



Economic Regulation Authority

# WEM Procedure

Portfolio Determination – Draft V1.1

Effective 21 June 2023

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### VERSION HISTORY

Version	Effective Date	Notes
1.1	21 June 2023	Creation of WEM Procedure for New Market (Procedure Change Proposal EEPC_2023_02) - Draft for consultation.

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## **1. PROCEDURE OVERVIEW**

### **1.1 Relationship with the Market Rules**

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

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

1.1.3 The *Electricity Industry Act 2004*, the WEM Regulations and the WEM Rules prevail over this WEM Procedure to the extent of any inconsistency.

### **1.2 Purpose of this procedure**

1.2.1 This WEM Procedure documents (clause 2.16D.15 of the WEM Rules):

- (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 clauses 2.16B.1(a) and 2.16B.2 of the WEM Rules respectively (see section 3).
  - (ii) Carrying out the calculations in relation to identifying each Material Portfolio and Material Constrained Portfolio under clauses 2.16C.1(a) and 2.16C.2(a) of the WEM Rules respectively (see section 4.1).
  - (iii) Monitoring prices offered by a Market Participant and making determinations in relation to those price offers under clauses 2.16C.4, 2.16C.6 and 2.16C.7 of the WEM Rules (see section 2.3).
- (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 clause 2.16C.4 of the WEM Rules (see section 5).
- (c) Details of the processes the ERA and Market Participants must follow in respect to a request for guidance, which may include a template that a Market Participant must use for making a request under clause 2.16D.5 of the WEM Rules (see section 6).

### **1.3 Application of this procedure**

1.3.1 In this WEM Procedure where obligations are conferred on a Rule Participant that Market Participant must comply with the relevant obligations in accordance with clause 2.9.8 of the WEM Rules, as applicable.

### **1.4 Associated market procedures and guidelines**

1.4.1 WEM Procedure: Monitoring Protocol (ERA Procedure)

1.4.2 WEM Procedure: ERA triggering the SESSM (ERA Procedure)

1.4.3 Offer Construction Guideline

1.4.4 Trading Conduct Guideline

## **1.5 Conventions used**

1.5.1 In this WEM Procedure the conventions specified in clauses 1.3 - 1.5 of the WEM Rules apply.

## **1.6 Terminology and definitions**

1.6.1 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.

## **2. GENERAL TRADING OBLIGATIONS (2.16A)**

### **2.1 General trading obligations**

2.1.1 Market Participants are required to:

- (a) Offer prices in each STEM Submission 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).
- (b) Not to engage in conduct in the STEM or Real-Time Market that (clause 2.16A.3 of the WEM Rules).
  - (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.

2.1.2 Not to make an Irregular Price Offer that results in an inefficient market outcome. (clause 2.16C.5 of the WEM Rules).

### **2.2 ERA Guidelines**

2.2.1 To help guide Market Participants on the general trading obligations the ERA maintains an Offer Construction Guideline and Trading Conduct Guideline (clause 2.16D.1 of the WEM Rules).

2.2.2 The ERA may amend these guidelines at any time for the following reasons:

- (a) New technologies with materially different cost components enter the market.
- (b) From new information gathered as part of the Supplementary Essential System Services Mechanism.

- (c) Following determinations of any judicial or litigation reviews relating to matters covered by the guidelines.

## **2.3 ERA Monitoring**

2.3.1 The ERA will investigate potential breaches of WEM Rules Clause 2.16A.1 of the WEM Rules and determine whether the price was an Irregular Price Offer by considering if clauses 2.16C.6(c) and (d) of the WEM Rules):

- (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.
- (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 Market.

2.3.2 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 (clause 2.16A.2 of the WEM Rules).

2.3.3 As part of monitoring compliance with the general trading obligations the ERA monitors (clause 2.16C.4 of the WEM Rules):

- (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.
- (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.

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

## **2.4 Identifying a breach**

2.4.1 The ERA may investigate any alleged breach of the price offer obligations, even when it does not relate to a Material Portfolio or Material Constrained Portfolio (clause 2.16C.11 of the WEM Rules).

2.4.2 To determine if a participant has not met the general trading obligations the ERA will consider if (clause 2.16A of the WEM Rules):

- (a) The participant had market power (clause 2.16A.2 of the WEM Rules).
- (b) The price offered was an Irregular Price Offer (clause 2.16C.6 of the WEM Rules).
- (c) The Irregular Price Offer resulted in an inefficient market outcome (clause 2.16C.7 of the WEM Rules).

