

Wholesale Electricity Market Rules and Gas Services Information Rules

Compliance report for the period 1 January 2020 to
30 June 2020

31 July 2020

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1. Summary

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

This report provides Market Participants and other interested parties with a summary of the ERA's compliance activities for the reporting period 1 January 2020 to 30 June 2020. This report also briefly discusses new compliance requirements from recent Market Rule and market policy changes.

The information in this report satisfies the requirements of clause 2.13.26 of the Market Rules and clause 167(1) of the GSI Rules, which require the ERA to publish six-monthly reports summarising matters brought before the Electricity Review Board, including details of any civil penalties imposed by the ERA.^{1,2}

Terms capitalised in this report include terms defined under Chapter 11 of the Wholesale Electricity Market Rules.

2. Compliance update

The ERA's compliance and enforcement functions include monitoring Market Participants' compliance with the Market Rules and GSI Rules and investigating alleged breaches of these rules.

2.1 Alleged breach reports

Provisions of the Market Rules and GSI Rules enable Market Participants, the Australian Energy Market Operator (AEMO) and the ERA to report breach allegations to the ERA when possible Market Rule and GSI Rule non-compliances have been identified.^{3 & 4}

The ERA records details of the alleged breaches that have been reported to the ERA in the compliance monitoring register.⁵ During the ERA's investigation of each matter, a summary of each investigation's progress as well as each investigation's breach determination are recorded in the compliance monitoring register.

Between 1 July 2016 and 30 June 2020, the ERA recorded 837 possible Market Rule and GSI Rule breaches in the compliance monitoring register. In this reporting period, 1 January 2020 to 30 June 2020, 135 matters were added to the compliance monitoring register. Of these 135 matters, 132 were alleged Market Rule non-compliances. The remaining three matters were alleged GSI Rule non-compliances.

In the previous reporting period, the ERA recorded one matter in the compliance monitoring register for 89 separate events by a single Market Participant. During this reporting period, these 89 events were split into 89 individual records in the compliance monitoring register to

¹ [Wholesale Electricity market Rules \(WA\)](#), 2 July 2020, Rule 2.13.26.

² [Gas Services Information Rules \(WA\)](#), 1 March 2019, Rule 167(1).

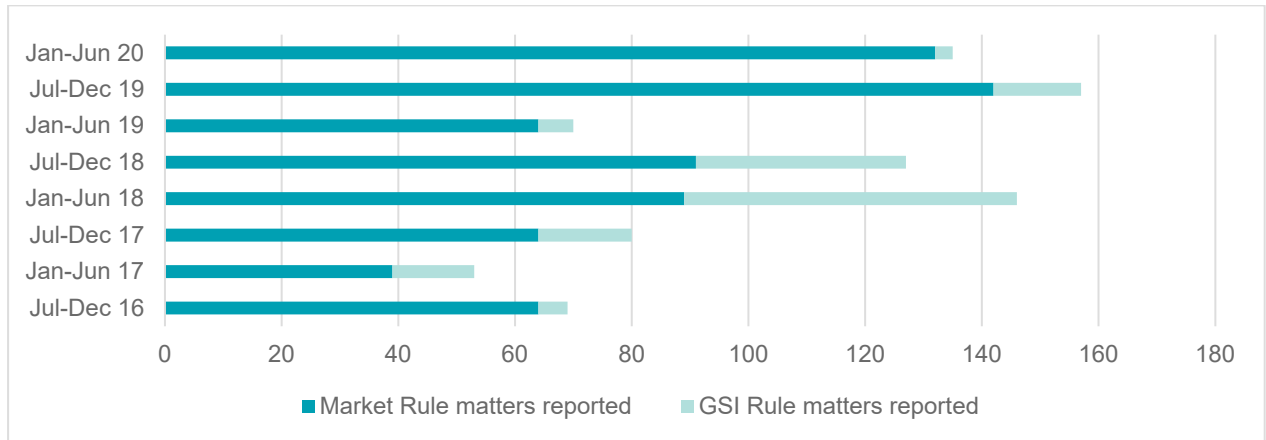
³ [Wholesale Electricity market Rules \(WA\)](#), 2 July 2020, Rules 2.13.2, 2.13.4, 2.13.8, 2.13.9A & 2.13.9C.

