



Economic Regulation Authority

WEM Procedure

Portfolio Determination

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1. Procedure overview

1.1 Relationship with the [Market-WEM Rules](#)

1.1.1 This WEM Procedure sets out the methodology and processes by which the Economic Regulation Authority makes a Portfolio Determination in accordance with the *Wholesale Electricity Market Rules* (WEM Rules) [WEM Rule 2.16D.15].

1.1.2 This WEM Procedure: Portfolio Determination must be read in conjunction with WEM Rules 2.16A to 2.16E and is made in accordance with the ERA's functions under those Rules.

1.2 Interpretation

1.2.1 In this WEM Procedure, unless the contrary intention is expressed:

(a) Terms used have the same meaning as those given in the WEM 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 WEM Rules, the WEM Rules shall prevail to the extent of the inconsistency.

(c) A reference to the WEM Rules or WEM Procedures includes any associated forms required or contemplated by the WEM Rules or WEM Procedures.

(d) Words expressed in the singular include the plural and vice versa.

1.2.2 References to the WEM Rules in this Procedure in square brackets [WEM Rule #] are included for convenience only and do not form part of this Procedure.

1.2.3 References to ~~particular WEM Rules~~ [WEM Rules](#) within this WEM Procedure are current as of ~~27 July 2024~~.¹

1.2.4 Terms defined in the *Electricity Industry Act 2004*, the WEM Regulations and the WEM Rules have the same meanings in this Procedure unless the context requires otherwise.

1.3 Purpose of this procedure

1.3.1 This WEM Procedure: Portfolio Determination is developed to meet the requirement of WEM Rule 2.16D.15 to document:

(a) The methodologies and processes to be followed by the ERA in relation to:

(i) Identifying each Portfolio and Constrained Portfolio operating in the WEM pursuant to WEM Rules 2.16B.1(a) and 2.16B.2, respectively (see section 3).

¹ ~~Consolidated 'Companion' version of the WEM Rules~~ [Wholesale Electricity Market Rules](#) (as at ~~22~~27 July 2024~~3~~), ([online](#)).

- (ii) Carrying out the calculations under WEM Rules 2.16C.1(a) and 2.16C.2(a) in relation to identifying each Material Portfolio and Material Constrained Portfolio, respectively (see section 4.1, 4.2).
 - (iii) Monitoring prices offered by a Market Participant under WEM Rule 2.16C.4, and making determinations under WEM Rules 2.16C.6 ~~C~~ and 2.16C.7 (see section 2.3) in relation to those price offers.
- (b) The types and format of the information, and level of detail required to be maintained or recorded by a Market Participant to enable the ERA to carry out its monitoring of price offers under WEM Rule 2.16C.4 (see section 5).
 - (c) Details of the processes the ERA and Market Participants must follow in respect to a request for guidance under WEM Rule 2.16D.5, which may include a template that a Market Participant must use for making a request (see section 6).

1.4 Application of this procedure

- 1.4.1 In this WEM Procedure where obligations are conferred on a Rule Participant, that Rule Participant must comply with the relevant obligations [WEM Rule 2.9.8].

1.5 Associated market procedures and guidelines

- 1.5.1 WEM Procedure: Monitoring Protocol (ERA Procedure)
- 1.5.2 WEM Procedure: ERA triggering the SESSM (ERA Procedure)
- 1.5.3 Offer Construction Guideline
- 1.5.4 Trading Conduct Guideline

1.6 Conventions used

- 1.6.1 In this WEM Procedure the conventions specified in WEM Rules 1.3 to 1.5 apply.
- 1.6.2 Explanation boxes, headings and comments, including those in footnotes are for convenience only and do not affect the interpretation of these WEM Rules.

2. ~~General trading obligations~~ Participant Obligations [WEM Rule 2.16A]

2.1 ~~General trading obligations~~ and Materiality Test Obligations

- 2.1.1 Market Participants ~~are required~~ are prohibited from ~~to~~:

~~(a) Offer prices in each STEM Submission and Real-Time Market Submission that reflect only the costs that a Market Participant without market power would include in forming profit-maximising price offers in a STEM Submission or Real-Time Market Submission [WEM Rule 2.16A.1].~~

~~(b)~~ (a) Not to engage Engaging in conduct in the STEM or Real-Time Market that:

- (i) Is false, misleading or deceptive, or likely to mislead or deceive.
- (ii) Is fraudulent, dishonest or in bad faith.

- (iii) Has the purpose, or has or is likely to have the effect, of distorting or manipulating prices in the WEM.

[WEM Rule 2.16A.3].

~~Not to make~~Making an Irregular Price Offer ~~price offer~~ in their Real-Time Market Submissions or ~~in their~~ STEM Portfolio Supply Curve ~~that results in an inefficient market outcome. that is inconsistent with the price offer obligations—~~an Irregular Price Offer— ~~that results in an inefficient market outcome~~ [WEM Rule 2.16C.5].

