



27 November 2023

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Pilbara ISOC

Submitted via email: submissions@pilbaraisoco.com.au and online via: www.pilbaraisoco.com.au

Dear James

Interim Compliance Procedure

APA appreciates the opportunity to provide feedback on the Pilbara ISOC's Interim Compliance Procedure (the Procedure) for the North West Interconnected System.

Please see:

- Appendix 1 for APA's more substantive issues and recommended solutions; and
- Appendix 2 for APA's minor and typographical issues and recommended solutions.

Thank you for your consideration of APA's submission. If you would like to discuss this submission, please contact me at anthony.ravi@apa.com.au or on 0402 069 906 or steven.kane@apa.com.au or 0410 443 434.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Anthony Ravi', with a stylized flourish at the end.

Anthony Ravi
Head of Commercial

Appendix 1: Interim Compliance Procedure substantive issues and recommended solutions

Reference	Issue and APA's Recommendation
1. Increase the reporting on a compliance activity which is deemed an extreme risk to 30 Business Days [Table 1]	<p><u>Issue</u> Table 1 of the Procedure provides an outline of the ISO's compliance activities as determined by the risk rating of the obligation and potential non-compliance activity. APA will use good electricity industry practice to resolve a compliance activity which is deemed an extreme risk as soon as reasonably possible but is concerned that 20 Business Days to report on a compliance activity which is deemed an extreme risk is too short. Compliance activities with an extreme risk rating require a detailed internal investigation that include the preparation of reports and internal approvals which can take longer than 20 Business Days. APA notes that clause 4.2.2 of the Procedure allows the Rules Participant to request an extension but APA's preference is to increase the reporting on a compliance activity which is deemed an extreme risk to 30 Business Days.</p> <p><u>Recommendation</u> APA recommends that the reporting on a compliance activity which is deemed an extreme risk is increased to 30 Business Days.</p>
2. Procedure to outline the process the ISO will follow to complete the target monitoring of Rules Participants [Clause 3.1.4]	<p><u>Issue</u> The Procedure outlines that the ISO monitors Rules Participants compliance using various methods including targeted monitoring of Rules Participants to assess compliance with specific rule obligations or groups of obligations or areas identified as being of particular compliance concern. The Procedure is unclear on how the ISO will complete this targeted monitoring of Rules Participants and what process will be followed.</p> <p><u>Recommendation</u> APA recommends that the Procedure outline the process the ISO will follow to complete the target reviews of Rules Participants.</p>
3. Non-compliance reporting template to be included as an Appendix to the Procedure [Clause 4.3.2]	<p><u>Issue</u> The Procedure outlines that the ISO has created a non-compliance reporting template to support Rules Participants and that this template can be found on the ISO's website. APA notes this template is not currently available on the ISO's website for APA to review.</p> <p><u>Recommendation</u> APA recommends the ISO include the non-compliance reporting template as an Appendix to this Procedure. APA recommends the ISO provide the Rules Participants with the non-compliance reporting template to review as this document is not currently available on the ISO's website.</p>

<p>4. Include new subclause in the Procedure for the ISO to determine the baseline risk score of each of the obligations [Clauses 2.3.2 & 4.4.5(a)]</p>	<p><u>Issue</u> Clause 4.4.5(a) of the Procedure outlines that the ISO will consider the baseline risk score of the obligation under section 2.3 of this Procedure when assigning the risk rating to a self-reported non-compliance or alleged breach of the Rules or Procedures. However, section 2.3 of the Procedure does not include any drafting to determine a baseline risk score only that the ISO must undertake a baseline risk assessment.</p> <p><u>Recommendation</u> APA recommends that clause 2.3.2 of the Procedure be updated to include a new subclause as drafted below:</p> <p><i>“The ISO must undertake a baseline risk assessment on each of the obligations to determine:</i></p> <p style="padding-left: 40px;"><i>(h) the baseline risk score of each of the obligations.”</i></p>
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Appendix 2: Interim Compliance Procedure minor and typographical issues and recommended solutions

