

AER Compliance & Enforcement Priorities 2021-22

Introduction

The AER's Compliance and Enforcement Priorities help guide our enforcement work and proactive compliance efforts, and also signal areas where we consider that behavioural change in the market is required.

The priorities align with the objectives in the AER's Strategic Plan 2020-25, specifically objectives 1-3, to:

1. Protect vulnerable consumers, while enabling consumers to participate in energy markets

2. Effectively regulate competitive markets primarily through monitoring and reporting, and enforcement and compliance

3. Deliver efficient regulation of monopoly infrastructure while incentivising networks to become platforms for energy services

The priorities should be read in conjunction with the AER's *Compliance and Enforcement Policy*.

The policy sets out how we approach our compliance and enforcement roles and functions in accordance with the national energy laws.

In addition to our work in priority areas, we will continue to act where there are serious issues impacting vulnerable consumers, including life support consumers, or to help shape new or emerging markets. We will continue to assess matters having regard to the compliance and enforcement factors in the policy and take action where justified. We will also progress important ongoing work in areas previously identified as priority areas.

Priority 1



Effective identification of residential consumers in financial difficulty and offer of payment plans that have regard to the consumer's capacity to pay

Throughout 2020 we closely monitored data on consumers facing financial difficulties, including debt levels, the number of consumers on payment plans and hardship programs and the successful completion of those plans and programs. The financial implications of COVID-19 are still being realised with the average debt per consumer increasing sharply from the start of the pandemic, but with lower than expected payment plan and hardship consumer numbers. There is a continuing requirement to ensure residential consumers in financial difficulty are given the full suite of protections in the Retail Law and Retail Rules, including protections in retailers' own hardship policies. Retailers must offer and apply payment plans to consumers requiring payment assistance.

We are also concerned by reports that retailers may be setting up payment plans for consumers without taking into account their capacity to pay where relevant. These important protections are critical to assisting consumers in financial difficulty to manage debts.

All activities related to this priority will have a strong link to the work in the AER's Consumer Vulnerability Strategy.

Priority 2



Ensure embedded network compliance with exemption conditions, including consumer access to Ombudsman schemes

Embedded networks are private electricity networks, such as retirement villages, caravan parks and some apartment buildings, which are owned and operated by parties that have been exempted from the requirement to register as a network service provider with AEMO and/or as a retailer with the AER. There are limited reporting requirements on exempt suppliers and sellers, and in some cases there is also limited understanding of obligations in this area.

The vulnerability of embedded network consumers due to limited competition was an area of focus identified by a large number of external stakeholders, including Ombudsman schemes and consumer groups, in our priority setting engagement activities.

Compliance intelligence indicates that even though the framework has been in place for a number of years, some suppliers and sellers remain unaware of, or do not fully understand, their obligations.

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This creates a heightened risk of harm to vulnerable consumers.

A particular area of compliance focus is exempt seller membership of Ombudsman schemes in jurisdictions where membership is a requirement. Access to external dispute resolution processes through Ombudsman schemes is critical for the effective operation of embedded networks and to ensure consumers are protected. We are concerned by reports that many exempt sellers and operators of embedded networks have not yet obtained Ombudsman scheme membership where they are required to do so. We will work closely with Ombudsman schemes to achieve membership and full participation in the schemes.

Priority 3



Focusing on registered generators' compliance with AEMO dispatch instructions and their ability to comply with their latest offers at all times

The requirement for generators to ensure that they are able to comply with their offers at all times, and to follow dispatch instructions from AEMO, is critical to power system security and efficient outcomes in wholesale energy markets.

The AER has recently taken action, and continues to observe concerning behaviour, regarding Frequency Control Ancillary Services (FCAS). Services like FCAS underpin the smooth operation, security and reliability of the system. Providers must be able to deliver these critical services when called upon.

The energy transition means that renewable energy generators are becoming an increasingly significant part of our generation mix. In recognition of this, rules governing compliance with energy dispatch targets have recently tightened for renewable energy providers. Given this change, we consider that there is a need to ensure that these obligations are fully understood and widely complied with.

Priority 4



Ensure service providers meet information disclosure obligations and other part 23 National Gas Rules obligations

Efficient utilisation of monopoly infrastructure and competition in downstream gas markets depends on information transparency and the ability to obtain access to pipelines on fair and equitable terms.

Failure to provide information in accordance with the Gas Rules undermines the effective regulation of gas pipelines and can negatively impact the efficient investment in, and use of pipelines, to the detriment of users in the market.

The current ACCC Gas Inquiry observed conduct from pipeline operators including non-compliance regarding access requests and negotiation requirements under the Gas Rules, as well as publishing inadequate pricing methodologies or incomplete standing prices for services offered.

Priority 5



Ensure timely and accurate gas auction reporting by registered participants

The ability for registered participants to access pipeline capacity helps drive competition in downstream gas markets. The Day Ahead Auction (DAA) was introduced in March 2019 to enhance access to capacity on a more flexible basis. One of the benefits of the DAA is it can be used to transport gas between northern and southern markets more efficiently. The efficacy of the market relies on the quality, accuracy and timeliness of participant reporting.

While there has been a growth in the usage of this service with new participants commencing to trade, the AER has also observed issues with Auction Quantity Limit errors, errors in pipeline nominations and failures to keep complete renomination records. These compliance challenges can reduce transparency and integrity of the auction service and present a greater need for future compliance oversight.