



Economic Regulation Authority

Wholesale Electricity Market Rules and Gas Services Information Rules

Compliance report for the period 1 July 2023 to 31
December 2023

31 January 2024

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1. Summary

The Economic Regulation Authority (ERA) is responsible for the compliance and enforcement functions in the Wholesale Electricity Market (WEM) Rules and Procedures, and in the Gas Services Information (GSI) Rules.¹

This report provides participants and other interested parties with a summary of the ERA's compliance activities for the reporting period 1 July 2023 to 31 December 2023. This report satisfies the requirements for the ERA to publish six-monthly reports on the compliance activities for the preceding six months including summaries of matters brought before the Electricity Review Board, and details of any civil penalties imposed by the ERA.^{2,3}

Addressing non-compliances with both the WEM and GSI Rules remains a priority of the ERA. The ERA completed 71 investigations in the 1 July 2023 to 31 December 2023 reporting period. Most of these matters, 44, concerned the WEM Rules, and 27 were related to the GSI Rules. The largest breach categories for the completed investigations were failure to comply with Market Information Requirements (24) and the late payment of invoices (15).

The ERA recorded 236 alleged WEM Rule non-compliance and GSI Rule non-compliance matters in its compliance monitoring register in this reporting period.

Terms capitalised in this report include terms defined under Chapter 11 of the WEM Rules and Schedule 1 of the GSI Rules.

¹ Comparative data is presented in this report from 1 July 2016. This is the date that the ERA became responsible for the compliance and enforcement functions in the WEM Rules and the GSI Rules.

² Wholesale Electricity Market Rules (WA), 13 December 2023, Clause 2.13.45, ([online](#)).

³ Gas Services Information Rules (WA), 1 December 2022, Rule 167(1), ([online](#)).

2. Compliance Update

The ERA's compliance functions include monitoring market participants' compliance with the WEM Rules and GSI Rules and investigating alleged breaches of these rules.

The WEM Rules provide the ERA with compulsory information gathering powers so that it can perform its functions. These powers not only concern compliance processes but also information and data required to inform the ERA's determination and review functions. This includes information requested under clause 2.16.6 of the WEM Rules. Where information is requested using a compulsory information gathering power, the information must be provided by the deadline specified in the request, unless an extension has been authorised.

Market participants need to give greater priority to providing all requested information by the specified deadline. Market participants must contact the ERA before the deadline to discuss an extension if additional time is required. Requests may not be granted, particularly where there are dependent, consequential processes and time constraints.

Failure to provide requested information by the specified deadline may result in a breach of the WEM Rules. Some of the compulsory information gathering powers are civil penalty provisions and non-compliance could result in the ERA issuing a civil penalty notice.

Changes to the WEM Rules from 1 October 2023 give the ERA greater discretion to investigate some non-compliances based on a risk assessment of the matter. For discretionary matters the WEM Rules now allow the ERA to investigate suspected breaches in accordance with the risk rating assigned to the type of suspected breach. The risk rating framework is published in the ERA's Monitoring Protocol WEM Procedure.^{4,5}

Changes to the WEM Rules from 1 October 2023 now require Rule Participants (including AEMO and Network Operators) to notify the Economic Regulation Authority in writing when they are aware that they have breached or have reasonable cause to suspect they may have breached, the WEM Rules or a WEM Procedure.⁶

The GSI Rules require the ERA to investigate all suspected breaches of the GSI Rules (Rule 168(2)).

2.1 New WEM Procedure and Compliance Framework and Strategy

During this reporting period, the ERA has published a new Monitoring Protocol WEM Procedure, a new Compliance Framework and Strategy for WEM, GSI and Pilbara Network Rules, WEM Monitoring Priorities and introduced online breach reporting. These came into effect on 1 October 2023.

The updated Monitoring Protocol WEM Procedure implements the changes to the WEM Rules; including those that provide the ERA with some flexibility to apply a risk-based approach to investigating breaches, to commence, suspend, and close investigations, and greater powers to issue civil penalties.

⁴ Wholesale Electricity Market Rules (WA), 13 December 2023, Clause 2.13.27, 2.15.1, ([online](#)).

⁵ WEM Procedure Monitoring Protocol, 1 October 2023, ([online](#)).