2.4.3 In determining whether a Market Participant has engaged in conduct prohibited by clause 2.16A.3 of the WEM Rules the ERA may consider (clause 2.16A.4 of the WEM Rules):

- (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.
  - (d) Any other information the ERA considers relevant to its determination.
- 2.4.4 A STEM Submission or a Real-Time Market Submission is not made in bad faith 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 (clause 2.16A.5 of the WEM Rules).
- 2.4.5 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.
- 2.4.6 The ERA must investigate and determine, whether an Irregular Price Offer determined has resulted in an inefficient market outcome, no later than **six months** from the day the ERA commenced its investigation.
- 3. PORTFOLIO ASSESSMENT [2.16B]**
- 3.1 ERA assessment of portfolios**
- 3.1.1 The ERA will by 1 April and 1 October 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 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.
  - (d) 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.

- (e) A Registered Facility must not be allocated to a Portfolio containing another Registered Facility unless it is required (clauses 2.16B.1(a)(ii), 2.16B.1(a)(iii) or 2.16B.1(a)(iv) of the WEM Rules).

3.1.2 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.

3.1.3 All Facilities 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.

- (a) The ERA will use the Facility registration information as provided by AEMO, and as recorded on the AEMO website.
- (b) Market Participants must declare to the ERA the list of Facilities registered to all their associated entities.
- (c) Market Participants must declare to the ERA and identify their control of Registered Facilities, for example, by providing evidence of capacity to determine the outcome of decisions about financial and operating policies that influence Market Submissions related to Registered Facilities.
  - (i) Examples of such evidence that may 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.
- (d) The Market Participant, its associated entity, or other entity which has the authority to directly or indirectly control Market Submissions to the STEM or Real-Time Market will be considered to have control of the Registered Facility.

3.1.4 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.



- (c) 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.

3.1.5 Declarations from Market Participants, required by section 3.1 of this WEM Procedure must be provided to the ERA by the Market Participant by 1 February or 1 August of each year.

- (a) The ERA will publish a list on its website specifying the name of each Registered Facility within each identified Portfolio (clause 2.16B.1(b) of the WEM Rules).

3.1.6 An example of how Facilities may be allocated to Portfolios based on ownership and control, according to clause 2.16B.1 of the WEM Rules is shown in Table 2.

**Table 2: Example of allocating Portfolios**

	<b>Facilities registered to Market Participant Z</b>	<b>Facilities registered to Market Participant Y</b>
<b>Portfolio 1</b>	Facility A, owned and controlled by Market Participant Z	Facility E, controlled by Market Participant Z
<b>Portfolio 2</b>	Facility B, controlled by Market Participant Y	Facility F and Facility G (both owned and controlled by Market Participant Y)
<b>Portfolio 3</b>	Facility C, controlled by Entity W	Facility H, controlled by Entity W
<b>Portfolio 4</b>	Facility D, controlled by Entity ZY (an associated entity of Market Participant Z)	

3.1.7 Within 10 Business Days of the end of each Rolling Test Window, the ERA will identify (clause 2.6B.2 of the WEM Rules):

- (a) Each Constraint Equation for a Network Constraint that bound during one or more Dispatch Intervals in the rolling consecutive three-month period of Trading Days.
- (b) Each Constrained Portfolio for each Constraint Equation identified above.

3.1.8 The ERA may specify a Registered Facility within more than one Constrained Portfolio (clause 2.16B.2 of the WEM Rules).

## **4. PORTFOLIO DETERMINATION**

### **4.1 Material Portfolio Determination (2.16C.1)**

4.1.1 The ERA will within 10 Business Days of identifying each Portfolio as detailed in section 3 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 (clause 2.16C.1(a) of the WEM Rules):

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

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 ∈ p denotes all Scheduled Facilities, Semi-Scheduled Facilities and Non-Scheduled Facilities f assigned to Portfolio p.
  - (c) f ∈ Facilities denotes all Scheduled Facilities, Semi-Scheduled Facilities and Non-Scheduled Facilities assigned to a Portfolio identified under clause 2.16B.1(a) of the WEM Rules.
- 4.1.3 The ERA will within 10 Business Days of identifying each Material Portfolio publish the results of the calculation on its website and notify each Market Participant that has a Registered Facility assigned to a Material Portfolio.
- 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. For the avoidance of doubt, the ERA is not limited to investigate only the identified Material Portfolios.

