

# Wholesale Electricity Market Rules and Gas Services Information Rules

Compliance Report for the period 1 January 2019 to  
30 June 2019

31 July 2019

Economic Regulation Authority

WESTERN AUSTRALIA

DMS197029

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# 1. Summary

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

This report provides Market Participants and other interested parties with a summary of the ERA's compliance activities for the current reporting period 1 January 2019 to 30 June 2019.

The ERA recorded 70 new alleged breach matters for investigation this period. This was lower than the 127 matters recorded in the previous reporting period 1 July 2018 to 31 December 2018.

Nearly three-quarters of the alleged breaches recorded this period concerned the Market Rules for Dispatch Instructions and Outages. Most of these non-compliances were routine matters investigated during the ERA's quarterly Dispatch Instruction investigation process, discussed in section 2.2.

The ERA completed investigations into two matters where the Australian Energy Market Operator (AEMO) breached the Market Rules by allocating Certified Reserve Capacity to two Market Participants early. The ERA issued a formal warning to AEMO for these matters, as discussed in section 2.3.

In April 2019, in accordance with clause 2.16.9F of the Market Rules, the ERA published the results of its investigation into Synergy's pricing behaviour in the balancing market. The ERA's investigation concluded that prices offered by Synergy between March 2016 and 2017 exceeded the reasonable expectation of the short run marginal cost of generating electricity in 12,908 trading intervals, and that Synergy's behaviour was related to its market power. The ERA has now referred this matter to the Electricity Review Board to determine whether orders should be made against Synergy for contravening the Market Rules. This matter is discussed in more detail in section 3.1.

The information in this report satisfies the requirements of clause 2.13.26 of the Market Rules and rule 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.

## 2. Compliance update

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

### 2.1 Alleged breach reports

The ERA maintains a register of alleged breaches of the GSI and Market Rules. Alleged breaches may be identified by the ERA or reported by external parties, including self-reports by Market Participants.

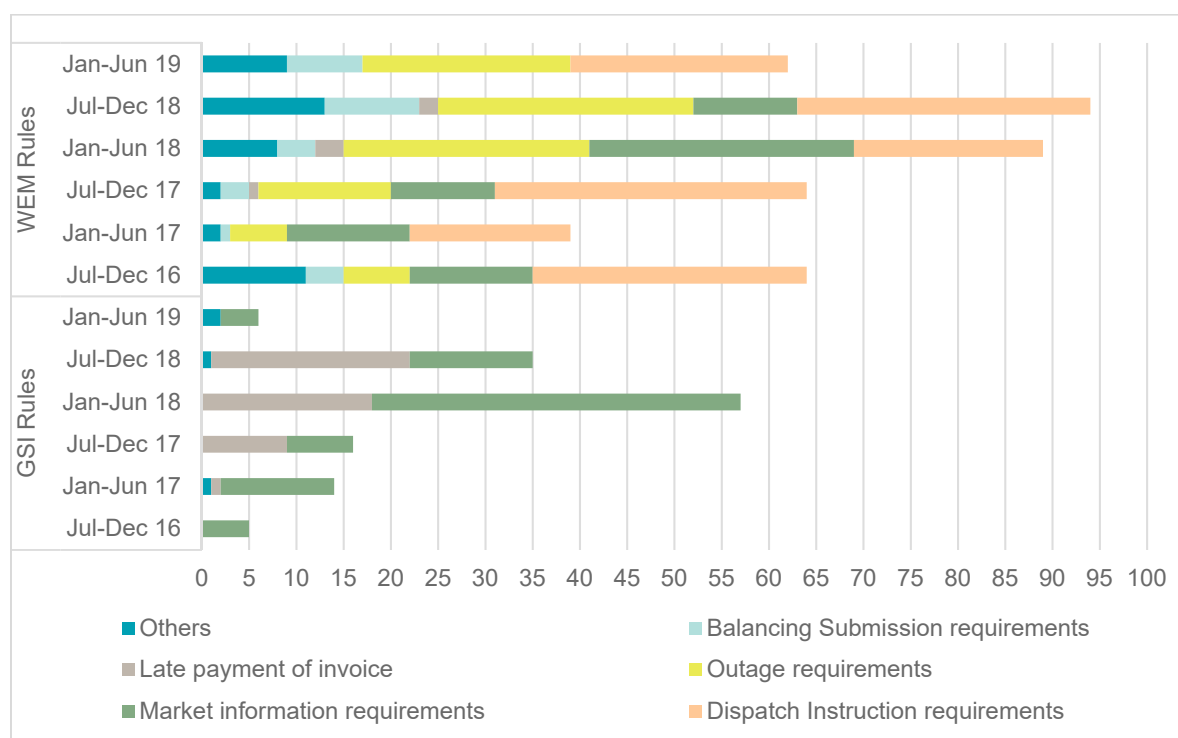
Between 1 July 2016 and 30 June 2019, a total of 545 alleged Market Rule breaches have been registered by the ERA. In the current reporting period, 1 January 2019 to 30 June 2019, the ERA registered 70 alleged breaches.

