



Economic Regulation Authority

Procedure Change Proposal: Portfolio Determination

(EEPC_2023_02)

21 June 2023

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Invitation to make submissions

Submissions are due by 4:00 pm WST, 18 July 2023

Clause 2.10.7 of the WEM Rules provides that any person may make a submission to a Procedure Change Proposal.

The ERA invites comment on this paper and encourages all interested parties to provide comment on the matters discussed in this paper and any other issues or concerns not already raised in this paper.

We would prefer to receive your [Procedure Change Submission](#) via our online submission form <https://www.erawa.com.au/consultation>

You can also submit a [Procedure Change Submission](#) form via:

Email: publicsubmissions@erawa.com.au

Post: Level 4, Albert Facey House, 469 Wellington Street, Perth WA 6000

Please note that submissions provided electronically do not need to be provided separately in hard copy.

All submissions will be made available on our website unless arrangements are made in advance between the author and the ERA. This is because it is preferable that all submissions be publicly available to facilitate an informed and transparent consultative process. Parties wishing to submit confidential information are requested to contact us at info@erawa.com.au.

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1. Introduction

The Wholesale Electricity Market (WEM) in the Western Australian South-West Interconnected System operates under the *Electricity Industry Act 2004*, Electricity Industry (Wholesale Electricity Market) Regulations 2004 and Wholesale Electricity Market Rules (WEM Rules).^{1,2,3}

The Economic Regulation Authority is responsible for monitoring and enforcing compliance with the WEM Rules. In conducting its functions, the ERA aims to provide businesses and consumers with confidence that the WEM operates efficiently and effectively.⁴

Market Participants are required to offer prices in each of its STEM Submissions and Real-Time Market Submissions 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 (clause 2.16A.1 of the WEM Rules). The ERA is responsible for monitoring compliance with this requirement. The ERA may only make a determination of non-compliance if the ERA determined that the Market Participant had market power at the time.

The ERA investigates potential breaches of clause 2.16A.1 of the WEM Rules in accordance with this WEM Procedure (clause 2.16C.6 of the WEM Rules).

All capitalised terms in this document are defined terms under the WEM Rules.

1.1 Process to develop a new Procedure

The relevant WEM Rules are provided in detail in Appendix 1 and are summarised as follows:

- The ERA may initiate the Procedure Change Process by developing a Procedure Change Proposal (clause 2.10.1 of the WEM Rules).
- If an Amending Rule requires the ERA to develop new WEM Procedures or to amend or replace existing WEM Procedures, then the ERA is responsible for the development of, amendment of or replacement for, WEM Procedures to comply with the Amending Rule (clause 2.10.3 of the WEM Rules).
- The ERA must publish Procedure Change Proposals that it develops (clause 2.10.5B of the WEM Rules).
- A Procedure Change Proposal must include:
 - a. A proposed WEM Procedure or an amendment to or replacement for a WEM Procedure indicating the proposed amended words, or a proposed WEM Procedure (clause 2.10.6(a) of the WEM Rules).
 - b. The reason for the proposed WEM Procedure or an amendment to or replacement for a WEM Procedure or proposed WEM Procedure (clause 2.10.6(b) of the WEM Rules).
- At the same time as it publishes a Procedure Change Proposal notice, the ERA must publish a call for submissions on that proposal. The due date for submissions must be 20

¹ *Electricity Industry Act 2004* (WA), ([online](#)).

² *Electricity Industry (Wholesale Electricity Market) Regulations 2004* (WA), ([online](#)).

³ Wholesale Electricity Market Rules (WA), 29 April 2023, ([online](#)).

⁴ Economic Regulation Authority. Statement of Strategic Intent, 2023-2025 ([online](#)).

