

AER Compliance & Enforcement Priorities 2022 – 23

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 for 2022-2023 are a continuation of last year’s priorities, including some updates to areas of focus. 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, to help shape new or emerging markets and to implement new guidance such as the Better Bills Guideline. 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



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

We continue to closely monitor 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.

We remain concerned by the average debt per customer upon entry into hardship programs, and the number of customers being disconnected, which may suggest that customers are not being identified as hardship customers early enough. There is a continuing requirement to ensure residential customers in financial difficulty are given the full suite of protections in the Retail Law and Retail Rules, including protections in retailers’ own hardship policies, and that these protections are offered to both existing and former customers. Retailers must offer and apply payment plans to customers requiring payment assistance.

With the considerable challenges facing the east-coast energy market and rising costs of living generally, these important conditions are critical to assisting customers in financial difficulty to maintain connection and manage debts. All activities related to this priority will have a strong link to the work in the AER’s Consumer Vulnerability Strategy.

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Priority



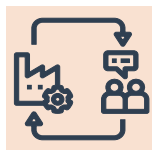
Improve outcomes for consumers in embedded networks, including by enabling access to Ombudsman schemes.

Embedded networks are private electricity networks that serve multiple premises at sites such as apartment blocks, caravan parks and retirement villages. The owner/operator of the site with an embedded network runs the network infrastructure. In most cases, owners buy energy from an authorised retailer and on-sell it to site occupants (exempt selling). Authorised retailers also now increasingly sell energy directly to consumers in embedded networks.

In 2021/22 the AER worked with energy ombudsman schemes to increase membership of exempt sellers, providing their customers with a pathway to resolve disputes. The AER has also been updating guidelines supporting the sale and supply of energy by embedded network owners or operators to ensure clarity and consistency for customers, industry and consumer groups. This includes strengthening processes in relation to managing registrable exemptions.

In 2022/23 the AER is expanding the priority to improve outcomes for more consumers in embedded networks by including those being sold energy by authorised retailers. Stakeholders continue to tell us about the inherent vulnerability of embedded network consumers. This is due to the difficulty these consumers face accessing competition, regardless of whether they are sold energy by an authorised retailer or exempt seller. Customers in embedded networks may face higher prices and lesser protections in relation to continuity of supply and life support equipment.

Priority



Focusing on registered generators' compliance with offers, dispatch instructions, obligations relating to bidding behaviour and providing accurate and timely capability information to AEMO.

The requirement for generators to ensure compliance with NER obligations relating to offers and their ability to comply with AEMO dispatch instructions and obligations regarding bidding behaviour is critical to power system security and efficient outcomes in wholesale energy markets, particularly where the conduct contributes to market events.

Ensuring compliance with latest offers and AEMO dispatch instructions, including in accordance with the new rules that apply to semi-scheduled generators, is an ongoing and active responsibility for all NEM participants. With the energy transition, it is particularly critical to ensure that these obligations are fully understood and widely complied with. It is also critical that generators provide accurate and timely information about their capability and availability to AEMO, including in relation to providing critical system services such as FCAS.

The AER will not hesitate to investigate conduct that contributes to major market events, such as making false or misleading offers, bids or rebids.

Priority



Ensure service providers meet information disclosure obligations under Part 23 of the National Gas Rules.

The efficient use of monopoly infrastructure and competitive downstream gas markets depends on pipeline users being able to obtain access to pipelines on fair and equitable terms. The Gas Rules help to facilitate this by requiring service providers to publish a range of information about their pipelines and services, which promotes greater transparency to the benefit of pipeline users. Failure to provide such information undermines the effective regulation of gas pipelines to the detriment of users in the market and ultimately, the prices paid by end users of gas. As gas availability remains critical in current conditions and to support energy transition, the AER will continue to focus on compliance with Part 23 of the Gas Rules in 2022-2023 to help ensure that accurate information is available to gas pipeline users.

Reforms to gas pipeline regulation are expected to come into effect in early 2023. This will include changes to the information publication requirements aimed at promoting greater transparency. As these reforms come into effect, the AER will work with industry to effectively implement the new requirements.

Priority



Ensure timely and accurate gas auction reporting and demand forecasting in downstream wholesale gas markets by registered participants.

The ability for registered participants to access pipeline capacity helps drive competition in downstream gas markets. The Day Ahead Auction (DAA), introduced in March 2019 to enhance access to capacity on a more flexible basis, can be used to transport gas between northern and southern markets more efficiently. This relies on the quality, accuracy and timeliness of participant reporting. While there has been a growth in the usage of this service, the AER also observed issues with Auction Quantity Limits, pipeline nominations, and failures to keep complete renomination records. The AER issued significant fines in 2021-2022 to address these failures, however, further failures were identified and therefore in 2022-23 we will continue this focus to ensure the transparency and integrity of the auction service.

In 2021-22 the AER also detected failures related to demand forecasting in downstream wholesale markets, linked to capacity auctions. This type of failure leads to incorrect pricing signals for registered participants operating in both capacity and commodity markets and results in larger daily gas imbalances, adding to market costs overall. Inaccurate demand forecasts in downstream markets can lead to uncompetitive price outcomes especially during difficult market conditions such as when under administered pricing.

Broadening our monitoring under this amended priority to capacity and downstream markets will further reduce the risk of participants taking advantage of market volatility to manipulate financial outcomes.

July 2022