AEMO is obligated to support the ERA with monitoring Market Participants' compliance with the rules<sup>1</sup>. AEMO reported approximately 68 per cent of the current period's alleged Market Rule breaches.

The ERA encourages self-reporting by Market Participants. Eleven alleged breaches were self-reported in both this reporting period and the previous reporting period. Self-reporting of alleged breaches indicates a Market Participant understands its compliance obligations and has reasonable compliance processes in place to proactively identify and mitigate future Market Rule non-compliance.

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

**Figure 1: Alleged breach reports by breach category<sup>2</sup>**



(Source: ERA data)

There were 23 alleged non-compliances with Dispatch Instruction requirements this reporting period, down from 32 in the previous period. The ERA investigated these non-compliances during its quarterly Dispatch Instruction process as discussed in section 2.2.

Two of the Dispatch Instruction non-compliances reported by AEMO also alleged non-compliance with clause 7.10.3 of the Market Rules. Clause 7.10.3 requires a Market Participant to notify System Management where it becomes aware that it cannot comply with a Dispatch Instruction. In both instances, the Market Participant failed to inform AEMO that its facility was unable to comply with the Dispatch Instruction.

Market Participants' non-compliance with Outage requirements was the second largest area of non-compliance with 22 Investigations. This number decreased from the July to

<sup>1</sup> Refer to clauses 2.13.8, 2.13.9A and 2.13.9C of the Market Rules and rules 165A(1) and 165A(3) of the GSI Rules.

<sup>2</sup> An alleged breach report may consist of multiple breach events.

December 2018 reporting period; 31. Most of these matters were also investigated during the ERA's quarterly Dispatch Instruction process as discussed in section 2.2.

There were only four alleged breaches concerning market information requirements this reporting period, a significant decrease from 24 in the previous period. AEMO reported these alleged breaches. Most of these matters concerned the late provision of information to AEMO. Market Participants should be aware that information provided after the time specified in the Market Rules may constitute non-compliance. Late provision of information may also cause delays to other market processes. Market Participants must have sufficient controls in place to ensure timely provision of market information.

## 2.2 Quarterly investigations of non-compliance with Dispatch Instructions

Market Rule obligations relating to Dispatch Instructions, Balancing Submissions and Outages are central to ensuring the economic and efficient operation of the Wholesale Electricity Market and its dispatch process. The ERA has a quarterly process for investigating non-compliance with these obligations.

This process assesses Market Participants' compliance with their Dispatch Instructions received from AEMO as required by clause 7.10.1 of the Market Rules.

These investigations are carried out to meet the requirements of clause 7.10.8 of the Market Rules and consider whether any constrained payments to non-compliant Market Participants need to be recovered<sup>3</sup>.

The investigations use dispatch non-compliance reports and constrained payments data provided by AEMO. When the ERA identifies non-compliance with the Market Rules it meets with Market Participants to discuss the circumstances that led to the non-compliance.

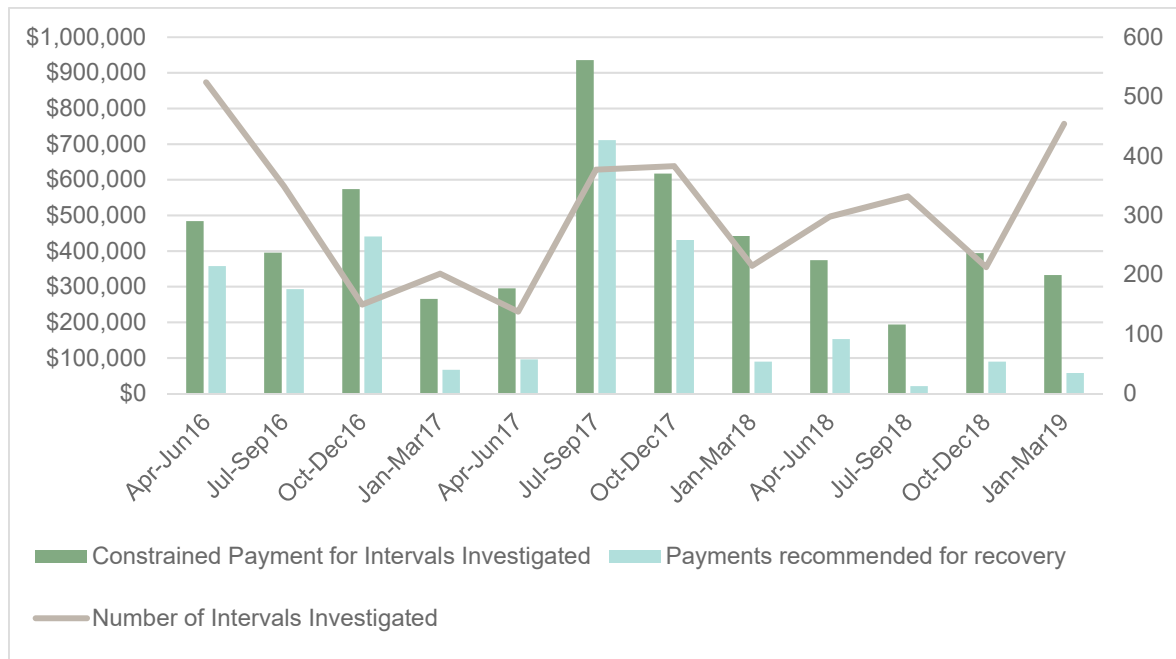
The investigation process follows a strict timeline to ensure payment recoveries can be made within the applicable settlement adjustment cycle.

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.

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<sup>3</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.

**Figure 2: Quarterly non-compliance with Dispatch Instructions process**  
(Investigations completed between 1 July 2016 and 31 March 2019)



(Source: ERA data)

Quarterly investigations also review whether Market Participants have met their obligations to update Balancing Submissions and log Forced Outages in accordance with the Market Rules. These obligations ensure that up to date information is available for the dispatch process and assist in the prevention of erroneous constrained payments.

In the quarterly investigation process for January 2019 to March 2019, the ERA observed improved compliance with the Market Rules' Dispatch Instruction, Balancing Submission and Outage requirements. These matters are discussed in section 2.3.

During the most recent quarterly investigation meetings, Market Participants indicated they would like this compliance report to include explanatory information about some of the Market Rules' compliance areas. One such area is the application of a Tolerance Range when a Facility fails to comply with a Dispatch Instruction.

System Management may determine a Tolerance Range under clause 2.13.6D or a Facility Tolerance Range under clause 2.13.6E. These tolerance ranges are for the purpose of reporting alleged breaches of Dispatch and Outage related matters to the ERA. System Management is not required to report relevant alleged breaches to the ERA if the extent of the breach falls within this range.

Clauses 6.17.9 and 6.17.10 outline the Settlement Tolerance and Portfolio Settlement Tolerance values. These values are used by AEMO in calculating settlement outcomes, for example any Out of Merit Generation quantities.

Clause 7.10.2(b) states that a Market Participant is not required to comply with its most recently issued Dispatch Instruction if the Facility was unable to maintain its ramp rate specified in that Dispatch Instruction where both of the following apply: the actual output of the facility varied by more than the applicable Tolerance Range or Facility Tolerance Range and the average output over a Trading Interval was equal to the output specified in the Dispatch Instruction.

The tolerance ranges in section 2.13 of the Market Rules apply only to the requirement for AEMO to report potential non-compliant matters to the ERA. Where the ERA has been

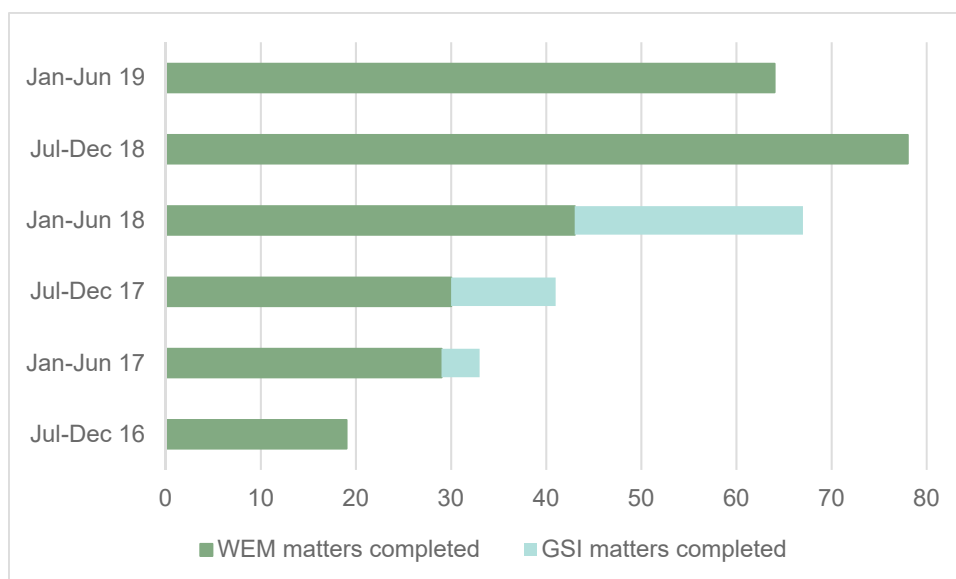
made aware of an alleged breach of the Dispatch or Outage provisions, these tolerance ranges are not applicable in assessing if a breach has occurred.

Where a Facility was unable to meet the quantity of energy specified in its Dispatch Instruction but operated within its tolerance, the Facility must log an outage with System Management under clause 3.21.7 of the Market Rules.

## 2.3 Investigation outcomes and enforcement actions

The ERA completed 64 investigations this reporting period. In the previous six-month period, it completed 78 investigations. Since 1 July 2016, the ERA has completed a total of 302 investigations. This decrease was mainly due to the complexity of some of the current period's investigation matters lengthening the time those investigations took to complete. This reduced the time available to complete other investigations. Figure 3 below shows the completed investigations for each reporting period since 1 July 2016<sup>4</sup>.

**Figure 3: Investigations completed by reporting period between July 2016 and June 2019**

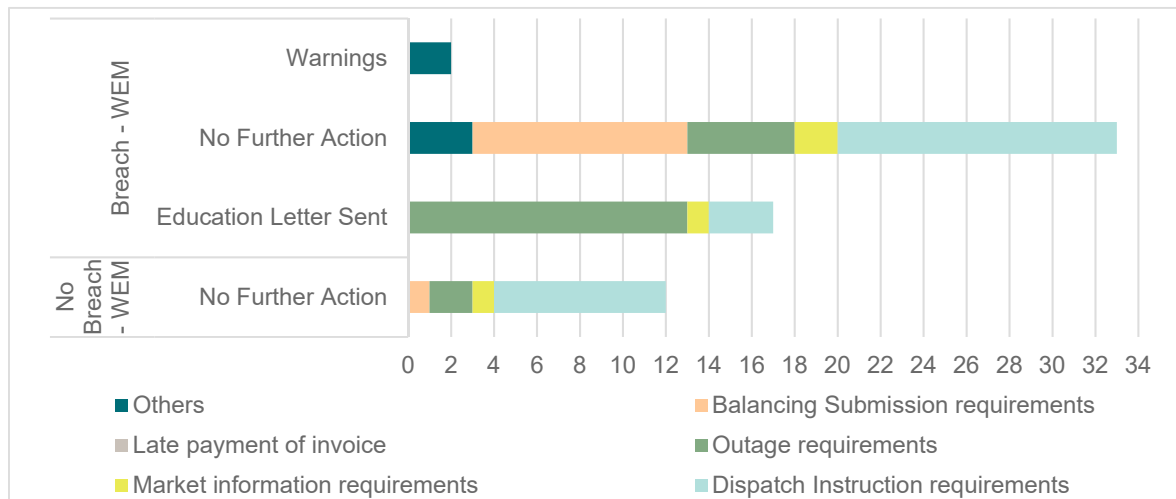


(Source: ERA data)

Figure 4 below summarises the outcomes of the 64 alleged breach investigations completed during the reporting period.

<sup>4</sup> The ERA became responsible for the compliance functions in the GSI and Market Rules on 1 July 2016.



**Figure 4: Investigation Outcomes for period 1 January to 30 June 2019**

(Source: ERA data)

Twelve of the investigations this reporting period determined that the participant was not in breach.

If the ERA determines that a breach has occurred, it has statutory compliance responses available (for example, warnings or commencing proceedings before the Electricity Review Board), as well as administrative responses such as education advice.

There were 33 investigations where a breach was determined but no further action was required, as the matters were considered low risk. For these matters, the ERA was satisfied that the Market Participants had implemented controls to mitigate the risk of the breach re-occurring.

The ERA investigated 17 alleged breach matters where it issued Market Participants with education advice. In these matters, the ERA provided the Market Participants with information to mitigate the risk of further non-compliance. Of these, 13 matters concerned non-compliance with Outage requirements. The remaining matters were due to non-compliance with Dispatch Instructions and market information.

On 22 July 2019 the ERA published a notice where the ERA found that AEMO breached the Market Rules when allocating Certified Reserve Capacity to two Market Participants. AEMO self-reported these breaches to the ERA in February and May 2018 and provided breach disclosures on its [website](#).

The ERA's investigation confirmed that AEMO knowingly breached the Market Rules when it allocated the capacity to the two participants. At the time, AEMO believed its actions would better serve the market objectives.

The ERA completed its investigation and issued a formal warning to AEMO because the breaches were intentional and avoidable. AEMO has notified the ERA that it has implemented revised processes and controls for assigning Certified Reserve Capacity to prevent future non-compliances.

## 2.4 Stakeholder engagement and reports

The ERA's annual Energy Market stakeholder forum was held on 16 May 2019. Stakeholders were presented with a summary of the ERA's compliance and enforcement

activities for the 2018/19 year as well as a review of the Balancing Submission pricing requirements set out in the Balancing Submission Guideline.

During the September 2018 and March 2019 Dispatch Instruction quarterly processes (discussed at section 2.2 above) the ERA met with 11 Market Participants. The meetings enabled Market Participants to explain the circumstances resulting in their Dispatch Instruction non-compliance. During these meetings, the ERA also explained that it would soon commence monitoring of Market Participants' compliance with the Market Rules' Balancing Submission requirements as a Market Rule compliance measure. This monitoring will identify Trading Intervals where a Balancing Submission was made after Balancing Gate Closure for a reason other than permitted in clause 7A.2.10.

The ERA investigated two matters of its own alleged non-compliance with the Market Rules. The ERA reported the outcome of these investigations on its [website](#) on 3 May 2019.

For the first matter the ERA determined it was non-compliant with the Market Rules when it published two AEMO reports on the ERA website that contained Dispatch Instruction information made confidential under the Market Rules. The confidential information was removed from the reports and the corrected reports were re-published on the ERA website.

For the second matter, the ERA determined it was non-compliant with the Market Rules when it accidentally emailed non-compliance information to a third party who was not authorised to receive that information. The third party was a supplier to the ERA and not a Market Participant. The third party swiftly deleted this information from its records.

On 13 February 2019, the ERA published its [report](#) to the Minister for Energy on the AEMO's compliance with the Market Rules. [AEMO's response](#) to this report was also published on 13 February 2019.

### 3. Report on Electricity Review Board matters

This section details the matters required to be reported on under clause 2.13.26 of the Market Rules and rule 167(1) of the GSI Rules for the reporting period. 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 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

On 3 April 2019, the ERA published a [notice](#) advising that it had finalised its Investigation into Synergy's pricing behaviour in the balancing market, determined that Synergy had offered prices above its reasonable expectation of the short run marginal cost<sup>5</sup> of generating the relevant electricity in 12,908 trading intervals and that Synergy's behaviour was related to its market power. If the Electricity Review Board (ERB) finds Synergy in breach of the Market Rules, it may make orders including imposing financial penalties.

Pursuant to clause 2.13.26 of the Market Rules the ERA applied to the ERB for an order of contravention of clause 7A.2.17 of the Market Rules. At the date of this report the ERB has not been constituted and the application has not been heard.

No other matters have been brought before the ERB during this reporting period.

#### 3.2 Findings of the Electricity Review Board

The ERB decided on no matters during the reporting period.

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

The ERB made no orders during the reporting period.

#### 3.4 Civil penalties imposed by the ERA

The ERB imposed no civil penalties during the reporting period.

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<sup>5</sup> Short run marginal cost is an economic term and is defined as the increase in total cost that arises from a unit (or small) increase in output.