



Investigation Report

Incorrect STTM Allocation Data:
Epic Energy's compliance with National Gas Rule 369

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Summary

Epic Energy South Australia Pty Ltd (**Epic**) submitted incorrect Short Term Trading Market (**STTM**) allocation data to the Australian Energy Market Operator (**AEMO**) for the Moomba to Adelaide Pipeline (**MAP**) over 13 days between 29 June and 16 July 2013.¹ The submission of incorrect data was caused by a fault in one of Epic's meters. Although Epic became aware of the fault in 2012, it did not fix it. The failure to address the fault likely led to the incorrect data in 2013.

The Australian Energy Regulator (**AER**) investigated Epic's conduct against the National Gas Rules (**Gas Rules**). Rule 369 requires information or data be provided to AEMO, and that the equipment from which that information or data is maintained, in accordance with good gas industry practice. Rule 369 is a civil penalty provision, meaning that the AER may serve an infringement notice if it has the reason to believe rule 369 has been breached.

Following its investigation, the AER formed a reason to believe that Epic breached rule 369 in respect of the preparation and submission of allocation notices over 13 days between 29 June and 16 July 2013. These allocation notices contained inaccurate data for the Moomba Adelaide Pipeline (**MAP**).

The AER arrived at this view after determining that Epic's error resulted from the failure to put in place appropriate governance processes, to properly implement, review and test the IT systems required for operating in the STTM, and to protect against known risks of the information or data from which the allocation was derived being incorrect.

An infringement notice specifying an infringement penalty of \$20,000 was served on Epic on 20 December 2013. Epic paid the infringement penalty on 9 January 2014. Payment is not an admission by Epic that it breached rule 369 of the Gas Rules.

¹ The affected gas days were 29 June 2013, and 1, 2, 5, 6, 8, 9, 10, 11, 12, 13, 14 and 15 July 2013

1 Introduction

Section 27 of the National Gas Law (**Gas Law**) sets out functions and powers of the AER.

These functions include:

- monitoring compliance with the Gas Law, the Regulations, and the Gas Rules
- investigating breaches or possible breaches of the Gas Law, the Regulations and the Gas Rules
- instituting and conducting proceedings in relation to breaches of provisions of the Gas Law, the Regulations, and the Gas Rules.

Further, section 277 of the Gas Law states the AER may serve an infringement notice on a person that the AER has reason to believe has breached a civil penalty provision.

STTMs are wholesale gas markets subject to Part 20 of the Gas Rules. They operate as “hubs” between transmission pipelines and distribution networks where gas can be sold and bought. The Adelaide STTM hub is supplied by two gas transmission pipelines; the MAP (to the north of Adelaide) and the SEAGas pipeline (to the east of Adelaide). Gas is sold and bought in Adelaide by Trading Participants who make offers (to sell) and bids (to buy). Market prices and payments are determined on the basis of these offers and bids as well as on the basis of allocations of how much gas each participant flowed on a gas day.

As an allocation agent for the MAP, Epic is required each day to submit to AEMO an allocation notice in accordance with the Gas Rules. Rule 419 requires the allocation notice to set out the amount of gas delivered by trading participants against registered facility services on the previous gas day. The delivery amounts are derived from daily meter measurements and from apportioning or allocating gas flows between trading participant offers and nominations of gas flows to and from the Adelaide hub. AEMO uses this allocation data to calculate prices and payments in the STTM, which trading participants are then subject to.

This report is about the AER’s investigation into Epic’s preparation and submission of incorrect allocation data for MAP to AEMO. These events occurred over 13 days between 29 June and 16 July 2013.

This report:

- describes the conduct (section 2)
- outlines the AER's compliance assessment (section 3)
- outlines the AER's enforcement response (section 4)

2 Description of the conduct

On 17 June 2013, Epic advised the AER that it submitted incorrect data to AEMO over 13 days between 29 June and 16 July 2013 for the MAP. Epic advised the error was due to a loose connection in the flow computer of its Gepps Cross Meter Station run 3. The faulty meter was displaying readings for flow when there was no gas flow. As a result, the gas flow to market was over reported.

Epic experienced a similar issue in February 2012 when it also submitted incorrect data for the Gepps Cross Meter Station Run 3 due to a loose connection in the flow computer.