⁴ [Gas Services Information Rules \(WA\)](#), 1 March 2019, Rule 165A(1) & 165A(3).

⁵ [Market Procedure Monitoring Protocol](#), 23 May 2017, step 6.1.

maintain consistency with the ERA’s standard reporting approach. This increased the total matters for the July to December 2019.

Figure 1: Compliance monitoring register matters as at 30 June 2020



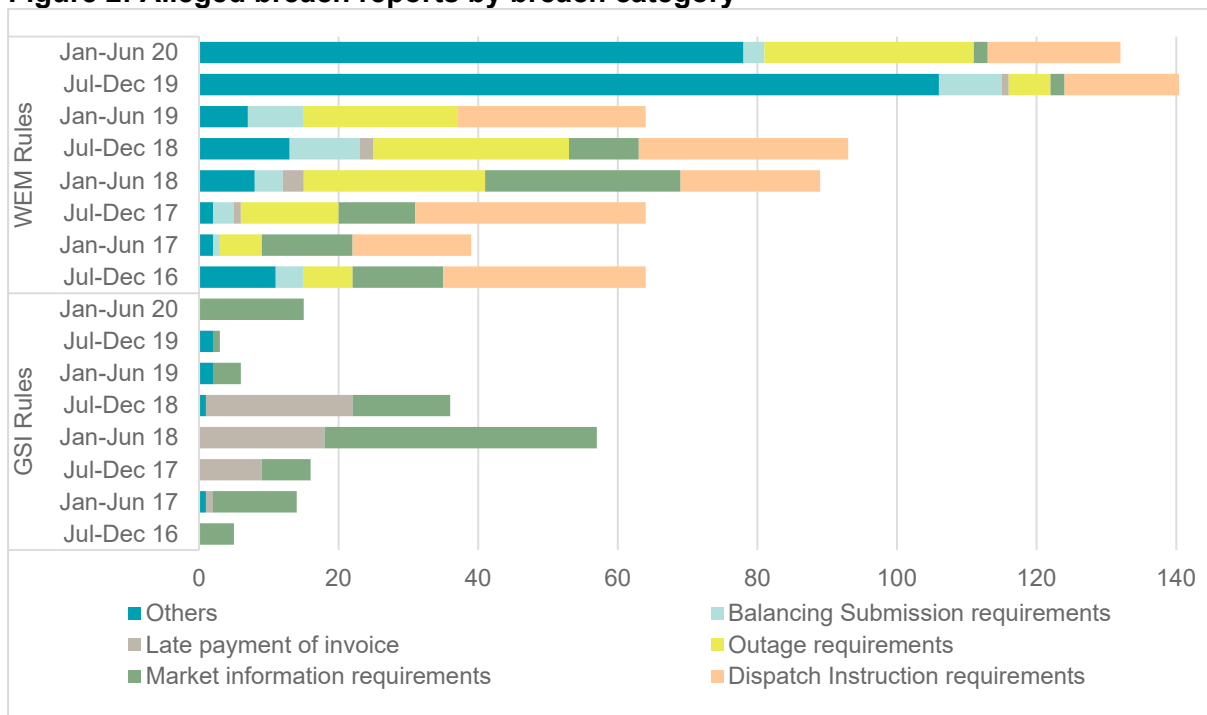
(Source ERA data)

Market Participants’ self-reporting of alleged breaches indicates that those Market Participants understand their compliance obligations and have compliance processes in place to identify and mitigate future Market Rule non-compliance. Market Participants self-reported seven alleged breaches this reporting period.

The dates that alleged breaches are reported to the ERA are not indicative of the date the alleged breach took place.

Figure 2 shows the number of all alleged breaches reported to the ERA by breach category for each reporting period since 1 July 2016.

Figure 2: Alleged breach reports by breach category⁶



(Source ERA data)

⁶ An alleged breach report may consist of multiple breach events.