Topic	Procedure Reference	APA Comment
Introduction		
Purpose and scope	1.1.1	Remove reference to “interim” in the final procedure.
	1.1.2(a)	Amend to “The ISO must monitor Rules Participants’ behaviour (including its own) for compliance with the Rules (including the Harmonised Technical Rules) and may take enforcement action under Subchapter 12.1 of the Rules” for consistency with the Rules.
	1.1.2(b)	Amend to “The ISO must endeavour to perform its compliance function under Subchapter 12.1 of the Rules with as little formality and as much expedition as reasonably practicable” for consistency with the Rules.
	1.1.3	Amend to “The Compliance Procedure may, as outlined in Rule 309(1) of the Rules, include” for greater clarity.
	1.1.3(b)	Amend to “the Rules”.
	1.1.3(c)	Amend to “the Rules”.
	1.1.3(d)	Amend to “the Rules”.
	1.1.3(f)	Amend to “Rule 309(1) above does not limit the matters the Compliance Procedure may deal with”.
Compliance Framework		
Compliance Approach	2.1.1(a)	Amend to “assist Rule Participants to understand their obligations, noting that the responsibility for meeting compliance obligations rests with the individual Rule Participant” for clarity.
	2.3.1	Amend to “The ISO must prepare a register of obligations which sets out the obligations of the ISO, ISO Control Desk, NSPs, Facility Controller, Integrated Mining Networks, Connection Point Compliance facilities and Networks under the Rules” for clarity.
	2.3.2(g)	Amend to “Any compliance action or enforcement following the determination a breach that has occurred” for clarity.
	2.3.5	Amend to “In the absence of a published baseline risk assessment in accordance with paragraph 2.3.3 of this Procedure all non-compliances must be reported to the ISO as soon as reasonably possible” for clarity.
Risk-based compliance activities	2.4.1	Amend to “Table 1 below provides an outline of ISO’s compliance activities as determined by the risk rating of the obligation and potential non-compliance activity” for clarity.
Compliance Monitoring		
Monitoring processes	3.1.1 Note	Amend to “Note: Rule 310 of the Rules requires a Rules Participant to inform the ISO in writing if it considers it has breached the Rules or has reasonable cause to suspect that it may have breached the Rules and must provide details of the breach. This is discussed further in section 4 of the Procedure” for consistency with the Rules.
	3.1.2(b)	Amend to “Monitoring activities are carried out with minimal resource and regulatory burden on Rules Participants (including the ISO)” for consistency with the Rules.