Business days from the date the call for submissions is published (clause 2.10.7 of the WEM Rules)

1.2 WEM Procedure requirements

The ERA will document in a WEM Procedure (clause 2.16D.15 of the WEM Rules):

- 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 clauses 2.16B.1(a) and 2.16B.2, respectively.
 - ii. Carrying out the calculations under clauses 2.16C.1(a) and 2.16C.2(a) in relation to identifying each Material Portfolio and Material Constrained Portfolio, respectively.
 - iii. Monitoring prices offered by a Market Participant under clause 2.16C.4, and making determinations under clauses 2.16C.6 and 2.16C.7 in relation to those price offers.
- The types and format of the information, and level of detail required to be maintained or recorded by a Market Participant.
- Details of the processes the ERA and Market Participants must follow in respect to a request for guidance under clause 2.16D.5, which may include a template that a Market Participant must use for making a request.

1.3 Consistency with the WEM Objectives

WEM Procedures must be (clause 2.9.3 of the WEM Rules):

- Developed, amended, or replaced in accordance with the process in the WEM Rules.
- Consistent with the Wholesale Market Objectives.
- Consistent with the WEM Rules, the *Electricity Industry Act 2004* and the WEM Regulations.
- Amended or replaced in accordance with section 2.10 of the WEM Rules where a change is required to maintain consistency with Amending Rules.

The WEM Objectives are detailed in Appendix 1.

The proposed WEM Procedure: Portfolio Determination, is consistent with the WEM Objectives.

1.4 Stakeholder feedback

The ERA is interested in receiving stakeholder feedback on any aspect of this WEM Procedure. Stakeholders are encouraged to seek clarification or further details on the contents of the WEM Procedure.

To support the finalisation of this WEM Procedure the ERA is particularly interested in receiving responses to the following questions.

1. What further clarification, if any, do stakeholders require on how the ERA proposes to identify operational control of Facilities for the purpose of Portfolio determination?
2. What additional detail, if any, do Market Participants require on the request for guidance process?
3. What amendments, if any, are required to the Request for Guidance template?

Appendix 1 Relevant WEM Rules

As at 29 April 2023⁵

WEM Rule 1.2.1

The objectives of the market are:

- a. to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system;
- b. to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors;
- c. to avoid discrimination in that market against particular energy options and technologies, including sustainable energy options and technologies such as those that make use of renewable resources or that reduce overall greenhouse gas emissions;
- d. to minimise the long-term cost of electricity supplied to customers from the South West interconnected system; and
- e. to encourage the taking of measures to manage the amount of electricity used and when it is used.

WEM Rule 2.9.3

WEM Procedures:

- a. must:
 - i. be developed, amended or replaced in accordance with the process in these WEM Rules;
 - ii. be consistent with the Wholesale Market Objectives; and
 - iii. be consistent with these WEM Rules, the Electricity Industry Act and Regulations; and
- b. may be amended or replaced in accordance with section 2.10 and must be amended or replaced in accordance with section 2.10 where a change is required to maintain consistency with Amending Rules.

WEM Rule 2.10.1

AEMO, the Economic Regulation Authority, the Coordinator or a Network Operator, as applicable, may initiate the Procedure Change Process by developing a Procedure Change Proposal.

WEM Rule 2.10.3

⁵ Consolidated Companion version of the WEM Rules, 29 April 2023 ([online](#)).

If an Amending Rule requires AEMO, the Economic Regulation Authority, the Coordinator or a Network Operator to develop new WEM Procedures or to amend or replace existing WEM Procedures, then AEMO, the Economic Regulation Authority, the Coordinator or the Network Operator, as applicable, is responsible for the development of, amendment of or replacement for, WEM Procedures so as to comply with the Amending Rule.

WEM Rule 2.10.6

A Procedure Change Proposal must include:

- a. a proposed WEM Procedure or an amendment to or replacement for a WEM Procedure, indicating the proposed amended words, or a proposed WEM Procedure; and
- b. the reason for the proposed WEM Procedure or an amendment to or replacement for a WEM Procedure or proposed WEM Procedure.

