

Wholesale Market Monitoring and Reporting

Draft MMIO-GAS-2026-01 – Explanatory
Statement

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Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601
Email: aer inquiry@ aer.gov.au
Tel: 1300 585 165

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Request for Submissions

Interested parties are invited to make a written submission to the Australian Energy Regulatory (AER) on the draft Market Monitoring Information Order accompanying this statement.

Submissions should be made via email to ContractMarketMonitoring@aer.gov.au, with the subject line 'Draft Order MMIO-GAS-2026-01' by **close of business, Thursday 1 October 2026**.

Alternatively, submissions can be mailed to:

Fiona Hooymans
General Manager, Market Surveillance Branch
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

Submissions should be in PDF, Microsoft Word or another text readable document format. Due to timing constraints, late submissions may not be considered.

The AER prefers that all submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will be treated as public documents unless marked confidential. Parties wishing to submit confidential information are requested to:

- clearly identify the information that is the subject of the confidentiality claim; and
- provide a non-confidential version of the submission in a form suitable for publication.

All non-confidential submissions will be placed on the AER's website. For further information on the AER's use and disclosure of information provided to it, see the [AER Information Policy](#).

Enquiries about this Explanatory Statement, or about lodging submissions, should be directed to ContractMarketMonitoring@aer.gov.au.

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Definitions and shortened forms

Term	Definition
AER	Australian Energy Regulator
AER Information Policy.	AER information policy: collection, use and disclosure of information, available on the AER's website
AER Portal	The digital service used by the AER to receive information given to the AER by companies responding to this Order
Authorised Officer	Refers to a Person who is regarded an 'officer' of a Class Member in accordance with section 9AD of the Corporations Act 2001 (Cth)
Class	A specified Class of persons defined in section 2 of the Draft Order
Class Member	A person within a Class
Contract and/or Agreement	Any master agreements and schedules and/or contracts under master agreements.
Counterparty	An entity that is a party to a Contract and/or Agreement with the Class Member
Draft Order	Refers to this draft Market Monitoring Information Order, MMIO-GAS-2026-01
NGL	The National Gas Law as laid out in the Schedule to the National Gas (South Australia) Act 2008 (SA), and as applied by the relevant implementing legislation.
NGR	The National Gas Rules as made under Chapter 9 of the National Gas Law and given force of law by section 26 of the National Gas Law.
OurShare	The secure file transfer system of that name used by the AER to receive information and agreements
Portal User	A Person nominated by a Class Member to use the AER Portal to submit information and agreements required under the Draft Order.

1 Introduction

The AER is required to regularly and systematically monitor and review the performance, effective competition and efficient functioning of wholesale gas markets and markets for financial risk management products.¹ At least once every 2 years, the AER must publish a report on these monitoring activities. This report must cover a period of at least 5 years and contain a discussion and analysis of features of the market that detrimentally impact the efficient functioning of the market, inefficiencies in the market and other matters of a long-term nature relevant to effective competition within the market.²

In 2024, we published our [Wholesale Market Monitoring and Reporting Guideline](#) which sets out our general approach to our wholesale market monitoring functions, and the collection and reporting of information related to these functions.

Over November-December 2024, we consulted on draft information collection instruments, including a proposed Gas Order (MMIO-GAS-2025-01). We received extensive, thoughtful and complex stakeholder feedback on the draft instruments, primarily focussed on burden, collection design and data security. Given the enduring nature of Orders, the comprehensive nature of the feedback, and our ongoing commitment to our information handling arrangements, we decided not to make MMIO-GAS-2025-01 while we appropriately considered the received feedback.

After thorough consideration of the feedback received, for our next stage of gas information collection, we have, in accordance with section 30AM of the National Gas Law (NGL), published for consultation a new draft Order (identified as MMIO-GAS-2026-01) (Order).

We are committed to undertaking meaningful stakeholder engagement to develop a well-designed Order, which appropriately balances burden for recipients against insights that the information will deliver for our monitoring functions. This process helps us make better decisions, provides greater transparency and predictability, and builds trust and confidence in our reporting. Feedback received in respect of the Draft Order will shape the final Order which we are aiming to publish in December 2026.

