Shell ENERGY

22 July 2026

Economic Regulation Authority
Level 4, Albert Facey House
469 Wellington Street
Perth WA 6000

Lodged email: publicsubmissions@erawa.com.au

Dear ERA WA,

RE: Draft Monitoring Protocol

About Shell Energy in Australia

Shell Energy provides the energy businesses and households need for today and tomorrow.

A generation-backed trader and energy retailer, Shell Energy powers businesses and homes and acts as a catalyst for change to positively impact Australia's energy future.

We provide electricity, gas, and innovative solutions for our customers, complemented by our portfolio of gas-fired peaking power stations and battery storage assets, which support energy security and reliability.

Shell Energy is Australia's largest electricity retailer to commercial and industrial businesses, recognised for our market-leading customer service.[1] We offer business electricity, gas, and smart energy solutions. Our residential business, Powershop, provides greater choice and confidence to households and small businesses to help them take control of their energy through multiple energy plan options and digital tools.

General Comments

Shell Energy appreciates the opportunity to provide feedback on the Economic Regulation Authority's (ERA's) proposed amendments to the WEM Procedure: Monitoring Protocol (Monitoring Protocol). We recognise the importance of maintaining an effective compliance framework that supports confidence in the operation of the Wholesale Electricity Market (WEM) and promotes participant understanding of regulatory expectations.

While Shell Energy supports the objectives of transparency and accountability, it is important that compliance and publication mechanisms remain proportionate to the nature of the conduct being addressed and are applied consistently across the Electricity System and Market (ESM) Rules. In our view, aspects of the proposed amendments would benefit from further clarification and justification to ensure they achieve these objectives

[1] Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2021.

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without creating unintended regulatory or reputational consequences. Our comments are outlined below for consideration.

Publication of Participant Identities and Irregular Price Offers

The proposed amendments to the Monitoring Protocol introduce a new compliance framework that expands the treatment of breaches of clause 2.16C.5 of the WEM Rules, including mandatory publication of breach determinations following an investigation.

Shell Energy notes that the ERA's existing Compliance Framework and Strategy adopts a more proportionate approach to the publication of compliance outcomes, stating that it will *"where relevant, publish investigations and outcomes on our website to improve accountability, transparency and Participant understanding"*. This approach provides the ERA with discretion to determine whether publication is warranted, having regard to the circumstances of the matter.

Under the proposed Monitoring Protocol, clause 6.7.6 requires the ERA to record any breach determination on the public register described in section 7. Clause 6.9.5 goes further for breaches of clause 2.16C.5 by requiring publication of the relevant Market Participant and associated Irregular Price Offers. Shell Energy recommends that the ERA retain discretion to determine whether publication is warranted, having regard to the materiality of the breach and the objectives of the compliance framework.

Consistency with the Risk-Based Compliance Framework

Shell Energy acknowledges that the ERA already maintains public registers of investigations and breach determinations under clauses 2.13.49 and 2.13.49A of the WEM Rules. However, proposed clause 6.9.5 introduces a more prescriptive publication regime for breaches of clause 2.16C.5 than applies to other categories of WEM Rule breaches.

The procedure change report for the Draft Monitoring Protocol states that the proposed amendments are intended to support a more risk-based and proportionate compliance framework that enables the ERA to focus its resources on matters with the greatest impact on the market while maintaining transparency and accountability. Against this objective, it is not clear that mandatory publication under clause 6.9.5 is consistent with the broader principles underpinning the revised Monitoring Protocol. The proposed approach removes discretion and requires publication regardless of the circumstances of the matter or whether identifying information is necessary to achieve the intended policy objectives.

Shell Energy considers that the ERA should explain the policy rationale for applying a different publication approach to breaches of clause 2.16C.5. If the objective is to promote transparency and accountability, the Monitoring Protocol should explain why equivalent publication requirements are not applied to other categories of ESM Rule breaches.

Shell Energy acknowledges that proposed clause 6.9.3(c) appears to require the ERA to consider whether the relevant conduct is material before forming a view on whether a Market Participant has breached clause 2.16C.5. If materiality is intended to operate as an important threshold in the ERA's assessment, the Monitoring Protocol should define how it will be assessed, including whether it relates to market outcomes, power system security, other Market Participants, consumers, or the integrity of the WEM more broadly. Alternatively, this could be addressed in the ESM Rules or in supporting guidance, such as the Trading Conduct Guideline/Offer Construction Guideline. Without clearer guidance, Market Participants may be unable to understand in advance the circumstances in which conduct may give rise to a breach finding and subsequent publication.

Further, the ERA should explain how publication of a participant's identity contributes to participant understanding over and above publication of the conduct, findings and reasons for decision. In Shell Energy's

view, the transparency objectives of the compliance framework may be achieved without mandating publication of participant identities in every instance.

Consistency with Other ERA Compliance Frameworks

Shell Energy is concerned that the proposed approach is difficult to reconcile with the broader principles applied by the ERA across its compliance functions. In previous consultations, including the GSI Rules Review, Shell Energy supported public disclosure of compliance activity while maintaining that participant identities should remain confidential until a breach finding has been made. Similarly, the ERA's approach under the ESM Rules recognises that publication of identifying information can have significant consequences and therefore limits the information included in public investigation registers.

Shell Energy acknowledges the distinction between the publication of investigations and the publication of breach determinations. However, the ERA's existing compliance frameworks demonstrate a broader regulatory principle that publication should be proportionate and carefully balanced against the consequences of identifying market participants. Shell Energy requests that the ERA explain why breaches of clause 2.16C.5 warrant mandatory publication of participant identities and specific Irregular Price Offers when equivalent requirements are not applied more broadly across other compliance frameworks administered by the ERA.

Recommendation

Shell Energy is concerned that publication of a Market Participant's identity and specific Irregular Price Offers may create consequences that extend beyond the formal compliance outcome itself. Given that the ESM Rules already provide mechanisms for investigation, breach determination and enforcement, the ERA should explain why an additional mandatory naming requirement is necessary for this category of breach.

Shell Energy considers that clause 6.9.5 should be amended so that publication of a Market Participant's identity and Irregular Price Offers is only required where the ERA is satisfied that publication is necessary and proportionate, having regard to the materiality of the breach and the objectives of the compliance framework.[2]

At a minimum, the ERA should consider whether publication decisions should be informed by factors such as:

- the nature and seriousness of the breach;
- the materiality of the conduct, including its effect on market outcomes, power system security, other Market Participants or consumers;
- whether the conduct was self-reported;
- whether timely corrective action was taken; and
- whether publication of identifying information is necessary to achieve the objectives of transparency, accountability and participant understanding.

This approach would better align the treatment of clause 2.16C.5 breaches with the broader risk-based compliance framework while preserving the ERA's ability to publish information where publication is necessary and proportionate.

[2] Compliance Framework and Strategy, pg 4.

Conclusion

We welcome the opportunity to discuss our submission further. Please contact [redacted] at [redacted] for any queries regarding this submission.

Yours sincerely

[redacted]