⁶ Wholesale Electricity Market Rules (WA), 13 December 2023, Clause 2.13.23, ([online](#)).

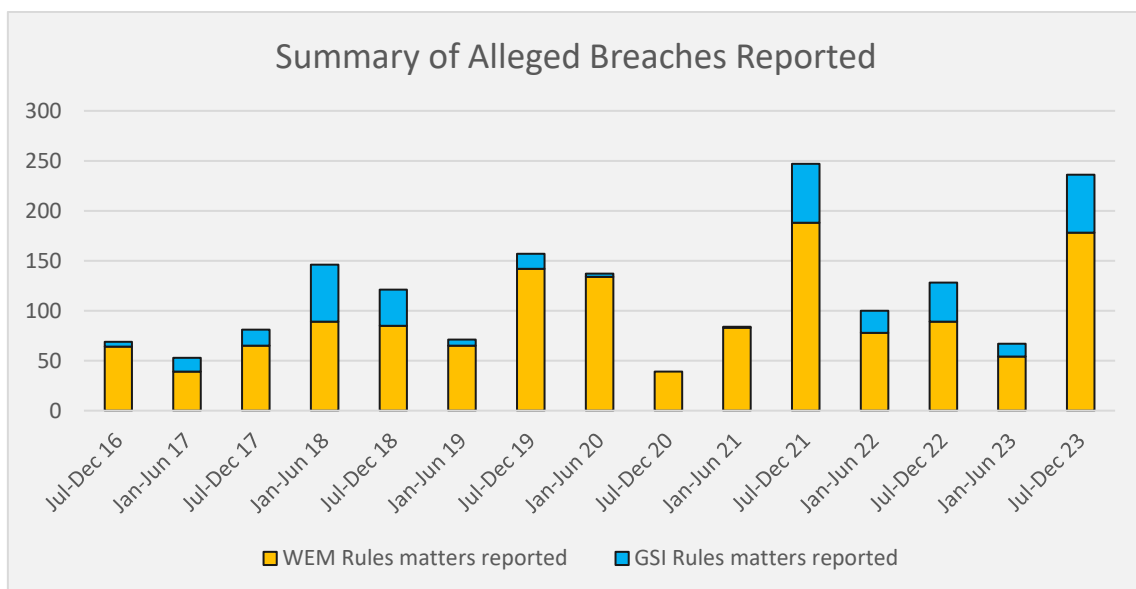
2.2 Alleged breach reports

Participants, including AEMO, may report alleged breaches of the WEM Rules and GSI Rules to the ERA. The ERA also identifies alleged breaches of the WEM Rules and the GSI Rules. The ERA records details of alleged breaches that it becomes aware of in its compliance monitoring register.

In this reporting period, 1 July 2023 to 31 December 2023, the ERA recorded 178 alleged WEM Rule non-compliance matters and 58 alleged GSI Rule non-compliance matters in its compliance monitoring register (Figure 1).⁷

Of the 236 alleged breaches recorded in this reporting period (Figure 1), 48 were self-reported by participants other than AEMO. The ERA identified 29 alleged breaches.

