

# Wholesale Electricity Market Rules and Gas Services Information Rules

Compliance report for the period 1 July 2020 to  
31 December 2020

31 January 2021

**Economic Regulation Authority**

WESTERN AUSTRALIA

D224415

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# Contents

<b>1.</b>	<b>Summary</b> .....	<b>1</b>
<b>2.</b>	<b>Compliance update</b> .....	<b>1</b>
2.1	Alleged breach reports .....	1
2.2	Dispatch Instruction, Balancing Submission and Outage quarterly investigation process .....	3
2.3	Compliance monitoring.....	4
2.4	Investigation outcomes and enforcement actions .....	4
2.5	Stakeholder engagement and reports .....	7
<b>3.</b>	<b>Report on Electricity Review Board matters</b> .....	<b>7</b>
3.1	Proceedings brought before the Electricity Review Board .....	8
3.2	Findings of the Electricity Review Board .....	8
3.3	Orders made by the Electricity Review Board.....	8
3.4	Civil penalties imposed by the ERA .....	9

## 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 July 2020 to 31 December 2020. The report includes information to assist participants meet their compliance obligations.

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, and details of any civil penalties imposed by the ERA.<sup>1,2</sup>

Terms capitalised in this report include terms defined under Chapter 11 of the Market Rules and Schedule 1 of the GSI 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

Participants and the Australian Energy Market Operator (AEMO) may report alleged breaches of the Market Rules and GSI Rules to the ERA. The ERA may also identify alleged breaches of the Market Rules and the GSI Rules.<sup>3 & 4</sup> The ERA records details of the alleged breaches in the compliance monitoring register.<sup>5</sup>

Between 1 July 2016 and 31 December 2020, the ERA recorded 881 alleged Market Rule and GSI Rule breaches in the compliance monitoring register. In this reporting period, 1 July 2020 to 31 December 2020, 41 alleged Market Rule non-compliance matters were added to the compliance monitoring register (Figure 1). No GSI Rule non-compliance matters were recorded during this reporting period.

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<sup>1</sup> [Wholesale Electricity Market Rules \(WA\)](#), 1 January 2021, Rule 2.13.26.

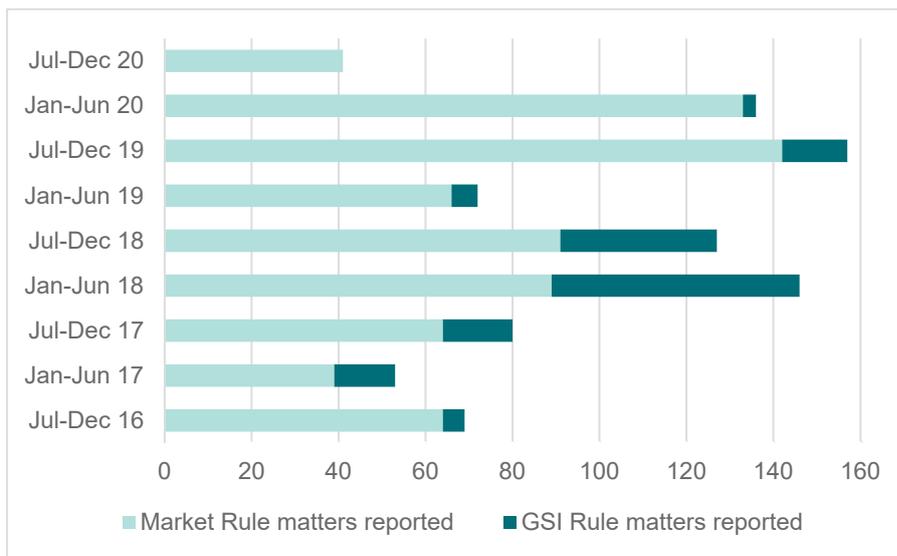
<sup>2</sup> [Gas Services Information Rules \(WA\)](#), 1 March 2019, Rule 167(1).

<sup>3</sup> [Wholesale Electricity Market Rules \(WA\)](#), 1 January 2021, Rules 2.13.2, 2.13.4, 2.13.8, 2.13.9A and 2.13.9C.

<sup>4</sup> [Gas Services Information Rules \(WA\)](#), 1 March 2019, Rule 165A(1) and 165A(3).

<sup>5</sup> [Market Procedure Monitoring Protocol](#), 27 July 2020, step 6.1.