2.2 ERA Guidelines

2.2.1 To help guide Market Participants on their general trading obligations, the ERA maintains an Offer Construction Guideline and Trading Conduct Guideline in accordance with WEM Rule 2.16D.1.²

2.2.2 The ERA may amend ~~any these of these~~ guidelines at any time consistent with the procedure set out under WEM Rule 2.16D. The ERA may amend the guidelines in situations including:

- (a) When new technologies with materially different cost components enter the market.
- (b) As a result of new information gathered as part of the Supplementary Essential System Services Mechanism.
- (c) Following any judicial or quasi-judicial decisions relating to matters covered by the guidelines.

~~(e)~~

2.3 ERA Monitoring and Investigation

2.3.1 The ERA's WEM Procedure Monitoring Protocol ~~WEM Procedure~~ sets out how the ERA will monitor, investigate and enforce compliance with the WEM Rules and WEM Procedures.³ The ERA will conduct any investigation of suspected breaches in accordance with the WEM Procedure Monitoring Protocol ~~WEM Procedure~~ and WEM Rule 2.13.27.

2.3.2 The ERA will ~~investigate suspected breaches of WEM Rule 2.16A.1 and~~ determine that the price was an Irregular Price Offer by determining if either of the following has occurred:

- (a) A price offered by a Market Participant in its Portfolio Supply Curve was inconsistent with ~~the price that a Market Participant without market power would offer in a profit-maximising Portfolio Supply Curve~~ an Economic Price Offer [WEM Rule 2.16C.6(c)].⁴

² Economic Regulation Authority, 2023, Offer Construction Guideline and Trading Conduct Guideline (online).

³ Economic Regulation Authority, 2023, WEM Procedure Monitoring Protocol ~~WEM Procedure~~ (online).

⁴ An Economic Price Offer is an offer which is not greater than the sum of all efficient variable costs for the provision of the relevant Market Service, including all costs incurred under long-term take-or-pay fuel contracts – Wholesale Electricity Market Rules 2.16C.6A

- (b) A price offered by a Market Participant in its Real-Time Market Submissions was inconsistent with ~~the price that a Market Participant without market power would offer in a profit-maximising Real-Time Marketan Economic Price Offer~~ [WEM Rule 2.16C.6(d)].

~~2.3.3 The ERA will have regard to Offer Construction Guideline when investigating suspected breaches of WEM Rule 2.16A.1. Chapters two to eight of the Offer Construction Guideline provides guidance to Market Participants on offers outlined in paragraphs 2.3.2 (a) and (b).~~

~~2.3.4 When determining if the Market Participant made an Irregular Price Offer, the ERA will determine whether a Market Participant had market power at the time of offering the relevant prices [WEM Rule 2.16A.2]. Chapter three of the Offer Construction Guideline provides guidance to Market Participants on factors the ERA may consider when determining if a Market Participant has market power.~~

~~2.3.5~~2.3.3 When monitoring compliance with the price offer obligations, the ERA monitors:

- (a) The prices offered by a Market Participant ~~which has one or more Registered Facilities assigned to a Material Portfolio~~ in its STEM Portfolio Supply Curve.⁵
- (b) The prices offered by a Market Participant in its Real-Time Market Submissions for each of its Registered Facilities ~~assigned to a Material Portfolio or a Material Constrained Portfolio~~.⁶

[WEM Rule 2.16C.4].

~~2.3.6 The ERA may investigate any alleged breach of the price offer obligations by a Market Participant, even when the Market Participant does not have any Registered Facility that is assigned to a Material Portfolio or Material Constrained Portfolio [WEM Rule 2.16C.11].~~

~~2.3.7~~2.3.4 To determine if a Market Participant has not met the price offer obligations under WEM Rule 2.16A the ERA will consider if:

~~(a) The Market Participant had market power [WEM Rule 2.16A.2].~~

~~(b)~~(a) The price offered was an Irregular Price Offer [WEM Rule 2.16C.6].

~~(c)~~(b) The Irregular Price Offer resulted in an inefficient market outcome [WEM Rule 2.16C.7].

~~2.3.8~~2.3.5 In determining whether a Market Participant has engaged in conduct prohibited by WEM Rule 2.16A.3, the ERA may consider:

- (a) Historical STEM Submissions or Real-Time Market Submissions made by the Market Participant with effect on or after the New WEM Commencement Day, including changes to STEM Submissions and Real-

⁵ The process for the ERA to determine Material Portfolios is provided in section 3 of this WEM Procedure

⁶ The process for the ERA to determine Material Constrained Portfolios is provided in section 3 of this WEM Procedure

Time Market Submissions in which there is, or there appears to be, a pattern of behaviour that may indicate such conduct was engaged in.