Please note that in addition to receiving submissions, the AER is open to engaging with stakeholders through one-on-one meetings to gather feedback and input.

This Explanatory Statement accompanies the Draft Order. It provides:

- Information regarding the consultation process;
- General guidance on our approach to the Draft Order, including our approach to minimise burden, compliance, confidentiality, data management and security; and
- A practical overview of the expected operation of our data portal.

¹ NGL, s.30AC.

² NGL, s.30AC(2).

Information contained in this Explanatory Statement is to support the requirements detailed in the draft Order and should not be read to qualify or replace any requirement stated therewithin.

1.1 Consultation

We are interested in stakeholder feedback on any aspect of the Draft Order. However, to assist in responding, we have provided the below questions.

1. Whether the framing of the data categories and Classes (in particular, the Exempt Part 10 Class) is clear. If not, please provide detail and, if relevant, preferred framing.
2. The level of burden the Order is likely to impose. This could include whether:
 - a. the required information is readily available, and our proposed approach to mirror the requirements of Part 10 and Part 18A obligations.
 - b. any system changes would be required to efficiently provide the information required by the Order.
3. Any estimated costs of complying with the Order and where they are attributed (for example, system changes).
4. Any suggestions on further approaches to minimise participant burden and/or costs while maintaining the integrity of the information required.
5. Whether the proposed response due dates provide reasonable timeframes for setting up new reporting processes to meet the requirements and resourcing for ongoing reporting. If not, please provide details of your preferred timing and basis for the preferred timing.
6. Our approach to the AER Portal and data management, and any considerations relevant to the external user experience, including the burden or cost of using the portal as shown in the [Portal User Guide](#).

We anticipate progressing the consultation and finalisation of MMIO-GAS-2026-01 along the indicative timeline at Table 1.

Table 1: Indicative timeline for MMIO-GAS-2026-01

Milestone	Date
AER publication of draft Order	20 August 2026
Submissions on the draft Order due	1 October 2026
AER publication of final Order	December 2026
Response to Data Category One-off	31 January 2027
Initial submission of information under Data Categories 01, 02 and 03	31 March 2027

2 Approach to minimising burden and responses to feedback

In designing the draft Order, we have undertaken a preliminary assessment of the costs likely to be incurred by Class Members and have considered whether the information can be obtained another way.³ We have also had regard to feedback received during consultation on previous draft information collection instruments over 2024 and 2025. This section outlines some of the approaches we have taken in developing the draft Order to minimise burden.

2.1 Frequency of reporting

In determining the frequency of information submission, we have weighed up our monitoring and reporting purposes against the burden of more frequent reporting. We consider that annual reporting appropriately balances burden against ensuring that we have the level of market visibility that we require in order to perform our functions.

When consulting the draft MMIO-GAS-2025-01 in November/December 2024, we initially proposed that this information be provided within 10 business days of its publication obligations under Part 10 and Part 18A of the NGR. Upon further consideration, we propose that annual collection would more appropriately balance our functions and Class Member burden.

³ NGL, s.30AL(2).

2.2 Submission dates

Stakeholders have advised in previous consultation over 2024 and 2025 that the end of calendar year and financial year are high demand periods and responding to instruments over this period carries significant reporting burden.

In developing this Draft Order, we proposed annual submission on 31 March for information required for the previous calendar year. We consider that three months from the end of the relevant reporting period should provide sufficient time to prepare the information and agreements for submission, while not over burdening Class Members during busy reporting periods.

2.3 Submission format

We are proposing to collect information for Data Category 01:

- in the format that Class Members publish information under Part 10 of the NGR on their websites (as required);
- with Counterparty information included.

We are proposing to collect information for Data Category 02:

- in the format that Class Members are required to provide their information required under Part 18A of the NGR to the AER (as required);

with Counterparty information included as an additional column on the far right of the template used by Class Members.

We consider that this approach will facilitate ingestion and data validation, while not overburdening Class Members by requiring the provision of separate data submission templates. We also consider it will minimise the need for Class Members to record, publish and submit the same information in multiple ways. When this approach was consulted with stakeholders in 2024, it was positively received.