The largest alleged breach category between July 2019 and June 2020 was “Other”, with most of these matters relating to one Market Participant failing to confirm receipt of Operating Instructions. AEMO reported these matters to the ERA.⁷ The Secretariat deemed these matters to be a minor risk due to non-compliance with this Market Rule not resulting in financial consequences to Market Participants or risk to the Power System.

Thirty alleged breaches in the category of “Outage requirements” made this the second largest alleged breach category. These breaches were identified by AEMO, self-reported by Market Participants and identified by the ERA during the quarterly monitoring processes. There were 19 allegations of Market Participants’ failure to comply with their most recently issued Dispatch Instructions.

The ERA recorded three non-compliances in the compliance monitoring register for Market Participants not updating Balancing Submissions. The low number of this breach category does not indicate that these matters are minor, as this type of non-compliance can result in considerable financial consequences.

Only one matter of a GSI Market Participant’s late invoice payment was recorded this reporting period.

2.2 Dispatch Instruction, Balancing Submission and Outage quarterly investigation process

The ERA determines Market Participants’ compliance with Dispatch Instructions, Outages and Balancing Submissions during a quarterly investigation process.

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

The quarterly investigation process is carried out to meet the requirements of clause 7.10.8 of the Market Rules. The ERA also considers whether any constrained payments to non-compliant Market Participants need to be recovered.⁸

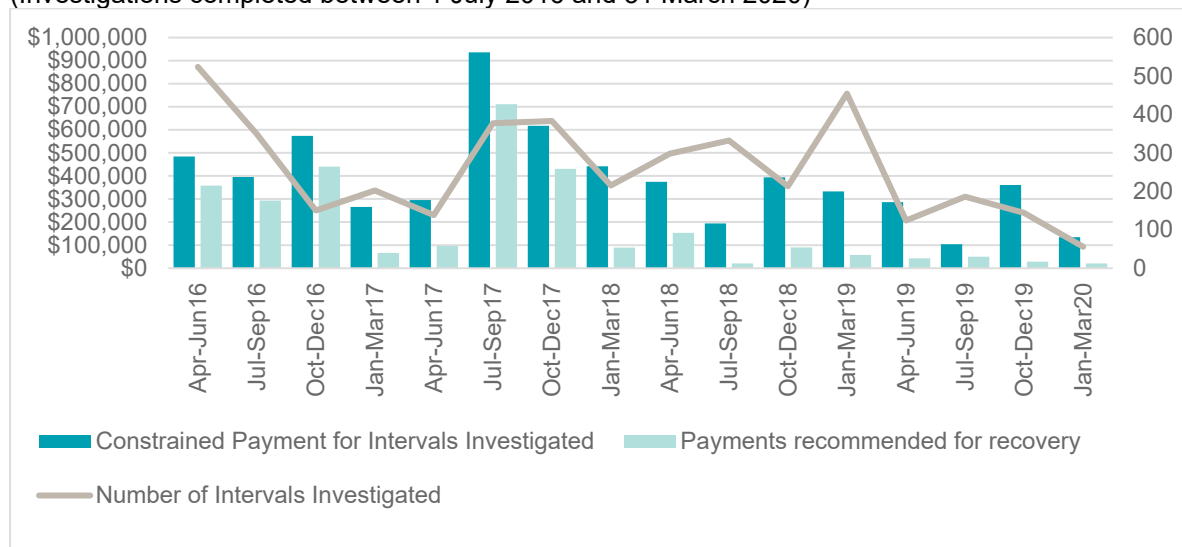
Quarterly results from the ERA’s constrained payment data analysis between April 2016 and March 2020 are shown in Figure 3.

⁷ [Wholesale Electricity market Rules \(WA\)](#), 2 July 2020, Rules 2.13.8 & 2.13.9.

⁸ 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 Market Rules, unless it was non-compliant with a Dispatch Instruction under clause 7.10.1.

