



Quarterly Compliance Report:

National Electricity and Gas Laws

October - December 2015

© **Commonwealth of Australia 2016**

This work is copyright. In addition to any use permitted under the Copyright Act 1968, all material contained within this work is provided under a Creative Commons Attributions 3.0 Australia licence, with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration, diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright, but which may be part of or contained within this publication. The details of the relevant licence conditions are available on the Creative Commons website, as is the full legal code for the CC BY 3.0 AU licence.

Requests and inquiries concerning reproduction and rights should be addressed to the Director, Corporate Communications,
Australian Competition and Consumer Commission,
GPO Box 4141,
Canberra ACT 2601
or publishing.unit@accc.gov.au .

Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001

Tel: (03) 9290 1444
Fax: (03) 9290 1457

Email: AERinquiry@aer.gov.au
AER Reference: 58972-D16/557

Contents

Executive summary	1
Background	2
1 Gas.....	3
1.1. Short Term Trading Market	3
1.1.1 Retail market procedures	3
1.2. Natural Gas Services Bulletin Board.....	4
1.2.1 Targeted compliance review – Curtis Island Demand Zone.....	5
1.3. Victorian Gas Market	6
1.4. Gas Supply Hub	7
2 Electricity	8
2.1. Rebidding	8
2.2. Instrument transformer testing.....	9
2.3. Technical audits.....	10
2.3.1 Yallourn Power Station audit	10
2.3.2 Upcoming audit	11
2.4. Jurisdictional derogations	11

Executive summary

The Quarterly Compliance Report (QCR) outlines the Australian Energy Regulator's (AER) compliance monitoring and enforcement activity under the National Electricity Law (Electricity Law) and the National Gas Law (Gas Law)—including the rules and regulations which sit under those laws. It reflects the importance of compliance to the efficient operation of gas and electricity markets for the benefit of market participants and energy users. The AER reports compliance outcomes to provide transparency in these markets, while promoting good industry practice.

This QCR covers the period 1 October to 31 December 2015 (the December 2015 quarter).

This quarter we remind participants of their obligations under the gas Retail Market Procedures and provide an overview of the targeted compliance review which examined obligations relating to the provision of information to the Bulletin Board. In electricity, we provide an update on low voltage current transformer (LV CT) testing and report the findings of our technical audit of EnergyAustralia's Yallourn Power Station.

Gas

AEMO can make gas Retail Market Procedures which participants must comply with under section 91MB of the Gas Law. Where AEMO has reasonable grounds to suspect a breach of the Procedures, it must determine if the breach is material. AEMO made determinations on four such non-compliances this quarter.

This quarter we conducted a targeted compliance review of gas rules 173(1) and 174(1) which relate to the provision of nomination and delivery information to AEMO for the Bulletin Board. We requested information from three relevant pipeline operators to provide insight into the procedures, processes and systems they have put in place to meet their new obligations associated with the Curtis Island Demand Zone which was introduced in October 2015. As the Liquefied Natural Gas (LNG) industry in Queensland continues to grow, it is important that pipeline operators provide accurate, complete and timely information, such as the nomination and delivery information required under gas rules 173(1) and 174(1), to ensure a transparent and effective market.

Electricity

During this quarter we received updates from Responsible Persons (RPs) on the progress of their LV CT testing. Of the sixteen RPs who are required to test their LV CTs, nine are up to date with testing, while the others are on track to complete the required testing by 30 June 2016. A number of RPs provide us with regular progress updates and are required to inform us if they foresee any obstacles to completing testing within the intended timeframe.

We also concluded the technical audit of Yallourn Power Station. Following a review of EnergyAustralia's compliance program, we identified a number of improvements that could be made. EnergyAustralia has undertaken to address the AER's concerns. Provided EnergyAustralia fully addresses the identified issues and appropriately maintains the compliance program, we are satisfied that EnergyAustralia's approach to technical compliance for Yallourn Power Station should meet the requirements of clause 4.15.

Background

The AER is responsible for monitoring compliance and enforcement under legislation and rules governing Australia's wholesale energy markets, including those applying to Network Service Providers. Section 15 of the Electricity Law and section 27 of the Gas Law set out our functions and powers, which include:

- monitoring compliance by energy industry participants¹ and other persons
- investigating breaches, or possible breaches, of provisions of the legislative instruments under our jurisdiction.