WEM Rule 2.10.7

At the same time as it publishes a Procedure Change Proposal notice, AEMO, the Economic Regulation Authority, the Coordinator or the Network Operator, as applicable, must publish a call for submissions on that proposal. The due date for submissions must be 20 Business Days from the date the call for submissions is published. Any person may make a submission to AEMO, the Economic Regulation Authority, the Coordinator or the Network Operator, as applicable, relating to a Procedure Change Proposal. A Procedure Change Submission may be made using the Procedure Change Submission form maintained on the Coordinator's Website in accordance with clause 2.9.4.

WEM Rule 2.16A.1

A Market Participant must offer prices in each of its STEM Submissions and Real-Time Market Submissions 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.2

The Economic Regulation Authority must not determine that a Market Participant has engaged in conduct prohibited by clause 2.16A.1 unless the Economic Regulation Authority has first determined that the Market Participant had market power at the time of offering the relevant prices in its STEM Submission or Real-Time Market Submission.

WEM Rule 2.16A.3

A Market Participant must not engage in conduct in the STEM or Real-Time Market that:

- a. is false, misleading or deceptive, or likely to mislead or deceive;
- b. is fraudulent, dishonest or in bad faith; or
- c. has the purpose, or has or is likely to have the effect, of distorting or manipulating prices in the Wholesale Electricity Market.

WEM Rule 2.16A.4

In determining whether a Market Participant has engaged in conduct prohibited by clause 2.16A.3, the Economic Regulation Authority may take into account:

- 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-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 Forced Outages 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; and
- d. any other information the Economic Regulation Authority considers relevant to its determination.

WEM Rule 2.16A.5

A STEM Submission or a Real-Time Market Submission is not made in bad faith under clause 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.6

A Market Participant may be taken to have 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; or
- c. the relevant circumstances.

WEM Rule 2.16A.7

If a Market Participant does not have reasonable grounds for a price, quantity, or Ramp Rate Limit, as applicable, it has included in a Real-Time Market Submission at the time it submits that Real-Time Market Submission, then the Market Participant is, for the purposes of clause 2.16A.3(a), taken to have known that the Real-Time Market Submission was likely to lead to another Rule Participant being misled or deceived as to the existence or non-existence of a material fact relating to the Real-Time Market.

WEM Rule 2.16A.8

For the purposes of clause 2.16A.7, a Market Participant must adduce evidence that it had reasonable grounds for including a price, quantity or Ramp Rate Limit, as applicable, in the Real-Time Market Submission. To avoid doubt, the effect of this clause is to place an evidentiary burden on a Market Participant, and this clause does not have the effect that, merely because such evidence is adduced, the Market Participant who submitted the Real-Time Market Submission is taken to have had reasonable grounds for including a price, quantity or Ramp Rate Limit, as applicable.

WEM Rule 2.16A.9

Clause 2.16A.7 does not imply that merely because a Market Participant had reasonable grounds for making the representation or the conduct referred to in Chapter 7, in respect of the Real-Time Market, and in particular putting the price, quantity or Ramp Rate Limit, as

applicable, in a Real-Time Market Submission submitted by the Market Participant, that such representation or conduct is not misleading.

WEM Rule 2.16B.1

The Economic Regulation Authority must, in accordance with the WEM Procedure referred to in clause 2.16D.15:

- a. 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, 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. Registered 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; and
 - v. without limiting clause 2.16B.1(a)(i), a Registered Facility must not be allocated to a Portfolio containing another Registered Facility unless it is required by clauses 2.16B.1(a)(ii), 2.16B.1(a)(iii) or 2.16B.1(a)(iv); and
- b. within 10 Business Days of identifying each Portfolio under clause 2.16B.1(a), publish a list on its website specifying the name of each Registered Facility within each identified Portfolio.

WEM Rule 2.16B.2

Within 10 Business Days of the end of each Rolling Test Window, the Economic Regulation Authority must, in accordance with the WEM Procedure referred to in clause 2.16D.15, identify:

- a. each Constraint Equation for a Network Constraint that bound during one or more Dispatch Intervals in the Rolling Test Window; and
- b. each Constrained Portfolio for each Constraint Equation identified under clause 2.16B.2(a).

WEM Rule 2.16B.3

The Economic Regulation Authority may, in carrying out its obligations under clause 2.16B.2, specify a Registered Facility within more than one Constrained Portfolio.

WEM Rule 2.16C.1

The Economic Regulation Authority must, in accordance with the WEM Procedure referred to in clause 2.16D.15:

- a. within 10 Business Days of identifying each Portfolio p under clause 2.16B.1(a), calculate Portfolio p's percentage share of the total maximum sent out capacity of all Registered Facilities assigned to a Portfolio 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:

- i. 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;
 - ii. $f \in p$ denotes all Scheduled Facilities, Semi-Scheduled Facilities and Non-Scheduled Facilities f assigned to Portfolio p; and
 - iii. $f \in \text{Facilities}$ denotes all Scheduled Facilities, Semi-Scheduled Facilities and Non-Scheduled Facilities assigned to a Portfolio identified under clause 2.16B.1(a);
- b. identify each Portfolio where the value determined under clause 2.16C.1(a) is equal to or greater than 10% ("Material Portfolio"); and
 - c. within 10 Business Days of identifying each Material Portfolio under clause 2.16C.1(b):
 - i. publish the results of the calculations carried out under clause 2.16C.1(a) on its website; and
 - ii. notify each Market Participant that has a Registered Facility assigned to a Material Portfolio identified under clause 2.16C.1(b).

WEM Rule 2.16C.1A

Each set of Material Portfolios identified by the Economic Regulation Authority under clause 2.16C.1(b) replaces the previous set of Material Portfolios identified by the Economic Regulation Authority under clause 2.16C.1(b) (if any) with effect from the time that the Economic Regulation Authority publishes the results of the relevant calculations under clause 2.16C.1(c)(i).

WEM Rule 2.16C.2

The Economic Regulation Authority must, not more than 20 Business Days following the end of a Rolling Test Window, in accordance with the WEM Procedure referred to in clause 2.16D.15:

- a. calculate for that Rolling Test Window and for any relevant Fixed Assessment Period, as a percentage, the Constrained Uplift Payment Ratio for each Constrained Portfolio identified under clause 2.16B.2(b) as follows:

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

where:

- i. CP_UP is the number of Dispatch Intervals in the Rolling Test Window or Fixed Assessment Period (as applicable) in which:
 1. the Constraint Equation relevant to the identification of the Constrained Portfolio identified under clause 2.16B.2(a) bound; and
 2. Registered Facility in the Constrained Portfolio received an Energy Uplift Payment; and
- ii. 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;

- b. identify each Constrained Portfolio with a Constrained Uplift Payment Ratio equal to or greater than 10% as calculated under clause 2.16C.2(a) ("Material Constrained Portfolio");
- c. publish the results of the calculations carried out under clauses 2.16C.2(a) and 2.16C.2(b) on its website; and
- d. notify each Market Participant that has a Registered Facility assigned to a Material Constrained Portfolio identified under clause 2.16.2C(b).

WEM Rule 2.16C.2A

Each set of Material Constrained Portfolios identified by the Economic Regulation Authority under clause 2.16C.2(b) replaces the previous set of Material Constrained Portfolios identified by the Economic Regulation Authority under clause 2.16C.2(b) (if any) with effect from the time that the Economic Regulation Authority publishes the results of the relevant calculations under 2.16C.2(c).

WEM Rule 2.16C.3

By no later than three months from the date of receipt of a notice from the Economic Regulation Authority under clause 2.16C.1(c)(ii) or clause 2.16C.2(d), a Market Participant must, in accordance with the WEM Procedure referred to in clause 2.16D.15:

- a. maintain adequate records (that are capable of independent verification) of the internal governance arrangements the Market Participant has in place to comply with its obligations under clause 2.16A.1;
- b. maintain adequate records (that are capable of independent verification) of the 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; and
- c. maintain adequate records (that are capable of independent verification) of the 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.4

The Economic Regulation Authority must monitor the following price offers for compliance with clause 2.16A.1:

- 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; and
- 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.

WEM Rule 2.16C.5

A Market Participant must not make an Irregular Price Offer that results in an inefficient market outcome.