- (b) The timeliness and accuracy of ~~notification of the a Market Participant's'~~ Forced Outages notifications by the Market Participant.
- (c) Information regarding whether the Market Participant did not comply with a Dispatch Instruction in respect of its Facility and the reasons for the non-compliance.
- (d) Any other information the ERA considers relevant to its determination.

[WEM Rule 2.16A.4]

~~2.3.9 — A STEM Submission or a Real-Time Market Submission is not made in bad faith under WEM Rule 2.16A.3(b) if, at the time it is submitted, the Market Participant had a genuine intention to honour the terms of that STEM Submission or Real-Time Market Submission, if the material conditions and circumstances upon which the STEM Submission or Real-Time Market Submission was based remained unchanged until the relevant Trading Interval [WEM Rule 2.16A.5].~~

~~2.3.10~~ 2.3.6 The ERA may consider that a Market Participant made a STEM Submission or a Real-Time Market Submission in bad faith notwithstanding that the intention of the Market Participant is ascertainable only by inference from:

- (a) the conduct of the Market Participant
- (b) the conduct of any other person
- (c) the relevant circumstances.

[WEM Rule 2.16A.6]

~~2.3.11~~ 2.3.7 The ERA must investigate and determine, whether an Irregular Price Offer has resulted in an inefficient market outcome, no later than six months from the day the ERA commenced its investigation [WEM Rule 2.16C.8 and WEM Rule 2.16C.8A].

3. Portfolio assessment [WEM Rule 2.16B]

3.1 ERA assessment of portfolios

~~3.1.1 — The ERA will complete the first identification of each Portfolio by 1 December 2023 [WEM Rule 1.62.1].~~

~~3.1.2~~ 3.1.1 Declarations from Market Participants required by paragraphs 3.1.6 and 3.1.7 of this WEM Procedure, must be provided to the ERA, by the Market Participant, by 1 February and 1 August of each year.

~~3.1.3 — In addition to paragraph 3.1.1, Market Participants must provide declarations to the ERA by 13 October 2023 in order for the ERA to complete the first Portfolio identification under paragraph 3.1.1.~~

~~3.1.4~~ 3.1.2 The ERA will by 1 April and 1 October of each year, identify each Portfolio operating in the WEM by applying the following principles:

- (a) Each Scheduled Facility, Semi-Scheduled Facility and Non-Scheduled Facility must be allocated to a one, but not more than one, Portfolio.
- ~~(b) Registered Facilities which are owned by or registered to the same Market Participant, must be allocated to the same Portfolio.~~
- ~~(c) Registered Facilities which are owned by or registered to Market Participants that are associated entities (as that expression is defined in the Corporations Act), must be allocated to the same Portfolio.~~
- (b) Registered Registered Facilities which are registered to a Market Participant, or wholly or partly owned by a Market Participant, or wholly or partly ~~owned~~ controlled by a Market Participant ~~or~~ or another entity, including by way of a shared trading desk, must be allocated to the same Portfolio.
- ~~(d) Facilities which are registered to, or owned or controlled by, a Market Participant or other entity, and Registered Facilities that are registered to, or owned or controlled by, an associated entity of that Market Participant or other entity (as those expressions are defined in the Corporations Act), must be allocated to the same Portfolio.~~
- ~~(e)(c) Without limiting WEM Rule 2.16B.1(a)(i), a~~ Registered Facility must not be allocated to a Portfolio containing another Registered Facility unless it is required by WEM ~~Rules 2.16B.1(a)(ii), 2.16B.1(a)(iii) or~~ Rule 2.16B.1(a)(iv).

[WEM Rule 2.16B.1(a)]

3.1.53.1.3 The ERA will allocate all Facilities registered to the same Market Participant, to the same Portfolio, ~~except where a Facility is controlled (either through association, ownership or other arrangements) by another Market Participant, or by another entity.~~

3.1.4 All Facilities owned or controlled by the same Market Participant will be allocated to the same Portfolio. ~~Similarly, all Facilities controlled by the same entity, will be allocated to the same Portfolio.~~

[WEM Rule 2.16B.1(a)(iv)]

~~3.1.63.1.5~~ The ERA will use the Facility registration information ~~as~~ provided by AEMO, and as recorded on the AEMO website⁷.

3.1.73.1.6 Market Participants must declare to the ERA the list of Facilities registered to all of their associated entities and the parent entity by completing the form provided in Appendix 2-

3.1.83.1.7 Market Participants must declare to the ERA their control of any Registered Facilities that are registered to another Market Participant by completing the form provided in Appendix 2.

⁷ AEMO, Market Data Western Australia – Facilities, online.