Consistent with our statement of approach,² we aim to promote high levels of compliance, and seek to build a culture of compliance in the energy industry. A culture of compliance will:

- reduce the risk of industry participants breaching their regulatory obligations
- assist in ensuring industry participants can engage confidently in efficient energy markets.

As part of this process, we undertake a continuous compliance risk assessment of the Electricity and Gas Rules to identify appropriate focus areas and monitoring/compliance mechanisms. These mechanisms include our strategic compliance projects, audits, reporting requirements, market monitoring, and targeted compliance reviews.

In selecting the areas for review, we adopt the following principles:

- consideration of risk (the greater the risk, the higher the priority)
- a commitment to ensuring that both systemic issues and those with the potential for isolated but significant impact are addressed.

In carrying out our monitoring functions, we aim for:

- cost effectiveness for energy industry participants and the AER
- transparency (subject to confidentiality requirements).

While most obligations under the Electricity and Gas Rules do not require registered participants to establish specific compliance programs, we take into account a participant's compliance framework when determining our response to potential breaches. In assessing compliance culture, we consider whether compliance programs and processes are effectively applied, up-to-date and tested regularly.

¹ Entities registered by AEMO under Chapter 2 of the Electricity Rules or in accordance with Part 15A of the Gas Rules.

² The Statement of Approach is published on the [AER's website](#). In April 2014, the AER released a combined Enforcement and Compliance Statement of Approach covering our functions under the Gas Law, Electricity Law and National Energy Retail Law. The document reflects the consistent approach taken by the AER to enforcing the energy laws across all markets.

1 Gas

We are responsible for monitoring, investigating and enforcing compliance with the Gas Law and Rules, including but not limited to, the STTM, the Bulletin Board, the Victorian gas market and the Gas Supply Hub (GSH).

This part of the report provides an update on investigations, compliance matters and projects in the gas markets.

1.1 Short Term Trading Market

Part 20 of the Gas Rules sets out participants' responsibilities for trading in the STTM. The STTM has trading hubs in Adelaide, Sydney and Brisbane. The Gas Rules govern how wholesale gas is traded and include requirements for pipeline operators to submit pipeline capacity and allocation (gas flow) data.

1.1.1 Retail market procedures

Under the Gas Law, AEMO has the ability to make procedures regulating a retail gas market (Retail Market Procedures).³ There are four sets of Retail Market Procedures covering Queensland, Victoria, New South Wales and the ACT and South Australia respectively. The procedures impose a number of obligations on participants including in relation to the provision of metering data, the Gas Interface Protocol, customer transfer processes and settlements. Section 91MB of the Gas Law requires compliance with the Retail Market Procedures.

In the event that AEMO has reasonable grounds to suspect a breach of the Retail Market Procedures, it is required under the Gas Law to determine if the breach is material. If AEMO decides the breach is material, AEMO must publish the decision and the reasons for it on its website. AEMO may direct the person suspected of the breach to rectify it or to take specified measures to ensure future compliance (or both). AEMO may also decide to refer the breach to the AER. The obligation to comply with AEMO's direction is a civil penalty provision.

This quarter AEMO published its assessment reports on four breaches of the Retail Market Procedures:

- Jemena's failure to provide metering data within timeframes specified under clause 21.1 of the NSW and ACT Retail Market Procedures between January 2015 and July 2015. AEMO found that Jemena's failure to comply over this period was material given the financial and operational impacts on multiple market participants and the impact on the operation of the NSW and ACT gas retail market as a whole. AEMO did not issue directions to Jemena.
- EnergyAustralia's failure to provide correct User Reconciliation Adjustment Amount (URAA) nominations in the ACT Canberra gas network as required under clause 31.14(1) of the NSW and ACT Retail Market Procedures from 31 August

³ See sections 91M and 91MB of the National Gas Law.

2015. While the incorrect URAA nominations had resource implications for Jemena and AEMO, AEMO determined that EnergyAustralia's breach had no material impact on other market participants. Following EnergyAustralia's investigation into the cause of the error, it worked closely with AEMO to ensure that it provided the correct URAA nominations.