**Figure 1: Compliance monitoring register matters as at 31 December 2020<sup>6</sup>**

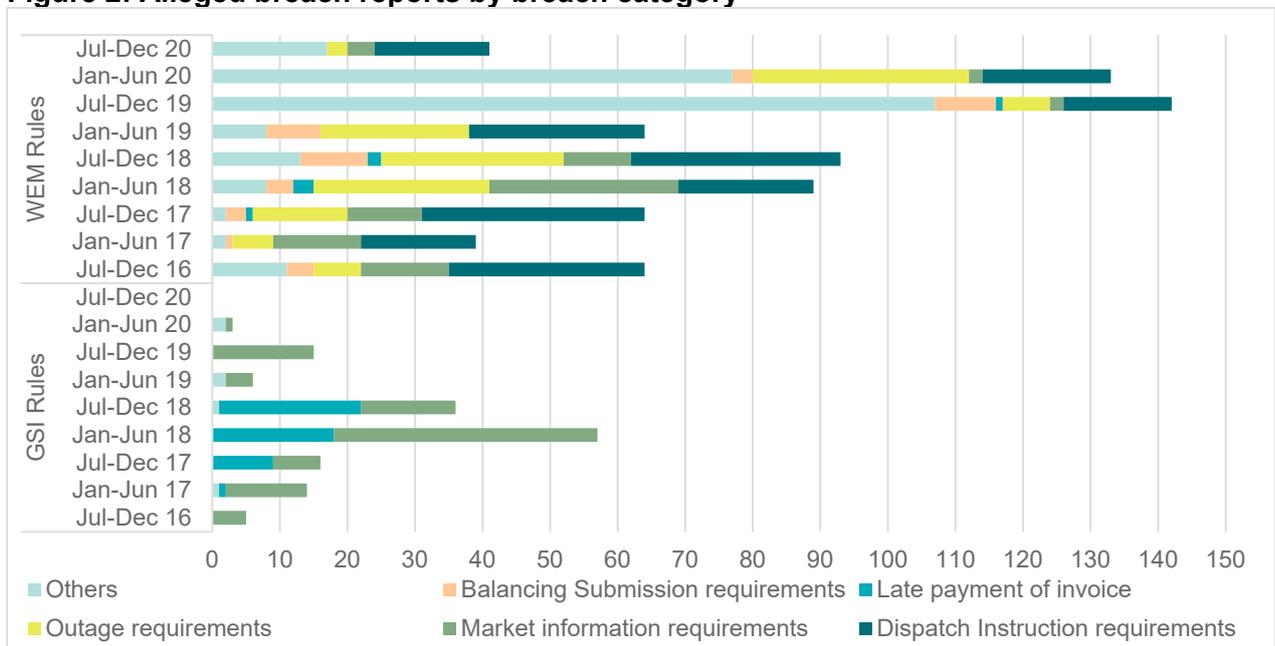


(Source: ERA data)

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

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 category<sup>7</sup>**



(Source: ERA data)

<sup>6</sup> In the last report to 30 June 2020, 233 investigations were recorded as not completed. This number was understated due to a recording error. There were 236 investigations yet to be completed at 30 June 2020.

<sup>7</sup> An alleged breach report may consist of multiple breach matters.

The number of alleged breaches concerning “Outage requirements” recorded this reporting period was lower than in any other prior reporting period. This indicates an improvement in participants’ compliance with these requirements.

Between July 2020 and December 2020 there were 17 “Other” matters reported to the ERA. Most of these matters concerned one Market Participant’s failure to confirm receipt of Operating Instructions. AEMO reported these matters to the ERA.<sup>8</sup> The ERA determined these matters to be a minor risk as they did not result in financial consequences to the market or risks to the power system.

Seventeen alleged breaches in the category of “Dispatch Instruction requirements” were reported between July 2020 and December 2020. These breaches were identified by AEMO, self-reported by Market Participants and identified by the ERA during the quarterly monitoring process referred to in section 2.2.

