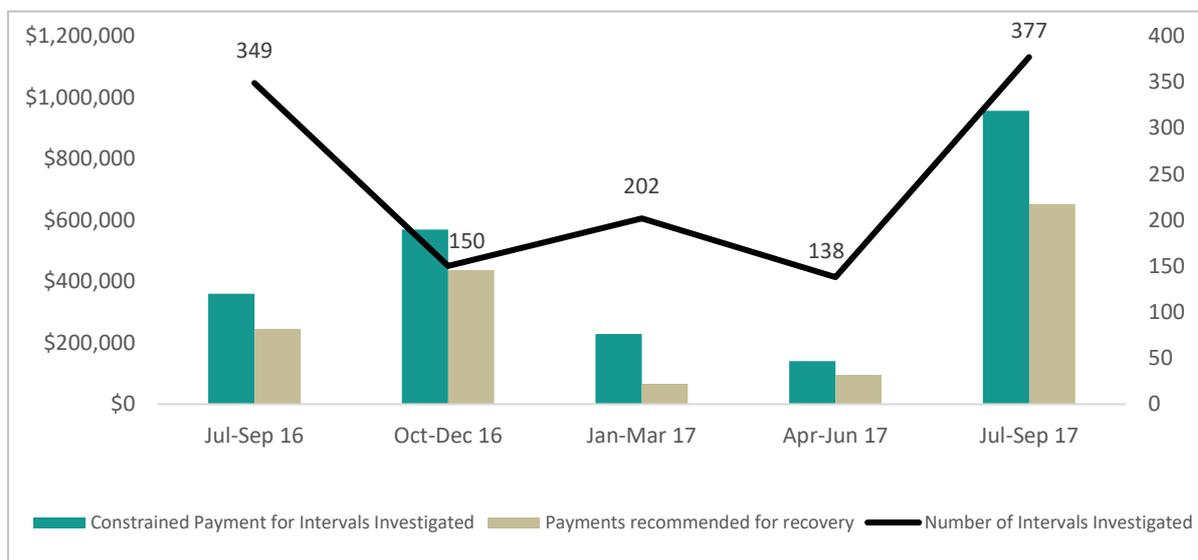
The investigations use dispatch non-compliance reports and constrained payments data provided by AEMO<sup>6</sup>. Where non-compliance issues are identified, the ERA meets with participants to review these issues.

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

**Figure 2** shows the total number of intervals investigated by the ERA together with the total value of the constrained payments for those intervals. Also shown is the monies recoverable for investigations carried out since 1 July 2016.

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

In the quarterly investigation process for the July to September 2017 period, the ERA observed an increased level of non-compliance by certain participants with obligations to log Forced Outages and update Balancing Submissions. This is reflected by the volume of constrained payments investigated and recovered for the July to September 2017 quarter shown in **Figure 2**.



**Figure 2: Quarterly Non-compliance with Dispatch Instructions process**  
(Investigations completed between 1 July 2016 and 31 December 2017)

<sup>5</sup> Where a Market Participant's Facility's actual generated quantity was materially different from its Balancing Submission quantities then it may be entitled to Out of Merit constrained off or on compensation as per section 6.16A of the WEM Rules, unless it was non-compliant with a Dispatch Instruction under clause 7.10.1.

<sup>6</sup> Including in its capacity as System Management.

The ERA met with several participants in December 2017 to discuss the July to September 2017 investigation outcomes, including the Forced Outage logging requirements as well as the requirements for Balancing Submission accuracy.

The WEM Rules require participants to inform System Management of a Forced Outage as soon as practicable after commencement of the outage, providing initial details including the time of the outage, an estimate of when the outage will end and the expected quantity of the de-rating<sup>7</sup>. Final details of the outage must be provided to System Management within 15 calendar days<sup>8</sup>. Participants must ensure the quantity of the outage submitted complies with the WEM Rule requirements<sup>9</sup>.

The Power System Operating Procedure (**PSOP**): Facility Outages requires the initial notification of a Forced Outage to be provided as soon as practicable (i.e. in real time) to System Management by telephone<sup>10</sup>. The PSOP: Facility Outages requires the initial notification to be entered into System Management's Market Information Technology Systems (**SMMITS**) as soon as practicable<sup>11</sup>.

In most cases, logging of the outage details into SMMITS should be done in a considerably shorter period than 15 calendar days and as close to real time as possible. The ERA will be targeting participants' compliance with the outage requirements including events where there is a substantial delay in logging outages in SMMITS (e.g. greater than five calendar days) and situations where there are deficiencies in participants' processes for ensuring correct outage quantities are logged.