Figure 3: Quarterly non-compliance with Dispatch Instructions process

(Investigations completed between 1 July 2016 and 31 March 2020)



(Source ERA data)

Figure 3 shows a reduction in the number of intervals investigated since January 2020 to determine whether constrained payments arose through Market Rule non-compliance. The ERA has observed a decline in the total value of constrained payments paid to Market Participants since January 2020.

2.3 Compliance monitoring

The ERA continued with its current monitoring activities and, from 1 July 2020, will be looking to develop additional monitoring activities to look for Market Rule non-compliance.

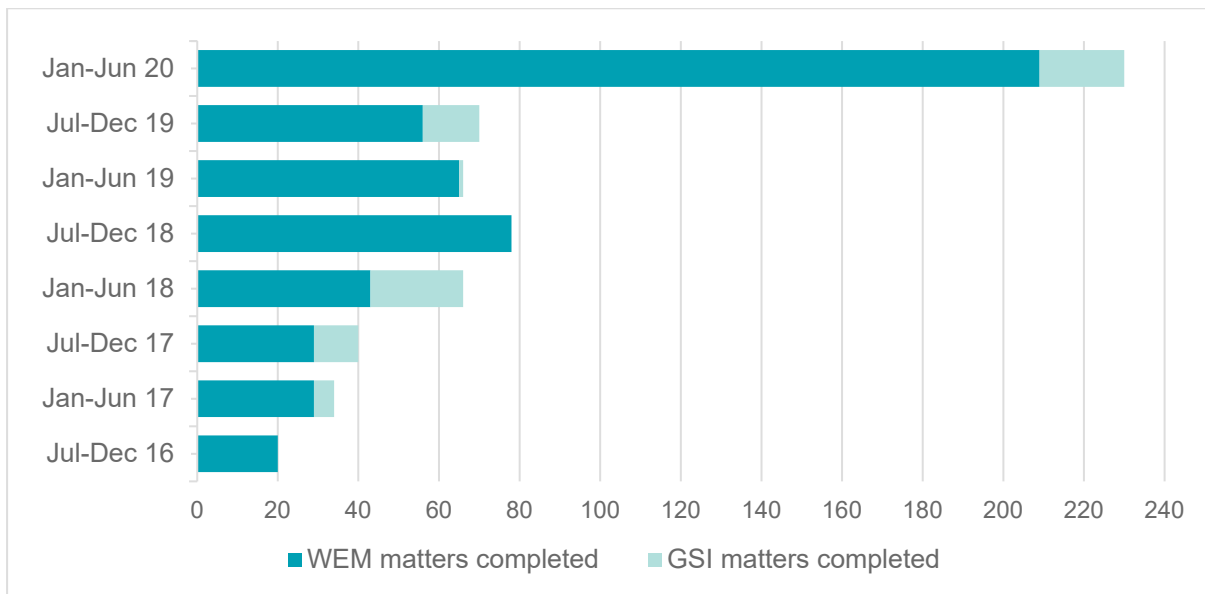
2.4 Investigation outcomes and enforcement actions

The ERA completed 230 investigations this reporting period. In the previous six-month period, the ERA completed 70 investigations. The ERA completed 146 investigations this reporting period for Market Participants not confirming receipt of Operating Instructions. More information about that matter is provided at section 2.1.

Figure 5 shows the number of investigations completed in each reporting period since 1 July 2016.⁹

⁹ The ERA became responsible for the compliance functions in the GSI and Market Rules on 1 July 2016.

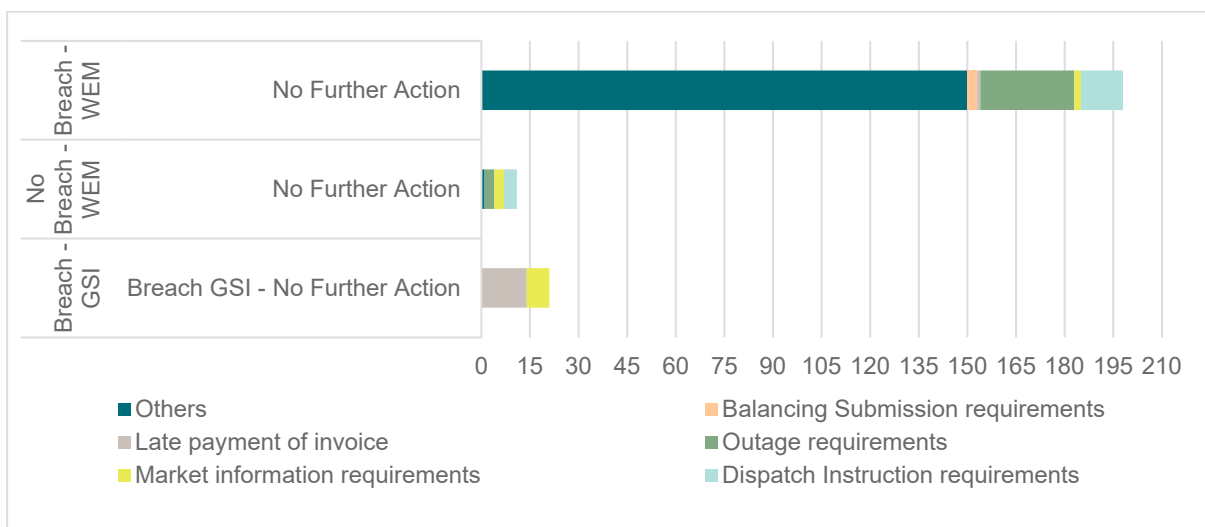
Figure 4: Investigations completed between July 2016 and June 2020



(Source ERA data)

Figure 5 summarises the outcomes of the 230 investigations completed this reporting period.

Figure 5: investigation outcomes for the period 1 January 2020 to 30 June 2020



(Source ERA data)

In 11 of the investigations completed this reporting period, the ERA determined that the Market Participant did not breach the Market Rules.

The ERA has several compliance responses available when a Market Participant breaches the Market Rules.^{10,11} The compliance responses include issuing a Market Participant a warning and commencing proceedings before the Electricity Review Board. The ERA may also issue administrative responses including education advice.

¹⁰ [Wholesale Electricity market Rules \(WA\)](#), 2 July 2020, Rule 2.13.10.

¹¹ [Electricity Industry \(Wholesale Electricity Market\) Regulations \(WA\)](#), 21 September 2019, Regulation 31.

This reporting period, the ERA determined that Market Participants had breached the Market Rules in 198 investigations. The ERA determined that Market Participants had breached the GSI Rules in 21 investigations. For these matters, the ERA was satisfied that the Market Participants had implemented controls to mitigate the risk of the breach reoccurring.

2.5 Stakeholder engagement and reports

The ERA met with seven Market Participants in February 2020 for the October to December 2019 quarterly process (discussed at section 2.2) and met with five Market Participants in May for the January to March 2020 quarterly process. The meetings enabled Market Participants to explain the circumstances that resulted in their Dispatch Instruction non-compliance.

On 6 February 2020, the ERA published its report to the Minister for Energy on AEMO's compliance with the Market Rules.¹² AEMO's response to this report was also published on 6 February 2020.¹³

The main points of the ERA's report to the Minister for Energy on AEMO's compliance with the Market Rules were:

- AEMO's self-reporting of breaches demonstrates a compliance culture.
- The auditor identified two material non-compliance matters and provided a qualified audit opinion on AEMO's compliance. AEMO implemented a remedy for one of those matters and is developing controls for the second matter concerning payments for System Restart contracts.
- The ERA recommended that AEMO keep the ERA informed of AEMO's progress in updating its controls for the second matter concerning payments for System Restart contracts.

2.6 Other matters

The Minister for Energy approved Rule Change RC_2018_05 on 7 April 2020 allowing the ERA access to AEMO's market data and other information for the purposes of undertaking the ERA's monitoring obligations.

The Rule Change provides greater transparency over the ERA's monitoring processes and codifies procedural fairness principles in the Market Rules. These changes were achieved by the addition of clause 2.13.3B requiring the ERA to disclose information used in its monitoring processes; and clause 2.15.4 introducing processes for the ERA to notify Rule Participants of alleged breaches and a process where Rule Participants may make submissions to the ERA to explain the alleged breach.

To satisfy the requirements of clause 2.13.3B, the ERA published on its website a list of information categories the ERA may use when monitoring Rule Participants' behaviour.¹⁴

¹² Economic Regulation Authority, '[Report to the Minister for Energy on the Australian Energy Market Operator's compliance 2018/19 Wholesale Electricity Market Rules Gas Services Information Rules](#)', (online) [accessed 14 July 2020].

¹³ Australian Energy Market Operator, '[response to the report to the Minister for Energy on the Australian Energy Market Operator's compliance 2018/19](#)', (online) [accessed 14 July 2020].

¹⁴ Economic Regulation Authority, '[Types of information provided by AEMO to the ERA for monitoring purposes](#)', (online) [accessed 30 July 2020].

The ERA has updated its Monitoring Protocol to reflect these changes.¹⁵

3. Report on Electricity Review Board matters

Matters required to be reported in this report by the ERA under clause 2.13.26 of the Market Rules and clause 167(1) of the GSI Rules for the reporting period are:

- 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 Market 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 Market Rules by Synergy pursuant to regulation 32(1) of the *Electricity Industry (Wholesale Electricity Market) Regulations 2004* (WA), continued this reporting period. The ERA lodged its statement of facts, issues and principal contentions for this matter with the Electricity Review Board on 26 February 2020.¹⁶

A directions hearing for this matter was heard by video on 12 June 2020.

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

3.2 Findings of the Electricity Review Board

The Western Australian Electricity Review Board did not decide on any matters during the reporting period.

3.3 Orders made by the Electricity Review Board

A directions hearing was held for Application 1 of 2019 on 16 December 2019 and the Electricity Review Board published orders for the proceedings on 20 December 2019.¹⁷ These orders specified actions with completion dates to be undertaken by the Applicant (the ERA) and the Respondent (Synergy) including:

- The ERA was required to provide Synergy its case statement setting out the facts of the matter brought before the Electricity Review Board.
- The ERA was required to provide Synergy discovery of material that led to the ERA's investigation conclusion.

¹⁵ Economic Regulation Authority, '[Market Procedures](#)', (online) [accessed 20 July 2020].

¹⁶ Western Australian Energy Disputes Arbitrator, '[Applicants Statement of facts Issues and Contentions](#)', (online) [accessed 14 July 2020].

¹⁷ Order by Western Australian Electricity Review Board [20 December 2019](#).

- Synergy was required to file an application for the determination of a preliminary issue or an application to the Supreme Court of Western Australia, or to
- provide the ERA with its case statement if it chose not to file an application with the Supreme Court. The case statement should set out the facts Synergy relies on, the issues it expects to arise and its principal contentions.

The Electricity Review Board amended the orders published in December 2019 on 21 February 2020.¹⁸

The Electricity Review Board published the following orders on 20 April 2020:¹⁹

1. The date 'the Respondent is to file its case statement', pursuant to Order 5(a) of the Electricity Review Board's Orders dated 20 December 2019, be extended to 29 May 2020.
2. The date 'the Respondent is to give discovery to the Applicant', pursuant to Order 5(b) of the Electricity Review Board's Orders dated 20 December 2019, be extended to 29 May 2020.
3. The date 'the parties are to prepare a working list of the principal issues in dispute between the parties', pursuant to Order 5(c) of the electricity Review Board's Orders dated 20 December 2019, be extended to 8 June 2020.
4. The further directions listed for 20 May 2020 at 10am (WST) be vacated.
5. The matter be listed for further directions on 12 June 2020 at 10am to be conducted by video.

No further orders or activity were conducted on this matter before 30 June 2020.

3.4 Civil penalties imposed by the ERA

The Electricity Review Board imposed no civil penalties during the reporting period.

¹⁸ Order by Western Australian Electricity Review Board [21 February 2020](#).

¹⁹ Order by Western Australian Electricity Review Board [20 April 2020](#).