Following the 2012 incident, on 30 March 2012, Epic informed the AER that conditional alarms would be put in place by April 2012. Epic advised that the submission of erroneous data could be avoided in future by installing these conditional alarms to detect for anomalous flow readings when a gas valve is shut.

Epic later informed the AER in November 2012 that conditional alarms had been installed, as part of its response to an audit questionnaire to STTM pipeline operators conducted by the AER.

However, on 6 August 2013, Epic informed the AER that in fact no conditional alarms were installed at these times.

Financial impacts

Epic submitted incorrect allocation amounts on thirteen days in June and July 2013. On six of these days, Epic's error resulted in the ex post price being set incorrectly. This distorted deviation payments which are payable for example when participants under forecast gas demand.

On 8 July 2013, demand was under forecast in the Adelaide hub by about 10 TJ or 10 000 GJ. Epic's error on the day meant that some participants collectively paid around \$10 000 too much because they paid an incorrect price of \$7.42/GJ instead of \$6.45/GJ.

This occurred because Epic submitted 37 767 GJ as an allocation quantity, whereas Epic should have submitted 33 383 GJ. Across the six days where incorrect allocation quantities

resulted in incorrect ex post prices, the financial impacts to the market would not have exceeded \$50 000.

Broader impacts

The financial impacts are secondary to broader market impacts from the nature of this conduct. Confidence in the STTM relies on correct allocation amounts. If participants were of the view that pipeline operators would not quickly act to address past errors where possible, their confidence in market data and market outcomes would be eroded. This ultimately might affect participation and competition in the market.

3 Compliance assessment

Rule 369 requires relevant participants to act in accordance with good gas industry practice (**GGIP**) in certain circumstances. It provides:

A person required by a provision of this Part or the STTM Procedures to give information or data to AEMO must:

- (a) prepare and submit that information or data; and
- (b) if applicable, maintain any equipment from which that information or data is derived,

in accordance with good gas industry practice

Rule 419(1) concerns the submission of information or data. It provides:

No later than 4.5 hours after the start of each gas day, the allocation agent for an STTM facility must give AEMO an allocation notice for the immediately preceding gas day that meets the requirements in subrule (2).

Epic is an allocation agent for the MAP (an STTM facility). Accordingly, it must submit an allocation notice (allocation data) each gas day and is subject to the GGIP requirement in relation to preparing and submitting data, as set out in rule 369.

GGIP is unique to Part 20 of the STTM rules and provides a standard in respect of information providing obligations. GGIP is defined in rule 364 as:

the practices, methods and acts that would be reasonably expected from experienced and competent persons engaged in the business of providing natural gas services in Australia, acting with all due skill, diligence, prudence and foresight and in compliance with all applicable legislation (including these rules), authorisations and industry codes of practice.

3.1 The AER's framework for assessing good practice

The AER's approach to assessing GGIP in monitoring businesses' compliance with the requirements of Part 20 is based around principles of Good Energy Industry Practice (**GEIP**). The AER considers the following factors in assessing whether GGIP has been satisfied:

- **Governance**—participants’ internal arrangements covering reporting lines and supporting systems; and the overall compliance culture, including levels of involvement and commitment of senior managers and committees.
- **Expertise**—the human resources dedicated to technical compliance, including the allocation of responsibilities; underlying knowledge systems; and the nature and extent of the technical understanding of applicable obligations.
- **Implementation**—the practical means by which participants drive and promote compliance through internal procedures and processes, encompassing staff training, technical testing, internal reviews and audits, and reporting of compliance matters.
- **Performance**—the overall compliance status of a participant in regard to the effectiveness of compliance programs and arrangements, including ongoing evaluation and updating of programs, and arrangements to reflect lessons learnt.

These GEIP factors have been presented in several AER quarterly compliance reports (QCR).²

² AER, QCR (Oct-Dec 2010, Jan-Mar 2011, July-Sep 2011), <http://www.aer.gov.au/node/454>

3.2 Assessment of Good Energy Industry Practice

To assist its investigation, the AER analysed Epic's conduct in the context of the above GEIP factors.