3.1.93.1.8 A Market Participant is deemed to have control of a Registered Facility where the Market Participant:

- (a) Can determine the outcome of decisions about financial and operating policies that influence Market Submissions.
- (b) Has the authority to directly or indirectly control Market Submissions to the STEM or Real-Time Market.

3.1.103.1.9 A Registered Facility could be deemed to be controlled by more than one Market Participant.

3.1.113.1.10 When identifying which Market Participant or other entity has control of a Registered Facility, the ERA will, among other matters, consider:

- (a) The practical influence that the Market Participant, its associated entity or other entity, can directly or indirectly exert over the Registered Facility's offers to the WEM in terms of both price and quantities of services offered. An example of indirect influence on offers is any influence on financial and operating policies that is likely to influence Market Submissions to the STEM as well as the Real-Time Market.
- (b) The authority of the Market Participant, its associated entity or other entity, to introduce and implement financial or operating policies for the Registered Facility.

3.1.123.1.11 Where multiple Market Participants or other entities have the authority to control a Facility's offers to the WEM, the Market Participant to whom the Facility is registered is responsible for advising the ERA which Market Participant or entity has operational control of the Facility.

3.1.133.1.12 When allocating a Facility that is deemed to be controlled by more than one Market Participant or entity the ERA will allocate the Facility in a way that results in the maximum number of portfolios being deemed as a Material Portfolio.⁸

3.1.143.1.13 For the avoidance of doubt a Registered Facility can only be allocated to one Material Portfolio (see paragraph 3.1.24(a)).

Explanatory Note 1

The ERA will consider the entity a Facility is registered to as the first indicator of operational control of Facilities when allocating Facilities to Portfolios. In many cases Portfolios will comprise Facilities registered to the same Market Participant, because many Facilities are registered to Market Participants that operationally control Facilities. However, the ERA will also consider who controls a Facility, for example, through association or contractual arrangements.

To help demonstrate this point, the example below shows a range of possible ownership or control structures of Facilities.

- Facilities A, B, C and D are registered to Market Participant Z.

⁸ For example, if two Market Participants have equal control of Facility A, and placing Facility A into Portfolio X, and not Portfolio Y, makes Portfolio X material when it would have not otherwise been, the ERA will allocate Facility A to Portfolio X. In this example, if the Facility was placed in Portfolio Y, neither portfolio would be material.

- Facilities E, F, G and H are registered to Market Participant Y.
- Entity W and Entity V are not Market Participants.
- Market Participant Z advised the ERA that:
 - It has operational control of Facility A and E.
 - Entity W has operational control of Facility C
 - Entity V has operational control of Facility D.
- Market Participant Y advised the ERA that:
 - It has operational control of Facility B, F and G.
 - Market Participant Z has operational control of Facility E.
 - Entity W has operational control of Facility H

Example of allocating Portfolios

	Facilities registered to Market Participant Z	Facilities registered to Market Participant Y
Portfolio 1 (controlled by Market Participant Z)	Facility A	Facility E
Portfolio 2 (controlled by Market Participant Y)	Facility B	Facility F and Facility G
Portfolio 3 (controlled by Entity W)	Facility C	Facility H
Portfolio 4 (controlled by Entity V)	Facility D	

~~3.1.15~~3.1.14 The ERA will publish a list on its website specifying the name of each Registered Facility within each identified Portfolio, within 10 Business Days of identifying each Portfolio [WEM Rule 2.16B.1(b)] and, within 20 Business Days of a declaration provided under 2.16B.3A4(b) or 2.16B.3A4(c), update the published list [WEM Rule 2.16B.1(c)].

~~3.1.16~~ The ERA is not required to complete its first assessment to identify each Constrained Portfolio until 10 Business Days after the end of the Rolling Test Window commencing on the New WEM Commencement Day [WEM Rule 1.62.1(b)].

3.1.15 Market Participants must provide declarations to the ERA in accordance with the WEM Procedure referred to in ~~clause~~WEM Rule 2.16D.15 by:

(a) 1 August of each year; or

(b) Within 30 Business Days of registering a new Scheduled Facility, Semi-Scheduled Facility or Non-Scheduled Facility; or

(c) Within 30 Business Days of a change in registration or ownership of a Schedule Facility, Semi-Scheduled Facility or Non-scheduled Facility currently registered in the WEM.

[WEM Rule 2.16B.3A]

3.2 Constrained portfolios

3.2.1 Within ~~40~~20 Business Days after the Settlement Date determined under Clause 9.3.1(d) for the Trading Week containing the last Trading Day of ~~the end of~~ each Rolling Test Window, the ERA will identify:

- (a) Each Constraint Equation for a Network Constraint that bound during one or more Dispatch Intervals in the Rolling Test Window.
- (b) Each Constrained Portfolio for each Constraint Equation identified above. A Constrained Portfolio, for a Constraint Equation, is a set comprising all the Registered Facilities within a single Portfolio that are located behind the relevant Network Constraint.