Monitoring ISO's compliance	3.1.4(b)	Amend to "Industry intelligence: Rule 310(2) of the Rules requires a Rules Participant or other person may inform the ISO in writing if it considers that another Rules Participant has breached the Rules or a Procedure, and may provide evidence of the breach" for consistency with the Rules.
	3.1.5	Amend to "Rules Participants must cooperate with the ISO by providing any information and records in the Rules Participant's possession or control which may assist the ISO to monitor compliance with obligations in the Rules or Procedures within the time requested by the ISO unless otherwise agreed" for consistency with the Rules.
	3.2.2(a)	Amend to "The development of an ISO obligations register, which identifies all of the ISO's Rules obligations" for clarity.
	3.2.2(b)	Amend to "Business planning processes, which identifies how and when the ISO's obligations are being carried out" for clarity.
	3.2.2(c)	Amend to "Industry intelligence: Rule 310(2)(b) of the Rules outlines that subject to the Compliance Procedure, a Rules Participant or other person may inform the Authority and the ISO in writing, if it considers that the ISO has breached the Rules, and may provide evidence of the breach" for consistency with the Rules.
	3.2.2(d)	Amend to "ISO Audit: In accordance with Rule 318 of the Rules, the ISO must appoint an auditor no later than 2 years after the Rules commencement date to undertake an audit of: <ul style="list-style-type: none"> (i) the ISO's internal Procedures and business processes' compliance with these Rules; (ii) the ISO's compliance with Rules and Procedures; (iii) the ISO's software systems and processes for software management; and (iv) any other matter the ISO considers appropriate.
	3.2.3	Amend to "further investigation" for clarity.
Breaches	3.2.5	Amend to "Any person may refer an alleged Rules breach by the ISO to the Authority, by written notice given to the ISO and Authority" for clarity.
When to report a non-compliance to ISO	4.1.2	Amend to "If a Rules Participant determines that it is non-compliant, or has reasonable cause to suspect it is non-compliant with the Rules or a Procedure, subject to the Compliance Procedure that Rules Participant must report in writing the non-compliance or suspected non-compliance to the ISO. Any notifications of non-compliance by a Rules Participant must be in accordance with section 4.3 of this Procedure" for consistency with the Rules.
	4.1.3	Amend to "A Rules Participant or other person may notify the ISO in writing if it considers that another Rule Participant is non-compliant with the Rules or Procedures. If a Rules Participant or other person reports a non-compliance, they must provide reasonable information in support of that non-compliance, and may provide evidence of the non-compliance to the ISO. Any notifications of non-compliance by another Rule Participant must be in accordance with section 4.3 of this Procedure" for clarity.
	4.1.4	Amend to "A Rules Participant or other person may notify the Authority and ISO in writing if it considers that the ISO is non-compliant with the Rules or Procedures. If a Rules Participant or other person reports a non-compliance they must provide reasonable information in support of that non-compliance, and may provide evidence of the non-compliance. Any notifications of non-compliance by the ISO must be in accordance with section 4.3 of this Procedure.
	4.2.1	Amend to "of this Procedure" for clarity.

Timeframes	4.3.1	Amend to “of this Procedure” for clarity.
	4.3.1(a)	Amend to “a self-reported non-compliance by a Rules Participant” for clarity.
	4.3.3	Amend to “A notification of a non-compliance must include” for clarity.
	4.3.3(c)	Amend to “The specific Rules or clauses in the Procedure/s that are alleged to have not been complied with” for clarity.
	4.3.4	Amend to “If available, the notification in clause 4.3.3 of the Procedure should also include” for clarity.
	4.3.4(iii)	Amend to “Whether and how the non-compliance has been rectified; and” for clarity.
	4.3.4(iv)	Amend “Actions planned or implemented to prevent recurrence of the non-compliance” for clarity.
	4.3.4(b)	Amend to “Details of any known impact to the Rules Participant, or other Rules Participants; and” for clarity.
	4.3.7	Amend to “On receiving written notification under paragraph 4.3.1 of this Procedure, the ISO will record the details of the suspected non-compliance” for clarity.
	4.3.9	Amend to “the ISO will consider whether it is appropriate to disclose to the Rule Participant alleged to have committed the non-compliance the identity of the Rules Participant” for clarity.
	4.4.2	Amend to “Table 4 in Appendix B”.
	4.4.2	Amend to “The ISO will inform the Rules Participant in writing that no breach has occurred” for clarity.
	4.4.3	Remove the underline text in clause 4.4.3.
	4.4.3	Amend to “the ISO will take the following actions, in accordance with Rule 311 of the Rules: (a) it must record the alleged breach; and (b) if required by the Compliance Procedure it must, and otherwise it may, investigate the alleged breach; and (c) it may meet with the Rule Participant on one or more occasions to discuss the alleged breach and possible actions to remedy the alleged breach and prevent recurrence” for consistency with the Rules.”
Table 2		Remove line 2 in Table 2 as this is redundant drafting.
Investigations		
Investigation Powers	5.1.1	Amend to “If the ISO has determined that an alleged breach should be investigated, Rules Participants must cooperate with an investigation by the ISO into an alleged breach and not engage in materially false or misleading conduct in Connection with an investigation, See Rule [312 (4)(a)], including:” for consistency with the Rules.
	5.1.9	Amend to “When the Authority is investigating an alleged breach by the ISO under Rule 313 of the Rules, the ISO’s investigation powers and functions described in this section 5.1 of this Procedure are to be read as references to the Authorities powers and functions” for clarity.
Investigation Process	5.2.2(b)	Amend to “Assign a risk rating to the alleged breach to determine if an investigation is required and determine the priority of the investigation” for clarity.
	5.2.3(c)(i)	Amend to “ISO Control Desk”.
	5.2.4(b)	Amend to “The ISO will notify the Rules Participant of the outcome of its investigation” for clarity.
	5.2.4(c)	Amend to “If an investigation finds that a breach has occurred, must Publish a notice identifying the breaching Rules Participant and, subject to rule 316, setting out reasonable details of the breach; and may Direct the Rules Participant do or refrain from