Governance—the failure of Epic to put in place conditional alarms despite a report identifying this as a corrective measure indicates poor governance. Reporting that measures had been implemented when they had not been also indicates poor governance.

Implementation—Epic's systems had not been updated to identify when its meter is displaying a flow reading when there is no actual gas movement. This is despite Epic saying these measures would be implemented in 2012 to reduce the chance of future errors.

Epic's implementation (and governance) also does not accord with the Australian Pipeline Industry Association Guideline, which Epic, as a member of this Association, would be expected to comply with. The particular aspects of the APIA guideline that are relevant in these circumstances are:

- [under the heading Incident Management] A pipeline operator should have systems in place to identify mistakes and prevent errors from recurring in the event of an incident relating to STTM reporting obligations. [(page 11)]
- [under the heading Risk management and mitigation] It is recommended that pipeline operators manage risk to “as low as reasonably practicable” principles, in line with good gas industry practice. [(page 12)]

Performance (reflecting implementation and governance issues) —Epic failed to address an issue it identified with its metering in February 2012. By failing to implement the required measures Epic had allowed the same error to reoccur in 2013, with the potential for the error to have reoccurred on every day since 30 April 2012 (the day it identified the conditional alarm control change process should be finalised by).

AER assessment

The submission of incorrect allocation data does not in itself establish that Epic's conduct is of less than good gas industry practice. Even the best and most competent organisations can make mistakes.

That is not to say the occurrence of errors has no part in determining whether Epic's conduct was in accordance with good gas industry practice. Rather, the occurrence of errors should be considered alongside other relevant factors.

It was necessary for the AER to look at the cause of the errors and the circumstances of this matter to determine whether Epic's conduct was in accordance with good gas industry practice.

As noted above next to the GEIP factors, following the errors in 2012, Epic knew what needed to be done to fix the problem with the Gepps Cross meter. Not only did Epic identify the solution itself, it later falsely said the solution had been implemented.

The AER has taken account of issues with Epic's governance, implementation and performance, as relevant to compliance with part 20 of the Gas Rules, and considers that Epic's conduct was not in accordance with good gas industry practice. That is, Epic's conduct was not of the kind that would be reasonably expected from experienced and competent persons engaged in the business of providing natural gas services in Australia, acting with all due skill, diligence, prudence and foresight, in accordance with good gas industry practice.

4 The AER's enforcement response

Following its assessment, the AER formed the belief Epic's conduct was not in accordance with GGIP. The factors AER has regard to when deciding whether to take formal enforcement action are set out in its *Compliance and Enforcement – Statement of Approach*.³ These factors include:

- the nature and extent of the conduct that forms the breach
- the amount of loss or damage caused
- the circumstances in which the breach took place
- whether the breach was deliberate, and the period over which it extended
- whether the breach arose out of the conduct of senior management or at a lower level
- whether the participant has a corporate culture conducive to compliance
- whether the participant has cooperated with the AER in relation to the breach
- whether the breach forms part of a sustained pattern of non-compliance

The AER took into consideration that ownership and management changes occurred in Epic between the incidents in 2012 and the following incidents in 2013. The current owners and management were not the ones who failed to implement the solution in 2012, although ultimately they are responsible for this failure.

Epic has displayed a commitment to improving its systems such as implementing alarms and other measures to ensure the submission of accurate data to AEMO. Epic has cooperated with the AER throughout its investigation.

As noted, Gas Rule 369 is a civil penalty provision. Section 277 of the Gas Law states the AER may serve an infringement notice on a person the AER has reason to believe has breached a civil penalty provision.

³ AER, *Compliance and Enforcement Statement of Approach*, <http://www.aer.gov.au/node/454>

Having regard to all of the above factors, the AER decided to serve one infringement notice for the incorrect allocation data submitted to AEMO over 13 days between 29 June and 16 July 2013.

The infringement notice specifying an infringement penalty of \$20,000 was served on Epic on 20 December 2013. Epic paid the infringement penalty on 9 January 2014.

In accordance with section 285 of the Gas Law, the payment of the infringement notice is not an admission by Epic of the breach or an admission of liability. Pursuant to section 284 of the Gas Law, the AER will not commence proceedings against Epic in respect of the conduct to which the infringement notice relates, now that Epic has paid the \$20,000 penalty.