- Australian Gas Networks (AGN) and Allgas Energy's failure to comply with the Gas Interface Protocol (GIP) between 14 September and 9 November 2015. The relevant breaches occurred because AGN and Allgas Energy were unable to make systems changes to reflect amendments to the GIP by the implementation date of 14 September 2015. In this instance, AEMO implemented the GIP changes with an industry endorsed work-around until AGN and Allgas Energy were able to update their systems. AEMO determined that the breaches were not material. AEMO's assessment report noted that when amending the GIP and relevant Retail Market Procedures, the agreed carve outs for AGN and Allgas were omitted when specifying the implementation date of 14 September. AGN and Allgas understood these agreed carve outs would lead to a staggered implementation date, such that they would not be in contravention of the relevant Retail Market Procedures.
- AEMO's delays in providing the Network Allocation Data file for the South Australia gas retail market to the STTM system on 15 October 2015 and 1 November 2015, and the South Australia gas retail market system reports on 13 November 2015. AEMO failed to meet the timeframes specified under the South Australia Retail Market Procedures on these occasions due to system outages. AEMO has taken steps to prevent reoccurrence. After consultation with affected parties, AEMO concluded its breach was not material.

We remind participants of their obligations under the Retail Market Procedures, which play an important role in the proper functioning of retail gas markets in the relevant jurisdictions.

1.2 Natural Gas Services Bulletin Board

Chapter 7 of the Gas Law and Part 18 of the Gas Rules set out participants' responsibilities regarding the Bulletin Board. These obligations aim to facilitate greater transparency in gas production and gas pipeline flows to assist gas trading. The obligations also require participants to identify and report any potential conditions where curtailment of gas use might be necessary. It requires Bulletin Board production facility operators to take account of short term trends in gas field performance (which are constraining or will constrain overall production capability) in their 7-day outlook.

With the development of LNG trains in Queensland and the need for greater transparency regarding gas production and flows, it is critical that participants provide accurate, complete and timely Bulletin Board information. The Bulletin Board will be a focus of the AER in 2016.

We note that in some circumstances, failures to comply with Bulletin Board obligations set out in the Gas Law and Rules can attract civil penalties under the Gas Law. In particular, sections 223 and 225 of the Gas Law, which relate to the provision of Bulletin Board information to AEMO, are listed as civil penalty provisions in section 3 of the Gas Law. If the

AER has reason to believe that a civil penalty provision has been breached, we have the power to issue an infringement notice or institute civil proceedings.⁴

1.2.1 Targeted compliance review – Curtis Island Demand Zone

Targeted compliance reviews form an important part of our monitoring program. The reviews explore participants' compliance practices and aim to improve stakeholder understanding of obligations. We will generally choose the obligation based on our risk assessment of the Gas Rules, whereby obligations identified as having a medium to high risk and impact will be selected for review. We also take into account previous industry performance with respect to the obligation.

On 26 October 2015, the Curtis Island LNG Demand Zone became effective. The new demand zone was introduced to capture gas delivered to the three LNG export facilities in Queensland: Australia Pacific LNG, Queensland Curtis LNG, and Gladstone LNG.

This quarter's targeted compliance review involved pipeline operators in the new Curtis Island Demand Zone who are now required to provide Bulletin Board information in accordance with gas rules 170 to 174 inclusive. The relevant pipeline operators are Australia Pacific LNG (APLNG), Queensland Gas Company (QGC) and Gladstone LNG (GLNG).

We requested information from the pipeline operators to provide insight into the procedures, processes and systems they have in place to meet compliance with rules 173(1) and 174(1).

Relevant provisions

Clause 173(1) requires a pipeline operator (other than the pipeline operator of a declared transmission system) to, in accordance with the Bulletin Board Procedures (BB Procedures) and in respect of each of its BB pipelines, provide AEMO with aggregated delivery nominations for each gas day and for each demand zone or production zone (if applicable); and aggregated forecast deliveries in respect of each demand zone or production zone (if applicable) for subsequent gas days if it has been provided with forecast deliveries by shippers under contract or market rules.