## 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.

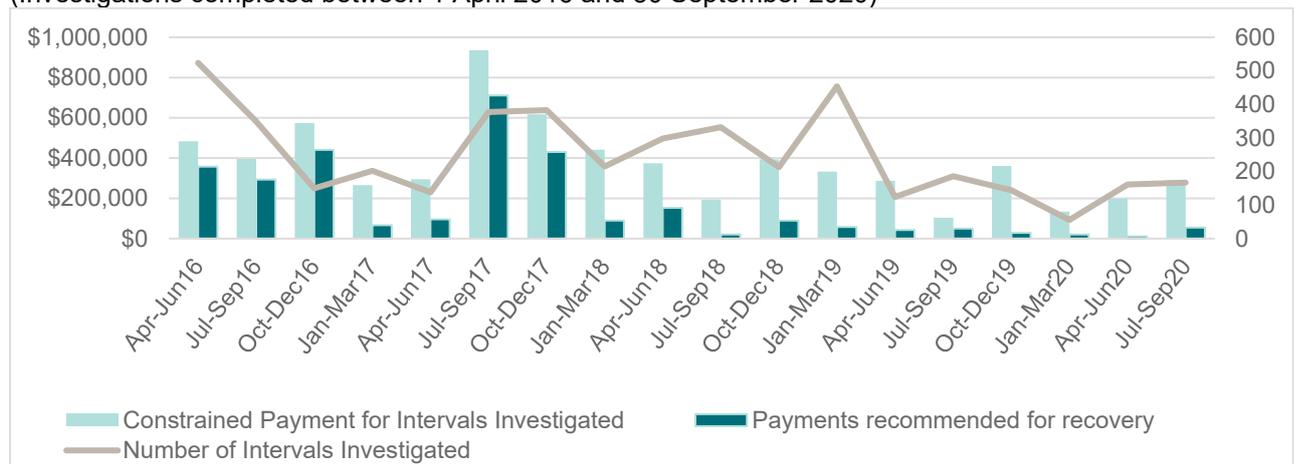
During this process, the ERA analyses information contained in non-compliance reports and constrained payment data provided by AEMO to determine whether Market Participants have complied with the Market Rules.

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.<sup>9</sup>

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

**Figure 3: Quarterly non-compliance with Dispatch Instructions process**

(Investigations completed between 1 April 2016 and 30 September 2020)



(Source: ERA data)

<sup>8</sup> [Wholesale Electricity Market Rules \(WA\)](#), 1 January 2021, Rules 2.13.8 and 2.13.9.

<sup>9</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 Market Rules, unless it was non-compliant with a Dispatch Instruction under clause 7.10.1.

The data in Figure 3 indicates that, apart from some exceptions, Market Participants have maintained their compliance with the Dispatch Instruction requirements in recent periods. This is because the payments recommended for recovery compared to total payments investigated for each period since July 2018 has remained low.

The Market Rules require Market Participants to ensure Balancing Submissions are accurate and to log Forced Outages when their Facility is unavailable. These obligations ensure that up to date information is available for the dispatch process and provide mitigation measures to prevent constrained payments.

In January 2021, the ERA concluded an investigation of a Market Participant's failure to update Balancing Submissions to correctly reflect its Facility's unavailability for a number of consecutive trading intervals in December 2019 and August 2020.<sup>10</sup> This Market Participant received a formal warning from the ERA for similar behaviour in April 2018. The ERA issued another warning to the Market Participant for its most recent non-compliant behaviour because the behaviour was a repeat of prior non-compliant behaviour resulting in financial consequences. The ERA has sought confirmation from the participant of the actions it will take to prevent future Balancing Submission non-compliances.

### 2.3 Compliance monitoring

The ERA has commenced a monitoring project to review participants' compliance with the requirements to reflect a Facility's unavailability in its Balancing Submissions and ensure that corresponding outages have been submitted. The review period is 1 July 2020 to 31 December 2020.

The ERA is also reviewing participants' compliance with the requirement to provide AEMO with details of the reasons for Balancing Submissions made after gate closure.

Where these monitoring activities identify an alleged breach or breaches of the Market Rules, the ERA will notify the relevant participant and request the participant provide a response to the allegation/s pursuant to clause 2.15.4 of the Market Rules and step 2.1.9 of the ERA's Monitoring Protocol Market Procedure.

### 2.4 Investigation outcomes and enforcement actions

The ERA has several compliance responses available when participants breach the Market Rules and GSI Rules.<sup>11,12,13</sup> The compliance responses include issuing a participant a warning and commencing proceedings before the Electricity Review Board. The ERA may also issue administrative responses including education advice.

The ERA completed 72 investigations this reporting period. The ERA's investigations identified 15 breaches of the GSI Rules and 48 breaches of the Market Rules. Most of the Market Rule breaches concerned the requirement to submit Outages and the requirement to confirm receipt of Operating Instructions. For these matters, the ERA was satisfied that the Market Participants had implemented controls to mitigate the risk of the breaches reoccurring.