There are also timing requirements for updating Balancing Submissions. If after gate closure, a Market Participant (other than Synergy) becomes aware that their Balancing Submission is inaccurate due to an Internal Constraint (e.g. Forced Outage), they must, as soon as they become aware of the inaccuracy, make a new accurate Balancing Submission reflecting the reduced availability of the Facility as soon as reasonably practicable<sup>12</sup>.

Market Participants must also ensure that Balancing Submissions made before gate closure are accurate, including reflecting any Internal Constraint as well as the participant's expectation of the capability of its Facility to be dispatched<sup>13</sup>.

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

During the reporting period the ERA commenced three separate targeted investigations of participants for non-compliance with the Forced Outage and Balancing Submission rule requirements. These investigations are ongoing at the time of this report.

## 2.3 Investigation outcomes and enforcement actions

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

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<sup>7</sup> Refer to clause 3.21.4 of the WEM Rules.

<sup>8</sup> Refer to clause 3.21.7 of the WEM Rules.

<sup>9</sup> Refer to clause 3.21.5 of the WEM Rules.

<sup>10</sup> Refer to paragraph 12.1 of the PSOP: Facility Outages.

<sup>11</sup> Refer to paragraph 12.2 of the PSOP: Facility Outages.

<sup>12</sup> Refer to clause 7A.2.10 of the WEM Rules.

<sup>13</sup> Refer to clause 7A.2.8 of the WEM Rules.

**Figure 3** below summarises the outcomes of investigations completed by the ERA in the reporting period. The ERA completed 41 breach investigations in the reporting period. In the prior period, January to June 2017, 40 investigations were completed. Since function transfer on 1 July 2016, the ERA has completed a total of 95 investigations.

Nine of the investigations completed in the reporting period found the participant not to be in breach.

There were 21 investigations where a breach was determined but no further action was required as the matters were considered low risk. Of these matters, eight were investigations of non-compliance with Dispatch Instructions, 12 concerned market information provisions and one was for outage non-compliance.

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

The ERA issued 11 education advice letters to participants. In each of these cases, the ERA considered that it was appropriate to provide the participants with information to mitigate the risk of further non-compliance with the relevant obligation. Seven of these matters were for non-compliance with market information rule requirements while the other four matters were for non-compliance with Dispatch Instruction requirements.



**Figure 3: Investigation Outcomes for period 1 July to 31 December 2017**

## 2.4 Stakeholder engagement and reports

The ERA released its Compliance Framework and Strategy document on 5 September 2017<sup>14</sup>. The strategy document describes how the ERA undertakes its compliance activities, including its detection and deterrent activities and its 2017/18 strategic priorities.

The ERA provided its first report to the Minister on its compliance with the WEM Rules on 2 October 2017<sup>15</sup>. The ERA engaged an independent auditor to assess its compliance for the 2016/17 financial year. The auditor confirmed the ERA's compliance with the WEM Rules and made recommendations for improvements to internal procedures and documentation.

<sup>14</sup> Refer to [ERA website](#).

<sup>15</sup> Refer to [ERA website](#).

On 18 December 2017, the ERA provided its 2016/17 report to the Minister on AEMO's compliance<sup>16</sup>. AEMO was largely compliant with its electricity market and gas services obligations. All the matters investigated by the ERA were matters of technical compliance with no material consequences or risks.

The matters of most concern to the ERA, in considering AEMO's compliance, were information technology failures that could affect dispatch, and the adequacy of control room staffing during the summer season. AEMO has implemented measures to reduce the risk of the information technology failures and the ERA is satisfied that AEMO is adequately managing the control room staffing risk.

As part of its quarterly non-compliance with Dispatch Instructions process, the ERA held 11 meetings with participants, prior to finalising its investigations on these matters over the course of the reporting period.

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<sup>16</sup> Refer to [ERA website](#).

### 3 Report on Electricity Review Board matters

This section details the matters required to be reported on under clause 2.13.26 of the WEM Rules and rule 167(1) of the GSI Rules for the reporting period<sup>17</sup>. These matters are:

- a. proceedings that have been brought before the Electricity Review Board;
- b. findings of the Electricity Review Board on matters referred to them;
- c. orders made by the Electricity Review Board; and
- d. civil penalties imposed by the 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

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

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

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

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

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

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

#### 3.2 Findings of the Electricity Review Board

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

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

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

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<sup>17</sup> Note, these matters were reported in the previous report. The current reporting period overlaps with the previous report and therefore the information has been repeated in this report.

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

### **3.3 Orders made by the Electricity Review Board**

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

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

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

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

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

The ERA imposed no civil penalties during the reporting period.