[WEM Rule 2.6B.2]

3.2.2 The ERA may specify a Registered Facility within more than one Constrained Portfolio [WEM Rule 2.16B.3].

4. ~~Market power test~~ Materiality Test [WEM Rule 2.16C]

4.1 Material Portfolio Determination [WEM Rule 2.16C.1]

4.1.1 The ERA will within 10 Business Days of identifying each Portfolio as detailed in section 3.1 of this WEM Procedure, calculate the Portfolio percentage share of the total maximum sent out capacity of all Registered Facilities assigned to a Portfolio, and identify each Portfolio where the value determined is equal to or greater than 10 per cent. Such identified portfolios are deemed to be a Material Portfolio.

4.1.2 The ERA will calculate Portfolio percentage share as follows:

$$\text{MSOC_Share}(p) = \frac{\sum_{f \in p} \text{MSOC}(f)}{\sum_{f \in \text{Facilities}} \text{MSOC}(f)} \times 100$$

where:

- (a) MSOC(f) is the maximum sent out capacity specified for Registered Facility f in Appendix 1(b)(v), Appendix 1(c)(v) or Appendix 1(d)(v) as applicable.
- (b) $f \in p$ denotes all Scheduled Facilities, Semi-Scheduled Facilities and Non-Scheduled Facilities f assigned to Portfolio p.
- (c) $f \in \text{Facilities}$ denotes all Scheduled Facilities, Semi-Scheduled Facilities and Non-Scheduled Facilities assigned to a Portfolio identified under WEM Rule 2.16B.1(a).

[WEM Rule 2.16C.1(a)]

4.1.3 The ERA will, within 10 Business Days of identifying each Material Portfolio, publish [a list specifying the name of each Registered Facility within each identified Portfolio and](#) the results of the calculation on its website and notify each Market Participant that has a Registered Facility assigned to a Material Portfolio [WEM Rule 2.16C.1(c)].

4.1.4 Each set of Material Portfolios identified by the ERA replaces the previous set of Material Portfolios identified with effect from the time that the ERA publishes the results of the relevant calculations on the ERA's website [WEM Rule 2.16C.1A].

4.2 Material Constrained Portfolio Determination [WEM Rule 2.16C.2]

4.2.1 The ERA ~~must, not more than 20 Business Days after the Settlement Date determined under WEM Rule- 9.3.1(d) for the Trading Week containing the last Trading Day-~~ [will within 20 Business Days following the end](#) of a Rolling Test Window:

- i. Calculate for that Rolling Test Window, as a percentage, the Constrained Uplift Payment Ratio [\(see clause 4.2.5 of this Procedure\)](#) for each Constrained Portfolio identified under [paragraph section 3.2 of this Procedure](#); and
- ii. Calculate for any relevant Fixed Assessment Period, as a percentage, the Constrained Uplift Payment Ratio [\(see clause 4.2.5 of this Procedure\)](#) for each Constrained Portfolio identified under [paragraph section 3.2 of this Procedure](#); and
- iii. Publish the results of the calculation on its website.

[WEM Rules 2.16C.2(a) and (c)]

4.2.2 The Rolling Test Window [is a consecutive three-month period of Trading Days, commencing at 08:00AM on the first day of a month and ending at 8:00AM on the first day of a month. A Rolling Test Window does not overlap with any other Rolling Test Window, with a new Rolling Test Window commencing immediately after the end of the preceding Rolling Test Window.](#) ~~is a rolling consecutive three-month period of Trading Days, with a successive three-month period beginning on the first Trading Day after the last Trading Day falling within the immediately prior three-month period~~ [WEM Rules [Glossary Chapter 11](#)].

4.2.3 [A](#) Fixed Assessment Period is a period of at least seven consecutive Trading Days in which the Constraint Equation relevant to the identification of a Constrained Portfolio under WEM Rule 2.16B.2(b) has continuously bound within [or across](#) a Rolling Test Window. A Rolling Test Window may contain multiple Fixed Assessment Periods [WEM Rules [Glossary Chapter 11](#)].

4.2.4 The ERA will identify each Constrained Portfolio with a Constrained Uplift Payment Ratio equal to or greater than 10 per cent and notify each Market Participant with a Constrained Uplift Payment Ratio equal to or greater than 10 per cent of this outcome. Such constrained portfolios are defined as a Material Constrained Portfolio [WEM Rules 2.16C.2(b) and (d)].