We note that at present there are no specified template requirements for Part 10 reporting obligations of the NGR, and that the AER may review these obligations. Any change to these reporting obligations will be subject to consultation rules set out in the NGR and relevant parties will have the opportunity to provide feedback.

2.4 Contracts and/or Agreements

We consider that the terms and conditions of the Contracts and/or Agreements for which the actual prices payable information is published under Part 10 and/or Part 18A of the NGR is reasonably required for our wholesale monitoring functions.

We understand from previous consultation in 2024 and 2025 on draft instruments that, for some Class Members, providing Contracts and/or Agreements in full can be less burdensome than extracting components and providing them via submission templates. For this reason, we have drafted Data Category 03 and Data Category 04 of the Draft Order to require the provision of these Contracts and/or Agreements in full.

We are seeking further stakeholder feedback on this change, including whether it is likely to reduce burden compared with alternative approaches, and whether there are any additional factors that stakeholders consider should be taken into account before finalising this approach.

2.5 Historical information

In accordance with section 30AK(2) of the NGL, the AER may collect information and agreements which were in effect on or after 8 May 2019. However, we understand from engagement with stakeholders on our draft Guidelines in 2023, and draft instruments in 2024 that there can be significant burden in setting up new reporting systems to meet AER requirements, which would be compounded by requesting a large historical dataset.

In recognition of this feedback, we propose to only collect information and agreements for the Reporting Periods identified in the Draft Order. The first Reporting Period to which this Draft Order applies covers 1 January 2026 to 31 December 2026.

2.6 Assurance requirements

Under the NGL, the AER can require a Class Member to attest to the quality and completeness of its response to an order by way of a statutory declaration.⁴ We understand from previous engagement with stakeholders in 2023 and 2024 that statutory declarations can present additional burden for recipients.

We consider it essential to ensure that an officer of a Class Member has turned their mind to ensuring that a response to the Draft Order is accurate and comprehensive. However, we understand that all assurance requirements carry a degree of burden. To balance the need for appropriate attestation of accuracy against participant burden, and in line with the process of previous instruments, the Draft Order provides the following options for an Authorised Officer of a Class Member to attest to the quality and completeness:

- submit a proforma for certification (see section 7 and Appendix C of the Draft Order);
- include a statement in a submission's covering letter attesting to the completeness and quality of the submission (see section 7 of the Draft Order); or
- use an alternate method agreed by the AER.

3 Compliance framework

Section 30AQ(1) of the NGL requires a person who is a member of a Class of persons specified in an Order to comply with that Order.

This section of the NGL is a Tier 1 civil penalty provision.⁵ Tier 1 civil penalty provisions carry the most severe penalties for non-compliance, reflecting the importance of the

⁴ NGL, s30AR.

⁵ Schedule 3 of the *National Gas (South Australia) Regulations 2008* (SA) provides that section 30AQ is a Tier 1 civil penalty provision.

obligations to the regulatory framework.

We have a range of options available to address non-compliance with an Order, including administrative resolutions, guidance notes/compliance bulletins, infringement notices and court action. Our [Compliance & Enforcement Policy](#) informs our approach to non-compliance and sets out the principles we apply when taking a risk-based approach to our compliance and enforcement work. The AER Compliance and Enforcement Policy should be read in conjunction with the Compliance and Enforcement Priorities published on the AER's website.

Our approach aims to both encourage strong compliance levels across industry and to address and deter non-compliance. It broadly involves:

- gathering and assessing compliance information;
- considering public interest and broader trends in the sector; and
- assessing the likelihood of non-compliance and the potential for harm.

Our risk-based approach to assessing non-compliance is informed by several factors which include, but are not limited to:

- the environment in which we operate;
- concerns emerging from, or identified through, our monitoring of compliance and performance under relevant energy laws and from our investigative activities;
- the nature of the obligation/s, including the potential harm or detriment that can result from non-compliance and the likelihood (and likely extent) of non-compliance; and
- the party or parties subject to the obligation/s in question, their compliance culture and history of compliance.