Section 5.7 of the BB Procedures requires the aggregated delivery nominations to be provided to AEMO by no later than 7 pm local time on the evening before each gas day. Also, aggregated forecast deliveries by zone must be provided to AEMO by no later than 7 pm local time on the evening before the first gas day for which shippers' forecast deliveries apply.

Under gas rule 174(1), each gas day a pipeline operator (other than the pipeline operator of a declared transmission system) must, in accordance with the Bulletin Board Procedures and in respect of each of its Bulletin Board pipelines, provide AEMO with the actual deliveries of natural gas from that Bulletin Board pipeline to each demand zone and production zone (if applicable) on the previous gas day, such deliveries being as determined by the pipeline operator on the basis of operational metering data.

⁴ For more information, see the [September 2015 QCR](#).

Section 5.5 of the Bulletin Board Procedures requires this data to be provided by 12 pm local time on the day following the day on which each gas day ends.

Participant measures to meet compliance with clauses 173(1) and 174(1)

Below is a high level summary of the common measures the three pipeline operators have introduced to meet compliance with their new obligations associated with the introduction of the Curtis Island LNG Demand Zone:

Administrative measures

- Arrangements to ensure clear communication between relevant internal teams and business units, and that responsibility for tasks is clear
- Provision of comprehensive training programs for relevant staff in relation to Bulletin Board obligations, including how to use relevant processes and systems to satisfy the obligations
- Provision of sufficient personnel to meet obligations, including the operation of a seven day roster, and
- Establishment of clear points of contact between participants and AEMO.

Procedures and processes

- Internal procedures and processes specifically tailored to meet the Bulletin Board obligations
- Introduction of data verification processes, including cross checking of data and emails to verify whether data has been successfully sent
- Automation of manual processes where possible, with additional checks built in
- Upgrade of IT systems to meet Bulletin Board obligations, and
- Use of comprehensive check sheets so that all relevant steps are taken to ensure data is accurate and sent successfully.

AER assessment

The AER recognises that the relevant pipeline operators have implemented comprehensive improvements to their systems, processes and procedures to meet their new Bulletin Board obligations associated with the introduction of the Curtis Island LNG Demand Zone. Given the importance of Bulletin Board data quality we will continue to monitor participants' compliance closely and will continue to report on this in future QCRs.

1.3 Victorian Gas Market

Part 19 of the Gas Rules sets out participants' responsibilities for trading in the Victorian gas market.

There were no substantive compliance outcomes for the Victorian gas market this quarter.

1.4 Gas Supply Hub

Under Part 22 of the Gas Rules, the AER is responsible for monitoring GSH members' compliance with obligations specified in the Gas Rules for the gas trading exchange.⁵ This includes market conduct rules.

The market conduct rules require GSH members to trade on the basis of gas they intend to physically deliver or receive. They also prohibit activities which are fraudulent, dishonest or in bad faith as well as activities designed to manipulate prices.

There were no substantive compliance outcomes for the GSH this quarter.

⁵ Rule 545 of the Gas Rules.

2 Electricity

We are responsible for monitoring, investigating and enforcing compliance under the Electricity Law and Rules. This part of the report provides an update on investigations, compliance matters and projects in the electricity market.