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<sup>10</sup> This investigation was completed after the reporting period but prior to the publication of this report and has been included to provide timely compliance information to participants.

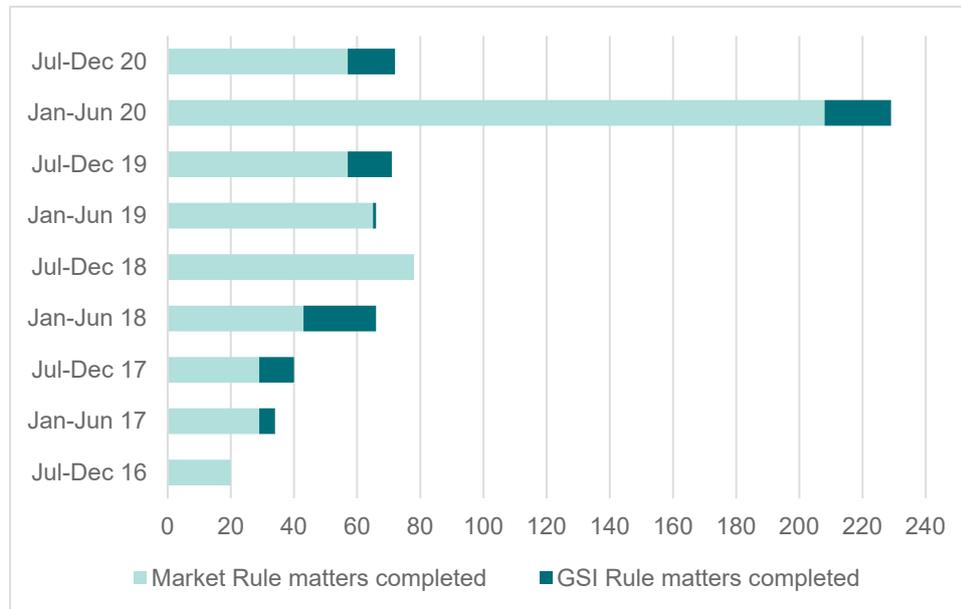
<sup>11</sup> [Wholesale Electricity Market Rules \(WA\)](#), 1 January 2021, Rule 2.13.10.

<sup>12</sup> [Electricity Industry \(Wholesale Electricity Market\) Regulations \(WA\)](#), 21 September 2019, Regulation 31.

<sup>13</sup> [Gas Services Information Rules \(WA\)](#), 1 March 2019, Rule 171(3).

Figure 4 shows the number of investigations completed in each reporting period since 1 July 2016.<sup>14,15</sup> Considerably more investigations were completed in the January 2020 to June 2020 period than any other period. This is because 146 of the completed investigations during that period concerned a batch process where the ERA investigated non-compliances with the requirements to confirm receipt of Operating Instructions. Most of these non-compliances concerned one participant.

**Figure 4: Investigations completed between July 2016 and December 2020**



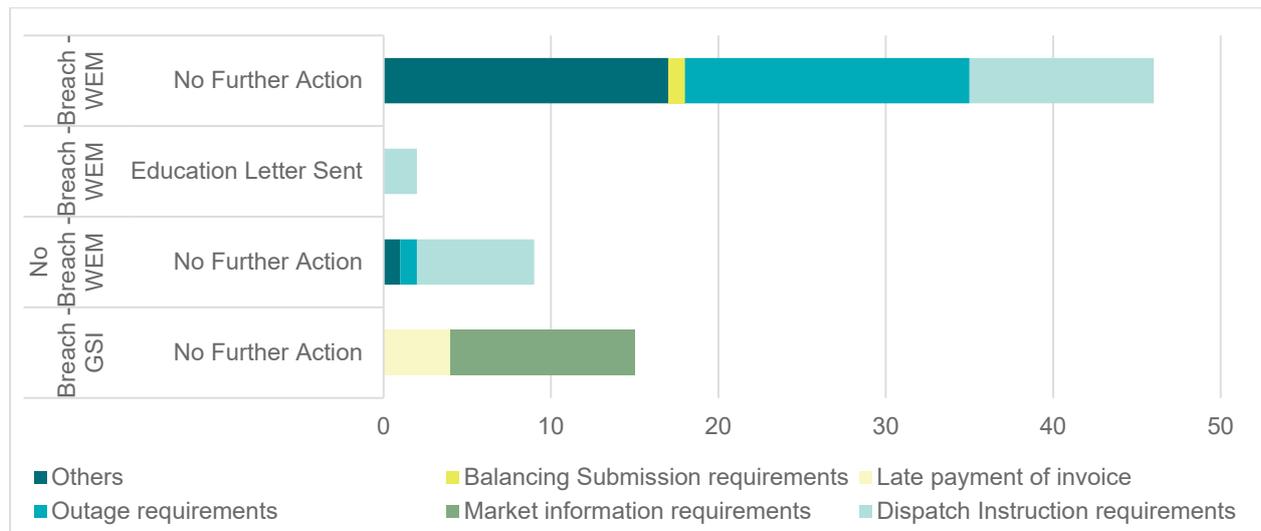
(Source ERA data)