This allows us to ensure that our compliance and enforcement work is focused on the issues of greatest importance to both the protection of consumers and the effective operation of the markets which we regulate.

Our general approach for new obligations is to adopt a facilitative education approach, working with participants to help them understand their obligations to ensure they can effectively implement robust systems and processes to achieve compliance. We will engage constructively with Class Members to address any unforeseen challenges which arise while these obligations are new.

If a Class Member is unable to comply with its obligations before the relevant date outlined in the Draft Order, they may seek an extension of time through the appropriate channels outlined in section 11 of the Draft Order. Class Members can also request an exemption from compliance with parts or the whole of the Order as outlined in section 10 of the Draft Order. The AER will consider exemption applications on a case-by-case basis.

4 Confidentiality and Reporting

We are conscious that the information to be collected under this Draft Order is commercially sensitive and confidential in nature and there is a need to apply appropriate information handling arrangements to address various potential sources of risk.

All information and/or agreements received in response to an Order are automatically deemed to have been given to the AER in confidence.⁶ The AER is required to take all reasonable measures to protect from unauthorised use or disclosure of information given to it in confidence or that is obtained by compulsion in the exercise of the AER's powers, pursuant to section 44AAF of the *Competition and Consumer Act 2010* (CCA).

Protections under section 44AAF of the CCA would also apply to information provided by a recipient to the AER on a voluntary basis (for example, where the information provided extends beyond that requested in the Order), as long as the party providing the information makes it clear, when doing so, that the information is provided in confidence.

The CCA, the NGL, the [AER Information Policy](#), and the [AER's Enhanced Wholesale Market Monitoring Guideline](#) recognise that, in some circumstances, disclosure of information is both appropriate and desirable. They set out circumstances where disclosure is permitted, including, but not limited to:

- disclosure by a person for the purposes of performing the functions as an AER member;
- if the information has been de-identified or aggregated so that it does not reveal any confidential aspects; and
- if the AER believes the disclosure of the information would not cause detriment to the person or, if the disclosure of the information would cause detriment to a person, the public benefit in disclosing it outweighs that detriment.

Our process for considering public benefit and detriment is outlined in the [AER's Confidentiality Guideline](#). If the disclosure of information is authorised as the detriment does not outweigh public benefit, the AER will afford procedural fairness to the information provider/s.

5 Data security and submission method

5.1 Data security and management

The AER's security policies are required to be consistent with the Protective Security Policy Framework and Information Security Manual. In handling the collected information, we will implement a range of established data protection measures designed to control access, secure information, and monitor its use.

We also confirm that all employees are subject to various legislative obligations that prohibit the disclosure of information and impose penalties for non-compliance.⁷

⁶ NGL, s.30AD.

⁷ For further information, see *Public Service Regulations 1999* regulation 2.1 and *Australian Public Service Code of Conduct* section 4.4.3.

5.2 Submission method

The Order requires the submission of information specified in Appendix A of the Draft Order via the AER Portal against its corresponding data category. However, section 5 of the Draft Order provides that the AER may direct Class Members, in writing, to provide the required information via OurShare or another method. We anticipate that all submissions under the Order will be submitted via the AER Portal, however these clauses provide for redundancy.

If the AER directs Class Members to provide a submission via OurShare or another method, we will, as early as practicable, specify for which applicable reporting period and submission date the requirement applies, and provide details such as a link to OurShare. Class Members will not be required to provide a duplicate submission via the AER Portal.

AER Portal

Two months prior to their first submission of Data Categories 01, 02, 03 and 04, Class Members are required to provide the AER, via email to ContractMarketMonitoring@aer.gov.au, details for a maximum of two people per Class Member. These details will be used to create AER Portal User accounts. The details to be provided are set out in Data Category One-off in Appendix A of the Draft Order.

AER Portal User accounts may be updated as required by contacting the AER at ContractMarketMonitoring@aer.gov.au.

Please see the linked [Portal User Guide](#) for instructions on the AER Portal.

OurShare

OurShare is an established secure file transfer system used by the AER to receive files, including those containing confidential and commercially sensitive information. It has been independently certified by an approved assessor under the Information Security Registered Assessors Program.