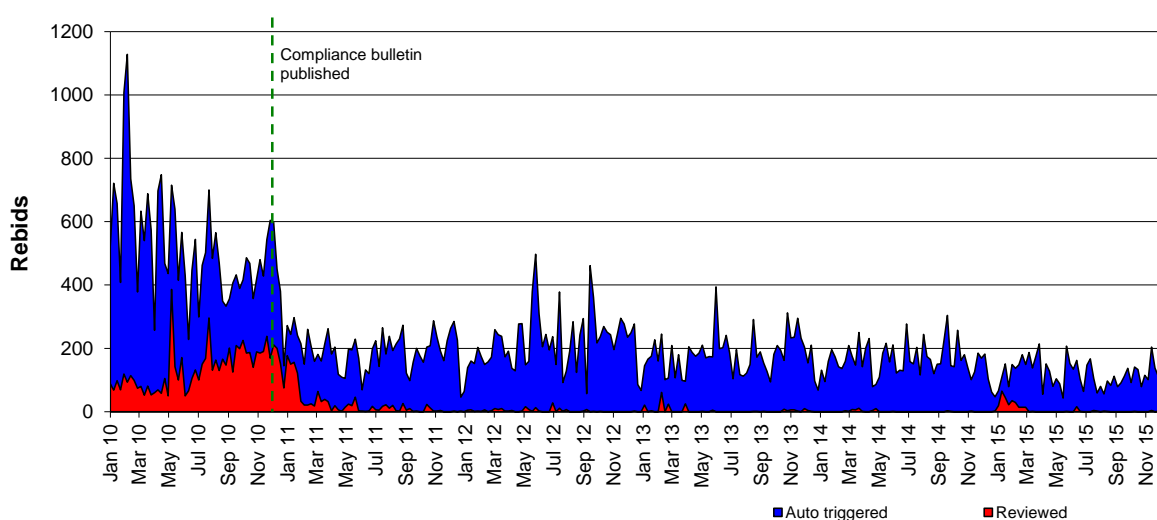
2.1 Rebidding

Scheduled generators and market participants operating in the NEM submit offers and bids for each half hour trading interval. The offers and bids include available capacity for up to 10 price bands, and can be varied through rebidding.⁶

According to the 'three stage process' introduced in late 2010 (updated in 2012),⁷ we will consider issuing an infringement notice if we issue three notifications within a six month period to generators who submit offer, bid and/or rebid information that does not meet the requirements of the Electricity Rules. The warning count for a participant is set to zero after six months of the first warning being issued.

As shown below in Figure 1, the number of rebids automatically triggered as requiring initial examination (indicated by the blue area) has fallen markedly since 2011.

Figure 1: Rebids auto-triggered and reviewed per week (adjusted⁸)



⁶ Market participants must provide to AEMO, at the same time as a rebid is made, a brief, verifiable and specific reason for the rebid, plus the time at which the reason for the rebid occurred. Equivalent requirements apply where AEMO is advised, under clause 3.8.19 of the Electricity Rules, that a unit, service or load is inflexible. Clause 3.8.22A of the Electricity Rules requires that dispatch offers, dispatch bids and rebids are made in 'good faith'.

⁷ In June 2012, we published an updated [Compliance Bulletin No. 3](#) to make it clear that, for the purposes of administering the three stage process and issuing warnings, we will rely on the cumulative count of non-compliant bids for all generating units under the same portfolio. In other words, where a parent company employs a common trading team for the bidding of multiple generating units in its portfolio, irrespective of whether these generators are different registered participants, we will count any non-compliant bids by that trading team together.

⁸ There was a significant increase in automatically triggered rebids from August to November 2014 when one participant's automated bidding system submitted rebids without including a time adduced which was subsequently corrected. This has been detailed in a [previous QCR](#). Figure 1 has been adjusted by removing the erroneous rebids.

This quarter we issued one warning in relation to a participant making an inflexible bid without providing a technical reason. We received sixteen self-reporting notices from participants regarding errors in their rebids during the quarter which we took no further action on.

2.2 Instrument transformer testing

Rule 7.2.5(d)(2) of the Electricity Rules requires the Responsible Person (RP) to ensure the components⁹ (including current transformers (CT) and voltage transformers (VT)), accuracy and testing of each of its metering installations, complies with the requirements of the Electricity Rules, the metrology procedures and procedures authorised under the Electricity Rules. Rule 7.2.5(d) is a civil penalty provision.

Schedule 7.3.1 of the Electricity Rules requires the RP to test CTs and VTs (or instrument transformers) for accuracy every 10 years, unless an alternative test plan has been approved by AEMO. Instrument transformers are designed to lower current or voltages in the high voltage transmission and distribution network to levels for use by metering devices. Inaccurate instrument transformers can affect the overall accuracy of the metering installation.

In 2011, we became aware that several RPs were not testing their low voltage (LV) CTs in accordance with the Electricity Rules. In response, we published a compliance bulletin containing our expectations in relation to LV CT testing.¹⁰ Specifically, the bulletin proposed that an RP should either test 10 per cent of its metering installation population each year, or a sample of its meters in accordance with an alternative sampling method approved by AEMO. RPs submitted testing plans to AEMO, with the initial round of testing to be completed within 12 months from 1 July 2012.

In mid-2015 we commenced another review of compliance with testing obligations. Since the last update,¹¹ almost all RPs have made significant progress against their LV CT test plans, both under the alternative sampling method and for those who are testing 10 per cent of their population each year.

For the eight RPs testing according to AEMO's alternative sampling method:

- five have completed testing and had their results validated by AEMO, meaning that they have come into compliance with clause 7.2.5(d) of the Electricity Rules, as it relates to the accuracy testing of metering installations, until 30 June 2018
- one has completed testing and is in the process of having its results validated by AEMO
- two are working to complete testing by the end of February and June 2016, respectively.

For the eight RPs who are testing 10 per cent of their respective populations each year:

⁹ Metering installation components are defined by clause 7.3.1 of the Electricity Rules.

¹⁰ The compliance bulletin can be found on the [AER website](#).

¹¹ Available on the [AER website](#).

- three have completed testing for the three years to 2014-15 and are have been placed on an annual reporting requirement after the end of the financial year to confirm that testing was completed
- five are behind with testing for the three years to 2014-15, but are working to eliminate the deficit while completing testing of a further 10 per cent of their populations by 30 June 2016.

Most of the RPs who are not up to date with testing provide the AER with regular progress updates and are required to inform us if they foresee any obstacles to the testing being completed within the intended timeframe.

A common challenge for RPs in this process has been that some customers are not allowing site access for the RP to conduct the required testing, as testing requires a full outage at the site. A number of RPs have successfully dealt with this issue by contacting more customers than are required to be tested. By allowing for some access issues, these RPs have been able to test the required number of sites.

We will continue to liaise with RPs regarding LV CT testing.

2.3 Technical audits

Clause 4.15 of the Electricity Rules requires generators to institute and maintain compliance programs to meet their individual generator performance standards (GPS). These compliance programs must be consistent with the template published by the Reliability Panel, include procedures to monitor the plant in a manner consistent with good electricity industry practice and provide reasonable assurance of ongoing compliance.

Participants with sound compliance programs are best placed to meet their performance standards and associated obligations under the Rules. Each year, we undertake technical audits on different participants to ensure they have robust and effective compliance programs in place.

2.3.1 Yallourn Power Station audit

In November 2015, we finalised our technical compliance audit of EnergyAustralia's 1480 MW Yallourn Power Station, which is located in Victoria's La Trobe Valley. Yallourn's compliance program is maintained and implemented by EnergyAustralia's subsidiary, EnergyAustralia Yallourn Pty Ltd, with oversight by its parent company.

Our technical audit confirmed that EnergyAustralia has instituted and maintains the requisite compliance program but identified the following issues and areas of improvement:

- supporting procedures and systems should be better integrated, aligned and consistent with one another and EnergyAustralia's overarching compliance policy and program.
- EnergyAustralia should establish a more formal training program to further develop and support specialist GPS knowledge within the EnergyAustralia group (noting that, in any event, key personnel benefit from exchanges in other countries via its parent company).

- GPS resolutions and lessons should be considered more broadly throughout the business to contribute to continual improvement at the operational level.

EnergyAustralia has undertaken to address the above issues. Provided that EnergyAustralia fully addresses the identified issues and appropriately maintains the compliance program, we are satisfied that EnergyAustralia's approach to technical compliance for the Yallourn Power Station should meet the requirements of Electricity Rules clause 4.15.

2.3.2 Upcoming audit

We recently commenced a technical compliance audit of Snowy Hydro's Tumut Power Station (SNOWY1), to be discussed in upcoming QCRs.

2.4 Jurisdictional derogations

Chapter 9 derogations exempt Victorian smelter traders, New South Wales power traders and Queensland nominated generators (for the purposes of exempted generator agreements) from complying with the Electricity Rules to the extent there exists:

- any inconsistency between the Rules and a contractual requirement under the relevant agreement between the government and other entities
- any other specified exemption in the jurisdictional derogations.

Relevant participants must notify the AER at AERinquiry@aer.gov.au of any act or omission which partly or wholly constitutes non-compliance with the Electricity Rules.

No non-compliances were reported this quarter.