WEM Rule 2.16C.6

The Economic Regulation Authority must investigate potential breaches of clause 2.16A.1:

- a. in accordance with clause 2.13.27 and the WEM Procedure referred to in clause 2.16D.15; and
- b. having regard to the Offer Construction Guideline,

and if it considers that:

- c. 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; or
- d. 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 Market,

the Economic Regulation Authority must determine that the price was an Irregular Price Offer.

WEM Rule 2.16C.7

The Economic Regulation Authority must investigate and determine, in accordance with clause 2.13.27 and the WEM Procedure referred to in clause 2.16D.15, whether an Irregular Price Offer determined under clause 2.16C.6 has resulted in an inefficient market outcome.

WEM Rule 2.16C.8

Without limiting clauses 2.16C.6 and 2.16C.7, the Economic Regulation Authority must make a determination under clause 2.16C.6 and, if necessary, under clause 2.16C.7, no later than six months from the day the Economic Regulation Authority commenced its investigation under clause 2.16C.6.

WEM Rule 2.16C.9

In conducting an investigation under clause 2.16C.7, the Economic Regulation Authority:

- a. must consider any changes to:
 - i. a STEM Clearing Price or Reference Trading Price;
 - ii. Energy Uplift Payments; or
 - iii. the quantities of energy scheduled in respect of Market Participants in the STEM Auction, or the dispatch of Facilities in the Real-Time Market,

that are likely to have occurred as a result of the Irregular Price Offer; and

- b. may consider any other matters it considers relevant.

WEM Rule 2.16C.10

If, following an investigation, the Economic Regulation Authority has determined pursuant to clause 2.16C.6 and clause 2.16C.7 that a Market Participant has breached the obligation specified in clause 2.16C.5, the Economic Regulation Authority must:

- a. at least two Business Days prior to publication of its determination under clause 2.16C.10(b), notify the relevant Market Participant of the determination; and
- b. publish on its website details of its determination, including the name of the relevant Market Participant and the Irregular Price Offer to which the determination relates.

WEM Rule 2.16C.11

For the avoidance of doubt, the Economic Regulation Authority may investigate any alleged breach of clause 2.16A.1, even if the Economic Regulation Authority was not monitoring the Market Participant's price offers under clause 2.16C.4 at the time the alleged breach occurred.

WEM Rule 2.16D.15

The Economic Regulation Authority must document in a WEM Procedure:

- a. the methodologies and processes to be followed by the Economic Regulation Authority in relation to:
 - i. identifying each Portfolio and Constrained Portfolio operating in the Wholesale Electricity Market pursuant to clauses 2.16B.1(a) and 2.16B.2, respectively;
 - ii. carrying out the calculations under clauses 2.16C.1(a) and 2.16C.2(a) in relation to identifying each Material Portfolio and Material Constrained Portfolio, respectively; and
 - iii. monitoring prices offered by a Market Participant under clause 2.16C.4, and making determinations under clauses 2.16C.6 and 2.16C.7 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 Economic Regulation Authority to carry out its monitoring of price offers under clause 2.16C.4; and
- c. details of the processes the Economic Regulation Authority and Market Participants must follow in respect to a request for guidance under clause 2.16D.5, which may include a template that a Market Participant must use for making a request.

WEM Rule 2.16E.1

Subject to clauses 2.16C.6 and 2.16C.7, the Economic Regulation Authority must not, in respect of a price offer described in clause 2.16C.4, investigate a Market Participant under clause 2.13.27, or take enforcement action under clause 2.13.36 for a breach of clause 2.16A.1, where the Economic Regulation Authority has determined under clause 2.16C.7 that an Irregular Price Offer by the Market Participant has not resulted in an inefficient market outcome.

WEM Rule 2.16E.2

Where the Economic Regulation Authority has determined that an Irregular Price Offer by a Market Participant has not resulted in an inefficient market outcome, the Economic Regulation Authority must notify the Market Participant of the results of the investigation and the reasons for its decision.