4.2.5 The ERA will calculate the Constrained Uplift Payment Ratio as follows:

$$\text{Constrained Uplift Payment Ratio} = \frac{\text{CP_UP}}{\text{NC}} \times 100$$

where:

- (a) CP_UP is the number of Dispatch Intervals in the Rolling Test Window or Fixed Assessment Period (as applicable) in which:
 - i. The Constraint Equation relevant to the identification of the Constrained Portfolio identified under paragraph 3.2.1(a).
 - ii. A Registered Facility in the Constrained Portfolio received an Energy Uplift Payment.
- (b) NC is the total number of Dispatch Intervals in the Rolling Test Window or Fixed Assessment Period (as applicable) in which the Constraint Equation relevant to the identification of the Constrained Portfolio bound.

[WEM Rule 2.16C.2(a)]

- 4.2.6 Each set of Material Constrained Portfolios identified replaces the previous set of Material Constrained Portfolios identified with effect from the time that the ERA publishes the results of the relevant calculations [WEM Rule 2.16C.2A].

5. Market Participant information recording

- 5.1.1 By no later than three months from the date of receipt of a notice provided under WEM Rules 2.16C.1(c)(ii) or 2.16C.2(d), a Market Participant [with Facilities \(except Non-Scheduled Facilities\) identified in a Material Portfolio or a Material Constrained Portfolio](#) must maintain adequate records (that are capable of independent verification) of the:

~~(a) Internal governance arrangements the Market Participant has in place to comply with its obligations under WEM Rule 2.16A.1.~~

(a) Internal governance arrangements the Market Participant has in place to comply with its obligations under ~~clause~~ WEM Rule 2.16C.5.

- (b) Methods, assumptions and cost inputs the Market Participant used to develop the prices in the Portfolio Supply Curve offered in its STEM Submissions or Standing STEM Submissions, including, for each relevant Facility.
- (c) Methods and cost inputs the Market Participant used to develop the prices offered, quantities and Ramp Rate Limits in its Real-Time Market Submissions or Standing Real-Time Market Submissions, including, for each relevant Facility.

[WEM Rule 2.16C.3]

- 5.1.2 The ERA will maintain and publish in the Offer Construction Guideline the list of information that Market Participants are required to record to demonstrate compliance with WEM Rule ~~2.16A.1~~ 2.16C.5.

6. Request for guidance [WEM Rule 2.16D]

- 6.1.1 The ERA aims to assist Market Participants to understand their obligations, noting that the responsibility for meeting obligations rests with individual Market Participants. The ERA intends that its guidance will be made public by default and confidential by exception.
- 6.1.2 A Market Participant that has received a notice from the ERA, under WEM Rules 2.16C.1(c)(ii) or 2.16C.2(d), may request guidance from the ERA in relation to the Offer Construction Guideline, including, for the purposes of the ERA's assessment of prices offered under WEM Rule 2.16C.6 [and 2.16C.6A](#), how the matters in the Offer Construction Guideline may apply to the Market Participant's Registered Facility [WEM Rule 2.16D.5].
- 6.1.3 The ERA is not required to provide guidance to a Market Participant where the ERA considers that:
- (a) The Offer Construction Guideline already provides sufficient guidance on the matters raised in the request.
 - (b) The request does not meet the requirements as set out in WEM Rule 2.16D.6.
 - (c) The cost the ERA would incur to provide the guidance sought in the request is unreasonable or excessive.
 - (d) The request is substantially similar to a previous request considered by the ERA from the same Market Participant.
- [WEM Rule 2.16D.10]
- 6.1.4 A Market Participant must use the template provided in Appendix 1 for making a request for guidance [WEM Rule 2.16D.15(c)].
- 6.1.5 Within 20 Business Days of receipt of a request under WEM Rule 2.16D.5 for guidance, the ERA will consider the request and use reasonable endeavours to provide guidance on the matters specified in the request, [unless the ERA has already commenced processing another request received under clause 2.16D.5, in which case the 20 Business Days will commence after the earlier request has been resolved](#) [WEM Rule 2.16D.7].
- 6.1.6 The ERA may request further information from a Market Participant that has made a request for guidance. If, within 15 Business Days of the date of the ERA's request for further information, the Market Participant does not provide the information requested, or the ERA reasonably considers the information provided is not satisfactory, the Market Participant will be deemed to have withdrawn the relevant request [WEM Rule 2.16D.8].
- 6.1.7 Prior to the ERA deeming that the Market Participant has withdrawn a request under paragraph 6.1.6, the ERA will contact the Market Participant who has provided unsatisfactory information, and the ERA will provide details to the Market Participant of the reason the ERA has deemed the information provided to be unsatisfactory. After provided the clarifying details to the Market Participant, the ERA will add an additional five Business Days to the timeline under paragraph 6.1.6.