## 4.2 **Material Constrained Portfolio Determination [2.16C.2]**

- 4.2.1 The ERA will within 20 Business Days following the end of a Rolling Test Window calculate as a percentage the Constrained Uplift Payment Ratio for each Constrained Portfolio and publish the results of the calculation on its website.<sup>1</sup>
- 4.2.2 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 of this outcome (clause 2.16C.2(a) of the WEM Rules). Such constrained portfolios are defined as a **“Material Constrained Portfolio”**.
- 4.2.3 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:

<sup>1</sup> The 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.

- i. The Constraint Equation relevant to the identification of the Constrained Portfolio bound (clause 2.16B.2(a) of the WEM Rules).
- 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.

4.2.4 Fixed Assessment Period is defined as a period of at least seven consecutive Trading Days in which the Constraint Equation relevant to the identification of a Constrained Portfolio has continuously bound within a Rolling Test Window (clause 2.16B.2(b) of the WEM Rules). A Rolling Test Window may contain multiple Fixed Assessment Periods

4.2.5 The ERA will publish the results of these calculations on its website (clause 2.16C.2(c) of the WEM Rules).

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.

4.2.7 The ERA will notify in writing the Market Participant with the Material Constrained Portfolio (clause 2.16C.2(d) of the WEM Rules).

## **5. MARKET PARTICIPANT INFORMATION RECORDING**

5.1.1 By no later than three months from the date of receipt of a notice provided under clauses 2.16C.1(c)(ii) or 2.16C.2(d) of the WEM Rules, a Market Participant must (clause 2.16C.3 of the WEM Rules):

- 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 of the WEM Rules.
- 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.
- 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.
- d) The ERA will maintain and publish in the Offer Construction Guideline a list of information that Market Participants may record to demonstrate compliance with clause 2.16A.1 of the WEM Rules.

## **6. REQUEST FOR GUIDANCE (2.16D)**

6.1.1 The ERA will assist and guide participants to ensure they have the necessary information to comply with the price offer obligations. The ERA will consider

request for extensions to any of the timelines detailed below whereby the Market Participant notifies the ERA that they require extra time.

- 6.1.2 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 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 clause 2.16C.6 of the WEM Rules, how the matters in the Offer Construction Guideline may apply to the Market Participant's Registered Facility.
- 6.1.3 The ERA may include a template that a Market Participant must use for making a request for guidance (clause 2.16D.15(c) of the WEM Rules). A template has been provided in Appendix 1.
- 6.1.4 Within 20 Business Days of receiving the request for guidance the ERA will consider the request and use reasonable endeavours to provide guidance on the matters specified in the request.
- 6.1.5 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 (clause 2.16D.8 of the WEM Rules).
- 6.1.6 The ERA considers requests for extensions that, for example, demonstrate that the provision of information will take longer than that specified in the WEM Rules.
- 6.1.7 If the ERA issues a request for further information the 20 Business Day timeframe begins again from the day that all further information requested by the ERA was received.
- 6.1.8 The ERA is not required to provide guidance to a Market Participant where the ERA considers that (clause 2.16D.10 of the WEM Rules):
- a) The Offer Construction Guideline already provides sufficient guidance on the matters raised in the request.
  - b) The request does not meet the requirements.
  - 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.
- 6.1.9 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 (clause 2.16D.11 of the WEM Rules).
- 6.1.10 When investigating, the ERA must take into account any guidance provided to the Market Participant that is relevant to the matters being investigated.

- 6.1.11 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.
- 6.1.12 The ERA will 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.

## 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: Material and Material Constrained Portfolio Determination.

Please submit your request for guidance using the template below to: [xx@erawa.com.au](mailto:xx@erawa.com.au)

### Section 1: Your details

Name of Market Participant (required)

Contact person (first and last name) (required)

Contact phone (required)

Contact email (required)

### Section 2: ERA Notice Received Requiring Guidance

Date of Notice (required)

Applicable Facilities and their Portfolio Status (required)

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

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

Please add additional lines as required.

### Section 3: Matters Requiring Guidance

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

<b>Matter in the Offer Construction Guideline</b>	<b>Guideline Reference</b>

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

<b>Name of Supporting Material</b>	<b>Confirm Attached</b>

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: