



Amendments to AER Compliance Procedures and Guidelines

14 December 2017

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Table of Contents

- 1 Overview.....2
- 2 Role of the Guidelines.....2
- 3 Scope of review3
- 4 Proposed amendments3
- 5 Consultation.....3
- 6 Stakeholder feedback.....4
- 7 Commencement date4
- 8 Final view4

1 Overview

The Australian Energy Regulator (AER) is responsible for energy market regulation. Among our functions, we monitor, investigate and enforce compliance with obligations under the *National Energy Retail Law* (NERL), the *National Energy Retail Rules* (NERR) and applicable Regulations.

To support this role, we have developed the AER Compliance Procedures and Guidelines (Guidelines). The Guidelines establish a self-reporting framework that applies to all retailers and distributors in jurisdictions that have adopted the NERL. Under that framework, information and data must be submitted via a reporting template about business compliance with these obligations at timeframes specified in the Guidelines.

The current Guidelines were last revised in June 2017 and incorporated new reporting obligations including metering contestability; amended the reporting categories to immediate, quarterly and half yearly and removed the Type 3 reporting category. Minor changes were also made to the reporting template to allow businesses to include a unique ID number in its reports.

This notice outlines the amendments to the reporting template used by businesses when submitting reports to the AER under the Guidelines. The changes are designed to address inefficiencies by reducing the time and effort required by businesses in preparing reports and to improve the overall quality of reporting.

The amendments seek to:

- improve the functionality of the reporting template to include pre-populated data so as to facilitate completion of the form in a timely manner and minimise data-entry errors; and
- revise the layout of the reporting template to improve our ability to extract information from the reports and to allow improved monitoring of reporting trends and identify emerging areas of concern.

2 Role of the Guidelines

The AER is required to make procedures and guidelines under section 281(1) of the NERL and while we are not limited in the information we may include, the NERL requires the Guidelines to establish:

- a reporting framework that specifies how and when businesses must report non-compliance with certain reportable obligations under the NERR and NERL to the AER;¹ and
- a process for the management of compliance audits under the NERL, in particular the carrying out of these audits and how the costs conducted by or on behalf of the AER will be recovered from businesses.²

In effect, the Guidelines enable us to:

1. monitor the extent to which retailers and distributors have complied with key obligations under the NERL and NERR;
2. identify emerging or systemic compliance issues that may warrant further action; and

¹ Sections 281(3) and 274, NERL.

² Sections 281(2)(b), 277, 278, NERL.

3. set out our approach to using its compliance audit powers.

Requirements under the Guidelines are binding on businesses and any failure is a breach of the NERL. In the event of a contravention, we may utilise our investigation and enforcement powers, including for example, infringement notices, compliance audits, enforceable undertakings and civil proceedings.

3 Scope of review

This consultation was limited to amendments proposed to the reporting template at Appendix B.2 of the Guidelines and did not extend to other parts of the Guidelines.

Amendments were aimed at addressing issues arising when incorrect or incomplete information was provided. We have developed amendments to the reporting template to address these issues and improve its effectiveness as a reporting tool for businesses and included drop down menus with pre-populated data, calendar fields and free text fields.

Comments from stakeholders were sought on proposed amendments to the reporting template³ set out in the draft notice. In making our final decision, we considered the submissions made by stakeholders in response to the consultation process.

4 Proposed amendments

The proposed changes were two-fold:

1. amend the layout to improve our ability to extract information for compliance monitoring and to determine emerging issues of concern.
2. incorporate new functionality into the reporting template

The aim of changes is to improve the usability of the template and to make it easier for businesses to complete and in turn minimise reporting errors. This will also assist the AER to better monitor and analyse compliance trends over time.

The revised template will also enhance our ability to extract reports on key issues and assist in preparation of guidance materials for industry where we observe issues with particular areas of the Retail Law and Rules.

5 Consultation

The AER can amend the Guidelines at any time, but must do so in accordance with the retail consultation procedure set out in rule 173 of the NERR. The draft notice and draft Guidelines published in October 2017 was the first step in the consultation process.

Interested parties were invited to make written submissions on the draft amendments by 10 November 2017. Six submissions were received. All were from businesses currently using the compliance reporting template.

Information and feedback provided through the consultation process has been taken into account in developing the final amendments. The issues raised by stakeholders and our consideration of them are summarised in this notice. A detailed summary of submissions is at **Attachment 1**. This notice, and the final revised Guidelines (Final Guidelines), is the last step in the consultation process.

³ See Draft Instrument, Appendix Three, for the current B.2 AER Compliance Reporting Template.

6 Stakeholder feedback

All six submissions received during the consultation period supported the AER's proposed amendments to the Compliance Reporting Template.

Summary of changes suggested in the submissions are as follows:

- *Moving* the “Regulated Entity Name” back to the top of the template so that it only has to be entered once.
- *Moving* the Retailer/Distributor under the heading “Regulated Entity”.
- *Adding* “Fuel Type” (eg Electricity, Gas, Dual Fuel) under the heading “Regulated Entity”.
- *Moving* the three reporting types: “Period”, “Type” and “Frequency” under their own heading “Reporting Periods”.
- *Removing* the “Reporting Type” column as it is regarded that this column is a duplicate.
- *Adding* “State” under the heading “Impact” –by inserting the heading “Breakdown by State (if applicable)” which will be a free text field.
- *Adding macros to prepopulate fields such as “Regulated Entity Name” and “Retailer/Distributor”.*

All changes have been accommodated except moving regulated entity to the top of template and removing reporting type column. Those were not made because they would reduce the overall functionality of the reporting template.

7 Commencement date

The date for implementation of the new compliance reporting template would be the end of February 2018. Commencement at this time would be beneficial as it would allow half-yearly reporting for 2017/18 financial year to be recorded on new template. We consider the changes will improve the usability of the report and facilitate businesses meeting its reporting obligations under Guideline. No issues were raised during consultation on the proposed commencement date.

8 Final view

Stakeholders who responded with a submission were supportive of the changes to incorporate both the functionality and layout changes agreeing that these initiatives aimed to improve the efficiency, quality and transparency of the regulatory compliance reporting framework.

Stakeholders also supported the layout and functionality changes stating that these changes would minimise errors, increase efficiency and ensure accuracy of compliance reporting overall.

Staff noted that these amendments would require some changes to processes and systems but industry did not indicate that any of these changes would be major or delay implementation.

Submissions summary – Amendments to the AER Compliance Procedures and Guidelines – Compliance Reporting Template

Question 1 – Are there any issues with the proposed changes to the reporting template?	
Submissions	AER response
<p>AGL supports the changes proposed by the AER to the current reporting template.</p> <p>AGL agrees that these changes will assist in minimising error and ensuring accuracy of retailer compliance reporting.</p> <p>In addition, these changes will provide transparency around the classification of customers impacted.</p>	<p>All submissions support the proposed changes to the compliance reporting template.</p> <p>All submissions agreed that the changes would result in an effective and efficient template for everyone to use.</p> <p>All submissions agreed that the changes to the template would reduce the errors and inefficiencies the current template does not.</p>
<p>AGN is supportive of the proposed changes, although we would like to highlight further potential changes to the AER, which AGN feel will improve the usability of the template.</p> <p>These include:</p> <ul style="list-style-type: none"> • addition of the Australian Gas Networks South Australia and Australia Gas Networks Queensland in the “Regulated Entity Name” drop down menus; • recommend reordering the new requirement to indicate whether the report is from a distributor or a retailer to the “Entity Details” section rather than “Provision of National Energy Retail Law/Rules”; and • recommend inserting a new column for “Fuel Type”, which would be a drop down menu with pre-populated data of “Electricity” or “Gas”, which would allow the AER to further monitor trends of compliance via the customer’s fuel source. 	
<p>Simply Energy supports the format changes and believes that these add value for both retailers and the Australian Energy Regulator</p>	
<p>Energy Australia does not identify any significant issues and support the proposed amendments.</p>	
<p>Red Energy & Lumo Energy supports the proposed amendments to the reporting template that retailers use when submitting reports to the AER under the Guidelines. While relatively minor, the changes will reduce some inefficiency in the reporting process and reduce the time and effort that businesses take to preparing reports. This should improve the quality of reporting and consequently, the AER’s ability to efficiently administer the regulatory framework and take appropriate and proportionate action against breaches.</p>	
<p>Energy Queensland does not object to any of the changes proposed in their submission but do not state explicitly that they support the changes. They state that the purpose of the proposed amendments is to improve the functionality of the template and the overall quality of reporting. Energy Queensland’s comments with respect to the AER’s proposed template amendments are provided in an Attachment.</p>	

Submissions summary – Amendments to the AER Compliance Procedures and Guidelines – Compliance Reporting Template

Question 2 – Are there any issues with proposed changes to the functionality of the reporting template?	
Submissions	AER response
<p>AGL supports the use of prepopulated data and date fields in the reporting template. This new functionality will reduce reporting errors and improve consistency across compliance reporting.</p>	<p>In response to stakeholder feedback we propose the following changes.</p> <ul style="list-style-type: none"> • Moving the Retailer/Distributor under the heading “Regulated Entity”. • Adding “Fuel Type” (eg Electricity, Gas, Dual Fuel) under the heading “Regulated Entity”. • Moving the three reporting types: “Period”, “Type” and “Frequency” under their own heading “Reporting Periods”. • Adding “State” under the heading “Impact” –by inserting the heading “Breakdown by State (if applicable)” which will be a free text field. • Adding macros to prepopulate fields such as “Regulated Entity Name” and “Retailer/Distributor”. <p>However the following changes could not be accommodated:</p> <ul style="list-style-type: none"> • Moving the “Regulated Entity Name” back to the top of the template so that it only has to be entered once. • Removing the “Reporting Type” column as it is regarded that this column is a duplicate. <p>Moving the entity name to the top of the spreadsheet increases the potential for error as each breach will be not attached to a regulated entity name when is transferred to the data base increasing the potential for breaches to wrongfully ascribed to a reporting entity.</p> <p>While the reporting type creates some duplication it is a necessary field that will permit the ability to extract by reporting category to assess for potential systemic breaches by regulated entity.</p>
<p>AGN believes that the functionality of the “Entity Details” section of the template could be improved if a number of the columns were re-ordered and by removing a column that appears to be a duplication of existing columns.</p> <p>AGN recommend that the AER consider amending the “Entity Details” section to remove the “Report Type” column as this information is a duplicate of the “Reporting Frequency” and “Reporting Period”. We also recommend the re-ordering of “Report Frequency” prior to “Reporting Period” as this is more intuitive to complete. As discussed in the prior section we recommend the addition of “Retailer/Distributor” and “Fuel Type” in this section.</p>	
<p>Simply Energy advised that it would appear the new template allows clearer reporting of issues or instances that relate to a previous period, which are to be reported in the current period. The ‘report period’ column is set out in a helpful manner as reporting timeframes are pre-populated for each year. This provides clarity and structure to areas of reporting that have previously been somewhat ad-hoc.</p> <p>Simply Energy notes that the information in the details box in the top left of the template has been reduced, and some items removed have been inserted as columns. This requires the regulated entity to enter their details (regulated entity name and whether they are a retailer or distributor) repeatedly, rather than a single time. To further streamline the process, we suggest that this information be reinstated in the top-left box, and the information auto-fill to rows where data is entered drawing from this single field. This should also assist in achieving the goal of reducing data entry errors in the submitted reports</p>	
<p>Energy Australia does request that AER consider including fields which allow for not only a breakdown of impacted customer by class but also by “State”.</p>	
<p>Red Energy & Lumo Energy The AER may also want to consider including a column in the template that identifies the State in which the breach has occurred. This could further improve the AER’s ability to monitor reporting trends and identify emerging areas of concern (which is one of its objectives for these changes).</p>	
<p>Energy Queensland proposes the following changes:</p>	

Submissions summary – Amendments to the AER Compliance Procedures and Guidelines – Compliance Reporting Template

The columns in the amended template are not grouped appropriately. Energy Queensland recommends that:

- Columns D (Regulated Entity Name) and H (Retailer/Distributor) be grouped together under 'Entity Details';
- Columns E (Report Period), F (Report Type) and G (Report Frequency) be grouped under 'Report Details'; and
- Columns I (Retail Law/Rules, Part/Division, Section/Rule) and J (Description of Obligation) be grouped under

'Provision of National Energy Retail Law/Rules'.

Energy Queensland notes that there are issues with the Reference List for dropdown selections provided in column D (Regulated Entity Name). Specifically, in some instances

Regulated entities have been entered multiple times, using both the full company name as well as an abbreviated version of the company name and a number of entities have been incorrectly entered as both a distributor and a retailer. Energy Queensland recommends that full company names should be used for all Regulated Entity Names to avoid confusion.

With respect to Energy Queensland's regulated entities, we recommend the following amendments:

- 'Energex Limited' should be recorded as a distributor only, not as both a distributor and a retailer;
- The 'Ergon' entries should be replaced by 'Ergon Energy Corporation Limited' (the distribution entity) and 'Ergon Energy Queensland' (the retail entity).

It should also be noted by the AER that the Reference List will need to be updated regularly to reflect changes in retailer authorisations.

Given the proposed changes are to improve functionality and accuracy, Energy Queensland considers there are additional opportunities for auto-population of data once the source ('Reference List') is corrected, including:

- Auto-population of 'Retailer / Distributor' (column H) via
- selection of 'Regulated Entity Name' (column D);
- Auto-population of 'Report Frequency' (column G) via selection of 'Report Type' (column F) to ensure only valid combinations can be submitted; and

Submissions summary – Amendments to the AER Compliance Procedures and Guidelines – Compliance Reporting Template

<ul style="list-style-type: none"> Auto-validation of 'Breach Date (End)' (column L) to ensure that the date entered is > 'Breach Date (Start)' (column K). <p>(References to columns in this section are subject to comments above related to reordering of column grouping.) With the current 'No. of persons impacted' and 'Class of persons impacted' columns replaced by three columns entitled 'Residential', 'Small Business' and 'Life Support' (columns S, T and U), further clarity is required as to whether it is necessary to make an entry into both 'Residential' and 'Life Support' columns or only the 'Life Support' column for a residential life support customer.</p>	
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Question 3 – Are there any issues with the commencement of revised reporting template by the quarter 1 and 2 period at the end of February 2018?	
Submissions	AER response
AGL raises no concern with the proposed implementation date of 28 February (Quarter 3) for the new reporting template.	No issues were raised with the commencement date.
AGN has not identified any issues with commencing reporting via the proposed templates.	
Simply Energy did not comment on question 3.	
Energy Australia did not comment on question 3.	
Red & Lumo Energy did not comment on question 3.	
Energy Queensland did not comment on question 3.	

Other Comments	
Submissions	AER response
AGL regards the AER's proposal to improve the functionality of the reporting template as a positive step towards increasing transparency, efficiency and accuracy of regulatory reporting. AGL supports this initiative.	Comments on the proposed changes were generally positive and express favourably in working with the AER to implement an effective and efficient template for everyone to use.
Energy Australia looks forward to continuing to work cooperatively with AER on ways to improve reporting procedures.	
Red & Lumo Energy notes the template now aligns with the Essential Services Commission of	

Submissions summary – Amendments to the AER Compliance Procedures and Guidelines – Compliance Reporting Template

Other Comments	
Submissions	AER response
Victoria's Compliance Breach Report Template; consistency of reporting across jurisdictions offer further benefits (although, once again the benefits are relatively minor in this case). And welcome the opportunity to continue to work with the AER to identify other opportunities to improve the efficiency and effectiveness of regulatory administration, through improvements to the accuracy of reported data and mechanisms to reduce the administrative burden on regulated businesses.	