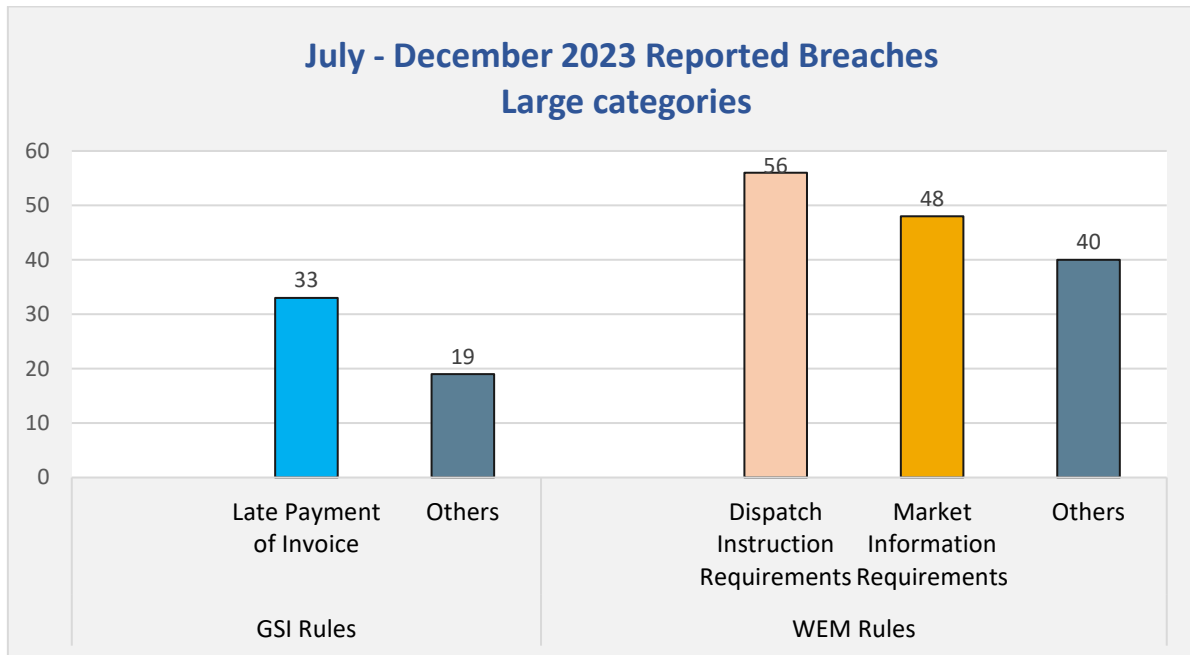
Figure 1: Alleged breach reports recorded 31 December 2016 to 31 December 2023



Source: ERA data

The largest categories of WEM Rules breaches reported in this period are shown in Figure 2. There were 56 alleged breaches in the “Dispatch Instruction Requirements” category and 48 alleged breaches in the “Market Information Requirements” category, specifically regarding the late provision of information to AEMO. Participants should be aware that providing information after the rule deadline may constitute non-compliance that may be subject to a civil penalty notice. The late provision of information may also cause consequential delays to other market processes.

⁷ The ERA became responsible for the compliance and enforcement functions in the WEM Rules and the GSI Rules on 1 July 2016.

Figure 2: Largest categories of alleged breaches reported 1 July 2023 to 31 December 2023

Source: ERA data

Of the 58 GSI Rules matters recorded for this reporting period, 33 matters concerned late payment of invoices.⁸ The ongoing late payment of invoices shows that there is still a need for some participants to improve their business processes and implement procedures to improve compliance with the GSI Rules.

2.3 Dispatch instruction, balancing submissions and outage quarterly investigation process

The ERA determines market participants' compliance with dispatch instructions, outages, and balancing submissions during a quarterly investigation process. During this process, the ERA analyses market data, information contained in non-compliance reports and constrained payment data provided by AEMO to determine whether market participants have complied with the WEM Rules.

The quarterly investigation process into Market Participant compliance with Dispatch Instructions is carried out to meet the requirements of clause 7.10.8 of the WEM Rules.⁹ Under the pre-1 October 2023 WEM Rules, the ERA also considered whether any constrained payments received by participants resulting from non-compliant behaviour should be recovered.¹⁰ Changes to the WEM Rules from 1 October 2023 have removed this obligation.