- 6.1.8 The ERA will consider requests for extensions where the Market Participant can demonstrate the provision of information under paragraph 6.1.6 and 6.1.7 will take longer than that specified in the WEM Rules.
- 6.1.9 If the ERA issues a request for further information under WEM Rule 2.16D.8, the timeframe specified in WEM Rule 2.16D.7 for the ERA to provide the relevant guidance will recommence from the date the Market Participant has provided all of the further information requested by the ERA [WEM Rule 2.16D.9].
- 6.1.10 Any guidance provided by the ERA is not binding on the ERA, the Market Participant who made the request, or any other person, and the ERA may, at any time, reconsider, revise or withdraw any guidance provided to a Market Participant [WEM Rule 2.16D.11].
- 6.1.11 When investigating, the ERA must take into account any guidance provided to the Market Participant that is relevant to the matters being investigated [WEM Rule 2.16D.12].
- 6.1.12 Where the ERA provides guidance to a Market Participant, the ERA must consider whether the Offer Construction Guideline should be amended to reflect that guidance. Where the ERA considers that amendments are required, the ERA must initiate an update to the Offer Construction Guideline as soon as practicable [WEM Rule 2.16D.13].
- 6.1.13 The ERA must publish on its website a copy of any guidance provided to a Market Participant after redacting all information that is confidential or commercially sensitive, including the name of the Market Participant to whom the guidance was provided. Where the ERA considers that the guidance cannot be redacted to ensure the identity of the Market Participant remains confidential, the ERA will not publish the guidance [WEM Rule 2.16D.14].
- 6.1.14 In the event the ERA determines that a guidance cannot be published under paragraph 6.1.13 the ERA will seek to publish a non-confidential example of the guidance provided.

Appendix 1 Request for offer construction guidance

A Market Participant that has received a notice from the ERA under clauses 2.16C.1(c)(ii) or 2.16C.2(d) of the WEM Rules may, in accordance with clause 2.16D.6, request guidance from ERA in relation to the Offer Construction Guideline. In making a request, Market Participants must follow the processes set out in clauses 2.16D.6 and as specified in the WEM Procedure: Portfolio Determination.

Please submit your request for guidance using the template below to: Market.Monitoring@erawa.com.au

Please clearly indicate if any provided information is commercial in confidence and also state the reasoning for why this information should be considered commercial in confidence.

Section 1: Your details

Code of the Market Participant (required)

Name of Market Participant (required)

Contact person (first and last name) (required)

Contact phone (required)

Contact email (required)

Please specify below (or attach) reason for seeking guidance:

<u>Market Participant Code:</u>	<u>Required</u>
<u>Market Participant Name:</u>	<u>Required</u>

Participant Contact Name:	First and last name (Required)
Participant Contact Email:	Required
Participant Contact Telephone:	Required
Please specify below (or attach) reason for seeking guidance:	Required

Section 2: ERA notice received

<u>Date of notice (required)</u>	<u>Click or tap to enter a date.</u>
----------------------------------	--------------------------------------

Applicable Facilities and their Portfolio Status (required)

<u>Name of Facility</u>	<u>Material Portfolio</u>	<u>Material Constrained Portfolio</u>
<u>Facility name and check Portfolio status</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Click or tap here to enter text.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Click or tap here to enter text.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Click or tap here to enter text.</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Click or tap here to enter text.</u>	<input type="checkbox"/>	<input type="checkbox"/>

Section 2: ERA notice received ~~Date of Notice (required)~~

Date of Notice (required)

Applicable Facilities and their Portfolio Status (required)

<u>Name of Facility</u>	<u>Material Portfolio</u>	<u>Material Constrained Portfolio</u>

Please add additional lines as required.

Section 3: Matters requiring guidance

Specify the matters in the Offer Construction Guideline on which the Market Participant is seeking guidance (required)

<i>Matter in the Offer Construction Guideline</i>	<i>Guideline Reference</i>
Details of matter seeking guidance	Provide details of page number, section, example, etc.
Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.

Please add additional lines as required.

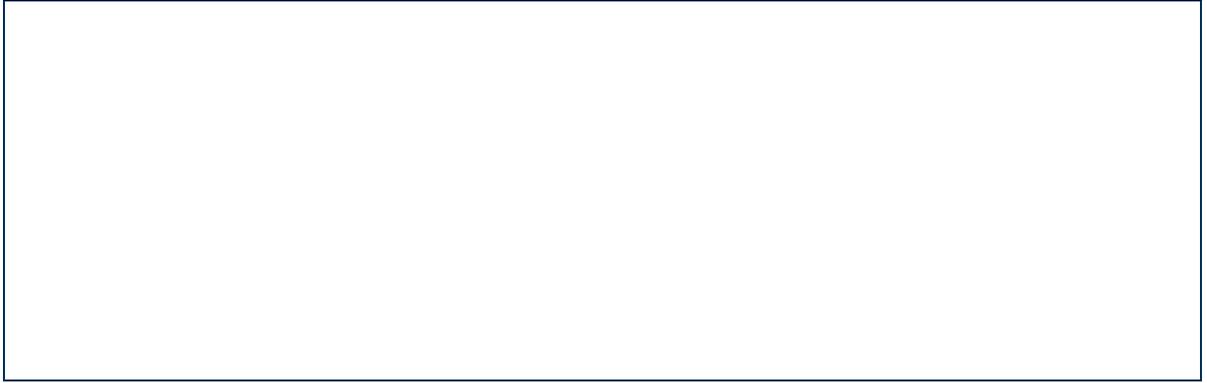
Section 4: Supporting material and information