Figure 5 summarises the outcomes of the 72 investigations completed this reporting period.<sup>16</sup>

<sup>14</sup> The ERA became responsible for the compliance functions in the GSI and Market Rules on 1 July 2016.

<sup>15</sup> Figure 4 does not include the matter completed in January 2021 referred to in section 2.2.

<sup>16</sup> Figure 5 does not include the matter completed in January 2021 referred to in section 2.2.

**Figure 5: investigation outcomes for the period 1 July 2020 to 31 December 2020**

(Source ERA data)

In nine of the investigations completed this reporting period, the ERA determined that the Market Participants did not breach the Market Rules. There were two matters where the ERA sent education advice letters to Market Participants. In each of these cases, the ERA provided the participants with information to mitigate the risk of further non-compliance with the relevant obligation.

### ***Dispatch Instruction and Outage compliance where Facility dispatched below its minimum generation quantity***

One of the ERA's completed investigations concerned Dispatch Instructions issued to a Facility for a target MW level that was below the Facility's minimum generation quantity.<sup>17</sup> The investigation considered whether the Market Participant complied with its Dispatch Instructions and whether the participant was required to submit Forced Outages where it was unable to comply with these instructions. The investigation also considered whether the participant complied with the Dispatch Instruction non-compliance notification requirements.

Clause 7.10.1 of the Market Rules requires participants to comply with the most recently issued Dispatch Instruction. Under clause 7.10.2, a participant is not required to comply with the most recently issued Dispatch Instruction under certain circumstances, including where compliance would endanger the safety of any person or damage equipment. The ERA determined that the Market Participant was not in breach of clause 7.10.1 for the Dispatch Instructions it received below its Facility's minimum generation quantity because of the clause 7.10.2 exclusions. The ERA determined that where the Facility was dispatched below its minimum generation quantity for an entire Trading Interval and was unable to comply with the Dispatch Instruction, the Market Rules do not require a Forced Outage to be submitted.

In circumstances where a Facility is unable to fully or partially comply with a Dispatch Instruction, the Market Rules require the relevant Market Participant to notify AEMO as soon as practicable.<sup>18</sup> These notification requirements differ depending on the individual circumstances of the dispatch non-compliance. At a minimum, participants must notify AEMO

<sup>17</sup> In normal dispatch conditions, AEMO is not required to consider a Facility's minimum generation quantity.

<sup>18</sup> [Wholesale Electricity Market Rules \(WA\)](#), 1 January 2021, Rules 7.10.3, 7.7.6(b)ii, 7.7.6A and 7.7.6B.

of the reasons for the Dispatch Instruction non-compliance and where relevant, the reduced quantity that the Facility can comply with. The ERA determined that the Market Participant failed to comply with these requirements in each of the circumstances where it received Dispatch Instructions below its Facility's minimum generation quantity.

The information above is provided to assist Market Participants' compliance with the Market Rules in circumstances where a Facility is dispatched below its minimum generation quantity. This information is general in nature, and the ERA will assess and determine each matter on an individual basis.

## 2.5 Stakeholder engagement and reports

As part of the quarterly investigation process referred to in section 2.2, the ERA meets with relevant Market Participants to discuss the circumstances of the matters being investigated. The ERA met with four Market Participants in August 2020 for the April to June 2020 quarterly process and met with four Market Participants in November 2020 for the July to September 2020 quarterly process.

In January 2021, the ERA published its report to the Minister for Energy on the ERA's compliance with the Market Rules.<sup>19</sup> The report included the results of the independent audit on the ERA's compliance for the 2019/2020 financial year. The report stated:

- The ERA complied in all material respects with the Market Rules and Market Procedures and there were no recommendations made by the auditor.
- There were two minor ERA non-compliance matters reported to the auditor as follows:
  - The first matter occurred in the 2019/2020 audit period and concerned the ERA not confirming receipt of a Market Participant's self-reported breach within three days as required under paragraph 3.1.5 of the ERA's Monitoring Protocol.
  - The second matter concerned the ERA publishing extension notices for a pricing behaviour investigation on the ERA website but failing to publish the notices on the Market Web Site. The ERA breached Market Rules 1.7.3(b) and 2.16.9FA. These publication non-compliances occurred in the 2017/2018 and 2018/2019 audit periods.

## 3. Report on Electricity Review Board matters

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

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

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<sup>19</sup> [Economic Regulation Authority, 'Wholesale Electricity Market Rules and Gas services Information Rules Compliance Report – 1 July 2019 to 30 June 2020'](#), (online).

- 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.

### 3.2 Findings of the Electricity Review Board

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

### 3.3 Orders made by the Electricity Review Board

Further orders were made during the reporting period concerning Application 1 of 2019 referred to in section 3.1.

On 20 July 2020, the Electricity Review Board amended its 12 June 2020 orders to extend the timeframes for the Applicant and Respondent to file witness statements and documents. Orders were also made for the timeframes concerning expert evidence processes. A further directions hearing was set for 21 September 2020. The hearing to consider the question of liability of the Respondent was scheduled to commence on 15 February 2021. The 20 July 2020 published orders are available on the Electricity Review Board website.<sup>20</sup>

On 21 September 2020 the Electricity Review Board ordered the Applicant to file and serve an amended statement of facts, issues and principal contentions and any further lay evidence by 2 November 2020. The Electricity Review Board also amended its 20 July 2020 orders to revise the timeframes for the expert evidence processes and amended orders of 12 June 2020 concerning any summonses for the production of books, papers or documents. Orders were also made for a further directions hearing to be held on 7 December 2020 and for the 15 February 2021 hearing date to be vacated. The 21 September 2020 published orders are available on the Electricity Review Board website.<sup>21</sup>

The Electricity Review Board issued further directions on 17 December 2020. The 17 December 2020 directions set out the requirement to vacate the following previously stated orders:<sup>22</sup>

- Dates that expert evidence was to be filed by both parties.
- The date by which the Parties are to request a Presiding Member sign a summons for production of any books, papers or documents on behalf of the Electricity Review Board.
- The date the parties' experts are required to prepare a joint report setting out the matters on which they agreed, the matters about which they disagreed and a short statement of each expert's reasons for points of dispute.

<sup>20</sup> Order by Western Australian Electricity Review Board [20 July 2020](#).

<sup>21</sup> Order by Western Australian Electricity Review Board [21 September 2020](#).

<sup>22</sup> Order by Western Australian Electricity Review Board [17 December 2020](#).

The Electricity Review Board made the following orders on 17 December 2020:

- By 26 March 2021, the Respondent file and serve any expert evidence on which it intends to rely.
- By 23 April 2021, the Applicant file and serve any responsive evidence.
- By 23 April 2021, the parties notify each other of any documents they intend to tender at the hearing.
- By 4 May 2021, the experts prepare a joint report setting out the matters on which they agree and disagree and the reasons for any disagreement.
- By 29 January 2021, the Respondent make any application to the Electricity Review Board for a summons for the production of documents.
- By 29 March 2021, the Applicant make any application to the Board for a summons for the production of documents.
- By 24 April 2021, the parties provide to each other any objections to evidence (including documents proposed to be tendered).
- By 30 April 2021, the parties provide to each other responses to any objections to evidence.
- By 5 May 2021, the parties file documents that set out any objections to evidence that are pressed and responses to those objections.
- By 30 April 2021, the Applicant deliver to the Electricity Review Board and the Respondent a hearing book, the content and format of which will be agreed between the parties or determined at the next directions hearing.
- By 3 May 2021, the Applicant file and serve a written outline of opening submissions limited to 15 pages.
- By 6 May 2021, the Respondent file and serve a written outline of opening submissions limited to 15 pages.
- The matter be listed for directions on 4 February 2021.
- The preliminary issue be listed for hearing commencing on 10 May 2021 on an estimate of 10 business days.

No further orders were made on this matter during the reporting period.

### 3.4 Civil penalties imposed by the ERA

The ERA imposed no civil penalties during the reporting period.