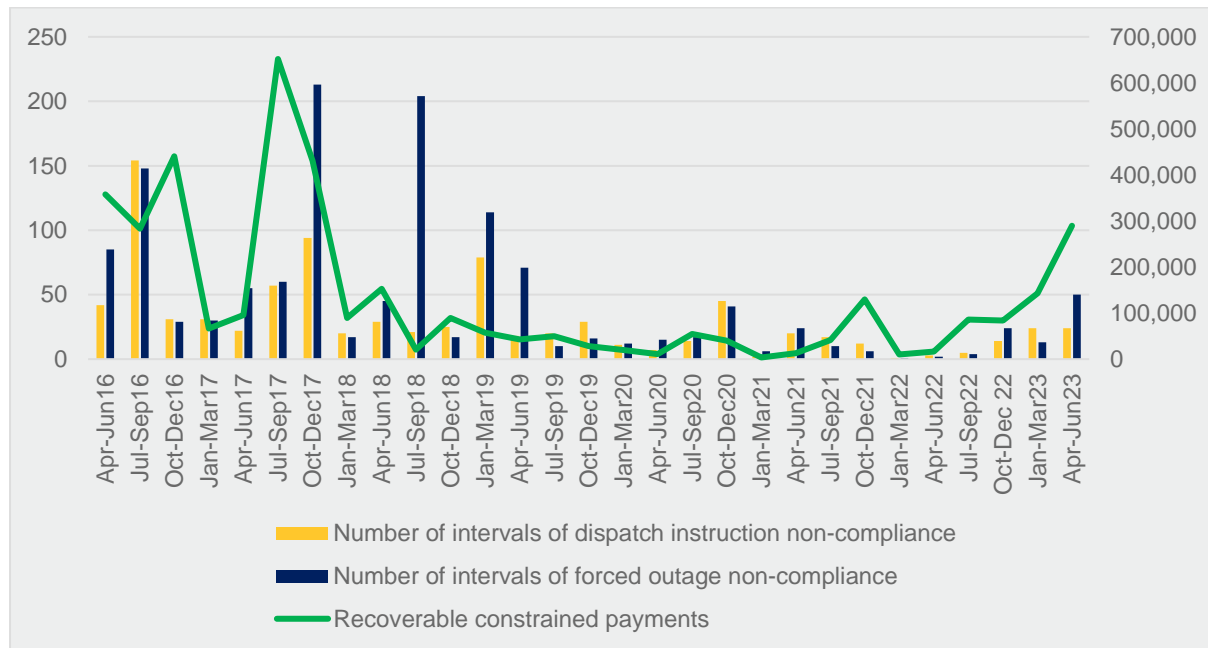
⁸ Gas Services Information Rules (WA), 1 December 2022, Rule 118(1), ([online](#)).

⁹ Wholesale Electricity Market Rules (WA), 1 July 2023, Clause 7.10.8, ([online](#)).

¹⁰ 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 WEM Rules, unless it was non-compliant with a dispatch instruction under clause 7.10.1. Wholesale Electricity Market Rules (WA) 29 April 2023, ([online](#)).

Figure 3 shows quarterly results from this process between April 2016 and June 2023.

Figure 3: Quarterly non-compliance with dispatch instructions process (Source: ERA data)



In the 1 April 2023 to 30 June 2023 quarter, the ERA investigated 963 Trading Intervals where payments were larger than \$1,000. Of these intervals, market participants were found to be in breach of clause 7.10.1 in 50 intervals. The data in Figure 3 shows that the number of intervals where participants did not comply with dispatch instructions or submit correct outages was high during this reporting period.

The large number of intervals investigated in the 1 April 2023 to 30 June 2023 quarter were because AEMO had issued a high volume of dispatch advisories where the Synergy portfolio was constrained to provide ancillary services and maintain power system security and reliability. This resulted in out of merit generation and constrained payments being made. In addition, a planned outage by Western Power resulted in the Eastern Goldfields being islanded from the South West interconnected system (SWIS) which resulted in out of merit generation in this area. These intervals were investigated to ensure participants were entitled to retain the constrained payments made to them.

2.4 Compliance monitoring

2.4.1 Balancing submission made after gate closure

The ERA commenced a monitoring project in the reporting period, 1 January to 30 June 2022. The project considered market participants' compliance with notification requirements if balancing submissions are made after balancing gate closure.

Notifications to AEMO for balancing submissions made after gate closure are necessary to ensure that submissions are made in compliance with the reasons outlined in chapter 7A.2.10 of the WEM Rules.¹¹ In circumstances where no notification has been provided to AEMO, there is less certainty as to the reason an after-gate closure submission was made. This may provide the opportunity for some non-compliant participants to act on new information, such

¹¹ 7A and 7B are deleted from the New WEM Rules effective from 1 October 2023.

as a change in forecast balancing price, where compliant participants do not have the same opportunity.

To prevent this, clause 7A.2.11 of the WEM Rules requires the participant to provide AEMO with written details of the after-gate closure including the nature of the constraint, its start time and its duration.¹²

The ERA assessed 223 instances from nine market participants in the 1 January to 31 December 2022 period where a balancing submission was made after gate closure. These investigations were resolved in the 1 July to 31 December 2023 reporting period.

The investigations were concluded in this reporting period. There were no indications that the market participants received a financial benefit from making the after-gate closure balancing submissions. There were no indications that the market participant made the late balancing submissions to manipulate the market prices or to obtain unfair advantage. The after-gate closure submissions were made as directed by the WEM Rules to reflect a forced outage status.

The energy price to market increased in some of the affected trading intervals because of the forced outages. However, the market is designed to operate in this way; this outcome was expected and could not be avoided because the facility was under a forced outage and could not be dispatched under any circumstances.

2.4.2 NEW WEM Rules Chapter 7

From 1 October 2023, the WEM Rules Chapter 7 was renamed 'Real-Time Market Operation and Dispatch'. This reflects the integration of the operation of the Real-Time Market and the Central Dispatch Process in accordance with the Security Constrained Economic Dispatch (SCED) market model. Chapter 7 has been substantially amended, including the removal of Chapters 7A and 7B.

As the name implies, SCED determines the most economic dispatch of individual resources across the SWIS.

Market participants are expected to keep certain records of submission changes in accordance with the new WEM compliance framework requirements.¹³ This means that market participants are required to ensure that their information technology systems have sufficient controls to identify and report their own activities to meet their compliance obligations under the new WEM market's various Rules.

2.5 Completed Investigations and compliance responses

The ERA currently has a backlog of 428 cases including 361 investigations and 57 allegations (post 1 October 2023) reports as of 31 December 2023.

The ERA completed 71 investigations in this reporting period. There were 61 investigations where a breach was determined. The matters were considered low impact and the rule

¹² 7A.2.11. Where a Market Participant has submitted a Balancing Submission in accordance with clauses 7A.2.10(a) or 7A.2.10(b) after Balancing Gate Closure, the Market Participant must, as soon as reasonably practicable, provide AEMO with written details of the nature of the Internal Constraint or External Constraint, when it occurred and its duration.

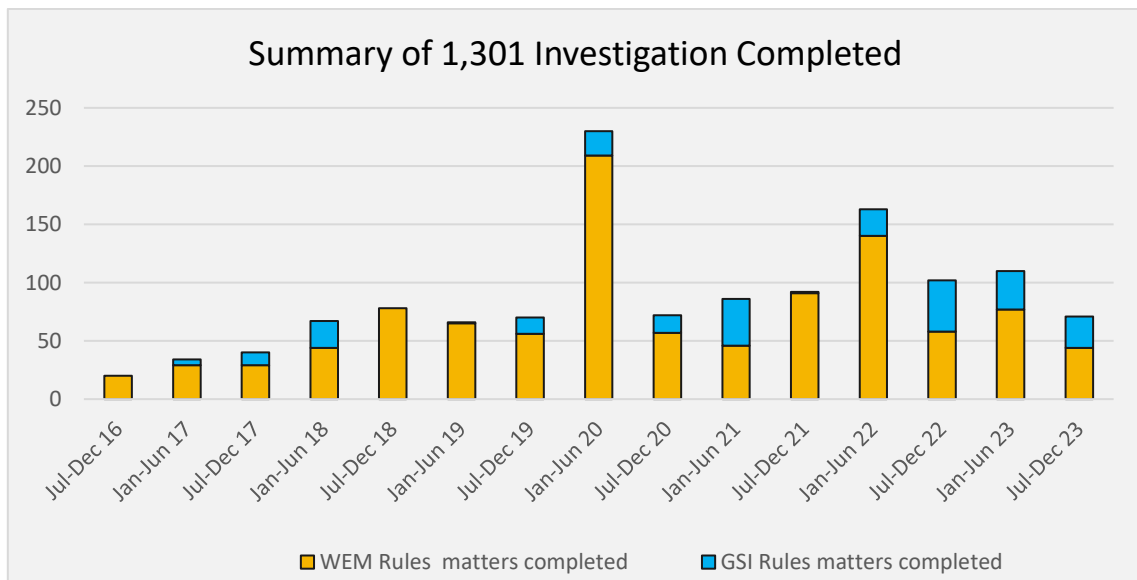
Wholesale Electricity Market Rules ([online](#)) – prior to 1 October 2023.

¹³ Wholesale Electricity Market Rules (WA), 13 December 2023, Clause 7.4.26(b), ([online](#)).

participants received investigation outcome determination letters advising of the finding and addressing the rule participants' implementation of controls to mitigate the risk of non-compliances reoccurring. The remaining ten matters were determined as not having constituted a breach of the relevant rule.

Figure 4 shows the number of investigations completed in each reporting period since 1 July 2016.¹⁴

Figure 4: Investigation completed between 1 July 2016 to 31 December 2023



(Source: ERA data)

2.6 Stakeholder engagement and reports

2.6.1 Compliance and Enforcement Priorities

The ERA's risk-based approach to setting compliance and monitoring activities involves assessing the compliance risk associated with an obligation or set of obligations. These assessments will assist the ERA in determining the areas that will be prioritised for compliance monitoring.

The compliance and enforcement monitoring priorities are made up of:

- Mandatory: Areas the WEM Rules mandate that the ERA must monitor.¹⁵
- Risk-based: Areas the ERA identified as requiring monitoring from the risk assessment process.
- Trend-based: Areas the ERA has decided to prioritise for monitoring based on its observations of the market.

¹⁴ The ERA became responsible for the compliance functions in the GSI and WEM Rules on 1 July 2016. Between 1 July 2016 and 31 December 2023, the ERA completed 1,301 investigations.

¹⁵ The ERA must monitor for inappropriate and anomalous market behaviour, including behaviour related to market power (Wholesale Electricity Market Rules, 13 December 2023, Clause 2.16.9(b), [online](#)).

The ERA will determine, and review compliance and enforcement monitoring priorities as required.

2.6.2 Stakeholder engagement

The ERA's review and update of the Monitoring Protocol WEM Procedure was informed by a public consultation, which closed on 18 July 2023. Submissions received are published with the Procedure Change Report and the updated WEM procedure.¹⁶

The ERA held an Energy Markets Forum 2023 on 10 November 2023. The forum was an information session for participants promoting key changes across the ERA's Energy Markets division, including compliance related matters. It focused on the new WEM Rules requirements and compliance processes, and how market participants could self-report their own non-compliances.

2.6.3 Report to the Minister on ERA's compliance

The ERA provides an annual report to the Minister for Energy on its own compliance with the WEM Rules. The ERA published its 2022/23 compliance report to the Minister in December 2023.¹⁷

The ERA engaged an independent auditor to assess its compliance for 2022/23.

The audit found that the ERA complied with the WEM Rules and WEM Procedures during this audit period, except for a previously reported breach that was resolved due to a rule change.

The previously reported breach concerned the ERA's failure to review the Relevant Level Methodology, to be applied in setting certified reserve capacity, by 1 April 2022. The ERA remained in breach of Clause 4.11.3C from 1 July 2022 to 31 December 2022. The ERA was no longer in breach when the WEM Rules related to the ERA's obligation to conduct a review of the RLM changed from 1 January 2023.¹⁸

This matter was reported in the Report to the Minister for Energy on the Economic Regulation Authority's compliance 2021/22 and 2022/23 reports.¹⁹

The audit concluded that no adverse consequences arose from these two non-compliance matters.

The ERA will continue to ensure that it manages its compliance obligations under the WEM Rules, including its processes and controls for preventing non-compliance.

The 2022/23 report is available on the ERA website.

¹⁶ Procedure Change EEPC_2023_01 - Monitoring Protocol WEM Procedure ([online](#))

¹⁷ Economic Regulation Authority, 2023, Report to the Minister for Energy on the Economic Regulation Authority's compliance 2022/23, ([online](#)).

¹⁸ The ERA must conduct a review of Relevant Level Methodology by 1 April 2025.

¹⁹ Economic Regulation Authority, 2023, Reports to the Minister for Energy on the Economic Regulation Authority's compliance 2021/22 and 2022/23, ([online](#)).

2.6.4 Gas Advisory Board Presentation

On 14 September 2023, the ERA gave its annual presentation to the Gas Advisory Board (GAB). The presentation included the ERA's compliance priorities, a summary of completed investigations and the findings of the Gas Bulletin Board (GGB) data monitoring.

At the request of the GAB, the ERA commenced an investigation into the Capacity Outlook data provided to the Gas Bulletin Board (WA). This investigation was triggered by reports of GBB capacity data insufficiencies and inaccuracies highlighted by the current tight balance of supply and demand of gas in Western Australia. The ERA will present its findings to the GAB.

3. Report on Electricity Review Board matters

The ERA does not have any matters to report for the 1 July 2023 to 31 December 2023 reporting period.