		doing a thing in order to remedy the breach or prevent its recurrence See Rule [312(6)(a)(i)]. This notice must meet the requirements of Rule 316, confidentiality of compliance matters” for consistency with the Rules.
	5.2.4(d)	Amend to “The ISO will assess the final risk of the non-compliance to determine the” for clarity.
	5.2.4(d)(iii)	Amend to “Whether it needs to direct a Rules Participant to do or refrain from doing a thing in order to remedy the breach or prevent its recurrence” for clarity.
Investigation Outcomes	5.3.2(c)	Amend to “issue a warning to the Rules Participant, and record the Rules Participants response to the warning [See Rule 312(2)(b) & (c)]” for clarity.
	5.3.2(d)	Amend to “direct the Rules Participant to remedy the breach if it is still occurring [See Rule 312(6)(a)(ii)]” for clarity.
	5.3.4	Amend to “Rules Participant” for consistency with the Rules.
	5.3.4	Amend drafting of clause 5.3.4 as the current drafting is unclear.
	Table 3	In the Compliance Action column or a Moderate risk rating amend “Potential to increased monitoring and prevent recurrence” to “Potential for increased monitoring to prevent recurrence” for clarity.
	Table 3	Amend to “Rules Participant” for consistency with the Rules.
Suspending or early closure of an Investigation	5.4.2(a)	Amend to “During the investigation, the risk rating of the alleged breach falls to a moderate or low risk rating” for consistency with the Procedure.
	5.4.5	Amend to “New information is received that results in a decrease in the risk rating to a moderate or low risk rating of the alleged breach” for consistency with the Procedure.
	5.4.8	Amend to “If the ISO reopens or closes a suspended investigation, it will notify the relevant Rules participant in accordance with paragraph 5.4.3 of this Procedure” for clarity.
Enforcement		
Warnings	6.1.1	Amend to “Where the ISO determines that a breach of the Rules has taken place, it may issue a warning to the Rules Participant to rectify the alleged breach” for consistency with the Rules.
	6.1.2(d)	Amend to “Request rectification of the breach of the Rules or Procedures, where relevant, including a timeframe that the ISO considers to be reasonable to accomplish the request” for clarity.
	6.1.3	Amend to “under section 4.3.3 of this Procedure” for clarity.
	6.1.3	Amend to “Rules Participant” for consistency with the Rules.
	6.1.4	Amend to “under section 6.1.2(c) of this Procedure” for clarity.
	6.1.5	Amend to “under section 6.1.2(c) of this Procedure” for clarity.
Recording and Reporting		
Report to Minister	7.1.1(c)	Remove “alleged rules breach by the ISO” as this drafting is not required.
	7.2.1	Amend to “Rules Commencement Date” for consistency with the Rules.

ISO audit report	New clause 7.2.1A	Include additional clause “In each subsequent audit report, the auditor, having regard to the findings of its audit, is to recommend a period of no more than 5 years, within which the next audit must be conducted” for consistency with Rule 318(2) of the Rules.
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