Where relevant, please provide as attachments supporting materials that illustrate or evidence the matters raised in this request

<i>Name of Supporting Material</i>	<i>Confirm Attached</i>
Title of attachment	<input type="checkbox"/>
Click or tap here to enter text.	<input type="checkbox"/>
Click or tap here to enter text.	<input type="checkbox"/>
Click or tap here to enter text.	<input type="checkbox"/>
Click or tap here to enter text.	<input type="checkbox"/>

Please add additional lines as required.

Please provide below (or attach) any other information that you believe is relevant to support your request for guidance:



Appendix 2 Declaration of control of a Facility

The Economic Regulation Authority must, in accordance with this WEM Procedure:

- b) by ~~1 April and~~ 1 October each year, identify each Portfolio operating in the Wholesale Electricity Market by applying the following principles:
- i. Each Scheduled Facility, Semi-Scheduled Facility and Non-Scheduled Facility must be allocated to ~~one, but not more than one,~~ a Portfolio;
 - ii. ~~Registered Facilities which are owned by or registered to the same Market Participant must be allocated to the same Portfolio;~~
 - iii. ~~Registered Facilities which are owned by or registered to Market Participants that are associated entities (as that expression is defined in the Corporations Act) must be allocated to the same Portfolio;~~
 - iv. ~~ii.~~ Registered Facilities which are registered to a Market Participant, or wholly or partly owned ~~or controlled by~~, a Market Participant ~~or other entity~~, and ~~Registered Facilities that are registered to, or wholly or partly controlled by a Market Participant or another entity, including by or owned or controlled by, an associated entity~~ way of a shared trading desk, must be allocated to the same Portfolio of that Market Participant or other entity (as these expressions are defined in the Corporations Act) must be allocated to the same Portfolio; and
 - v. ~~iii.~~ ~~Without limiting WEM Rule 2.16B.1(a)(i),~~ a Registered Facility must not be allocated to a Portfolio containing another Registered Facility unless it is required by WEM Rules ~~2.16B.1(a)(ii), 2.16B.1(a)(iii) or~~ 2.16B.1(a)(iv).

[WEM Rule 2.16B.1(a)]

This form is for a Market Participant to declare to the ERA the entity that controls (either through association, ownership or other arrangements) each of their Registered Facilities. An entity is deemed to have control of a Registered Facility where the entity is able to determine the outcome of decisions about financial and operating policies that influence Market Submissions, or which has the authority to directly or indirectly control Market Submissions to the STEM or Real-Time Market.

Section 1: Your details

Name of Market Participant (required)

Contact person (first and last name) (required)

Contact phone (required)

Contact email (required)



Section 2: Facility details

Name of Registered Facility (required)



Name of Market Participant the Facility is registered to (required)



[Name of Owner of Registered Facility](#)



[Name of Controlling entity for Registered Facility](#)



The manner of control of the Registered Facility (required – select all relevant):

- able to determine the outcome of decisions about financial policies
- able to determine the outcome of decisions about operating policies
- authority to directly control Market Submissions to the STEM or Real-Time Market
- authority to indirectly control Market Submissions to the STEM or Real-Time Market
- Other (please provide details below)

Section 3: Supporting evidence

Please provide as attachments supporting evidence demonstrating control of the Registered Facility. Please indicate below if you do not possess any material in addition to evidence of Facility Registration.

Examples of evidence that can be provided by Market Participants include contracts that demonstrate a controlling interest, or other arrangement allowing another entity or another Market Participant to determine, influence or make Market Submissions to the STEM and Real-Time Market on behalf of the Market Participant to whom the Facility is registered.

Market Participant must clearly identify the relevant parts in the attached documents that demonstrate the relevant controlling interests and arrangements based on which the Market Participants attributes control of Facilities to entities. Market Participants must provide explanation on their reasoning for attributing control of Facilities to entities.

<i>Name of Supporting Material</i>	<i>Summary of how material supports justification of control</i>

Please add additional lines as required.

Please provide below (or attach) any other information that you believe details the approach undertaken to determine the control of the Facility: