

AER Compliance Procedures and Guidelines

Draft instrument – explanatory statement

March 2024

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Request for submissions

Interested parties are invited to make written submissions to the Australian Energy Regulator (AER) about this paper via email to aercompliance@er.gov.au with the subject line ‘Compliance Procedures and Guidelines review – draft guidelines submission’ by close of business, **19 April 2024**.

Alternatively, submissions can be mailed to:

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Submissions should be in PDF, Microsoft Word or another text readable document format. Due to timing constraints, late submissions will not be considered.

The AER prefers that all submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will be treated as public documents unless marked confidential.

Parties wishing to submit confidential information are requested to:

- clearly identify the information that is the subject of the confidentiality claim
- provide a non-confidential version of the submission in a form suitable for publication.

All non-confidential submissions will be placed on the AER’s website. For further information on the AER’s use and disclosure of information provided to it, see the [ACCC/AER Information Policy, June 2014](#).

Enquiries about this paper, or about lodging submissions, should be directed to the AER’s Compliance and Strategic Intelligence team at aercompliance@er.gov.au with the subject line ‘Compliance Procedures and Guidelines review – draft guidelines’.

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Glossary

Term	Definition
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
CPP	Civil penalty provisions
EIC	Explicit and informed consent
ESCV	Essential Service Commission of Victoria
Guidelines	AER Compliance Procedures and Guidelines
NEM	National Energy Market
NERL	National Energy Retail Law
NERR	National Energy Retail Rules

1 Overview

1.1 Role of the Guidelines

The AER is responsible for monitoring, investigating, enforcing and reporting on compliance with the National Energy Retail Law (NERL), National Energy Retail Rules (NERR) and applicable Regulations. To support these roles, we have developed the *AER Compliance Procedures and Guidelines* (Guidelines) to establish a self-reporting framework that applies to all retailers and distributors in jurisdictions that have adopted the NERL.

The Guidelines set out the manner and form in which regulated entities are required to submit information and data on their compliance to the AER and the process for managing compliance audits under the NERL. The Guidelines serve 2 primary purposes within the AER's compliance monitoring framework, 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 attention.

1.2 Review of the Guidelines

The Guidelines has been in effect for more than 13 years and the last review was finalised over 5 years ago. It is timely for the AER to update the Guidelines to ensure that they remain relevant and effective in light of changes in the National Energy Market (NEM).

We are seeking stakeholder input on the changes set out in the AER's draft Compliance Procedures and Guidelines (draft Guidelines). This explanatory statement accompanies the draft Guidelines and sets out the proposed changes, including proposals to:

- introduce reporting requirements for 7 additional obligations, including obligations relating to family violence, presentation of standing offers, energisations and re-energisations
- introduce a requirement to report any breach that has a material adverse effect on consumers or the NEM as soon as reasonably practicable
- change the reporting frequency of quarterly reporting to half-yearly reporting
- clarify the reporting requirements for de-energisations to improve the quality of reporting
- streamline the reporting requirements in relation to billing, retail contracts, explicit and informed consent and distributor interruptions to ensure we are focusing on the high-risk obligations
- remove the reporting of energy marketing activities and deployment of new electricity meters
- update the submission process to improve efficiency and reduce errors in the reports
- provide minor changes to the audit process to clarify obligations.

We are seeking stakeholder views on the proposed changes and welcome feedback on these updates. Stakeholder input will be collated and used to inform the final Guidelines, which we are seeking to publish in mid-2024.

2 Approach to the review

The scope of this review is to ensure that the Guidelines are relevant and effective, and to:

- assess new rules arising from the Australian Energy Market Commission (AEMC) rule determinations and consider whether any new key consumer protection provisions need to be captured under the self-reporting framework
- assess the current reportable obligations to ensure that high-risk and/or high potential harm obligations are reportable to the AER under the Guidelines
- refine the reporting framework to ensure it remains effective for the AER’s compliance monitoring, while balancing the regulatory impact the Guidelines place on regulated entities.

This is the first review of the Guidelines since the amendments to the NERL to provide for increased civil penalties through the implementation of a 3-tier civil penalty provision (CPP) structure.¹ The 3 tiers of the CPP regime reflect 3 levels of severity of breaches, with Tier 1 provisions carrying the maximum penalty. In reviewing the reporting arrangements, we have considered the tier assessment to ensure the Guidelines align with the intent of policymakers.

Not all obligations under the NERL and NERR attract a reporting requirement under the Guidelines. Consistent with the AER’s previous reviews of the reporting framework the AER intends to adopt a principles-based approach in assessing the self-reporting framework. The principles include:

- ensure regulated entities are aware of and reporting non-compliance of key consumer protection provisions and are providing complete and adequate information to the AER to allow us to effectively measure compliance levels
- recognise that compliance with certain obligations can be effectively monitored via other mechanisms without imposing additional reporting obligations on regulated entities
- align the reporting requirements with AER internal processes for investigating and responding to potential breaches
- look for opportunities to align the reporting requirements with other jurisdictions, while still being fit to meet the purposes of the Guidelines.

The amendments are intended to improve the efficiency and effectiveness of the reporting process as a compliance monitoring tool for retailers, distributors and the AER. It will be important to balance what information the AER requires to effectively monitor, investigate, enforce and report on compliance with the regulatory burden any changes to the Guidelines places on regulated entities. As such, we will weigh the benefits of making changes to the current reporting requirements against the costs required for regulated entities to make changes to systems.

¹ *Statutes Amendment (National Energy Laws) (Penalties and Enforcement) Act 2020.*

2.1 Consultation process

We commenced consultation via a stakeholder forum in April 2023. We discussed potential improvements to the Guidelines, including streamlining the submission process and understanding whether any elements in the Guidelines cause confusion and how these issues could potentially be addressed.

We must follow the retail consultation procedure prescribed under Part 12, rule 173 of the NERR. This includes providing at least 20 business days for submissions and comments on a draft instrument (the draft Guidelines). Our planned consultation approach for the Guidelines review is described below.

We are now seeking stakeholder views on the draft Guidelines. As part of this stage of the consultation process, we aim to engage with stakeholders on the proposed changes and we will consider the feedback as we finalise the Guidelines.

We encourage engagement by all energy sector participants and stakeholders. The decisions we make and the actions we take affect a wide range of individuals, businesses and organisations. Hearing from those affected by our work helps us make better decisions, provides greater transparency and predictability, and builds trust and confidence in the regulatory regime.

2.1.1 Timeline

Table 2.1 outlines the proposed timeline for the remainder of the Guidelines review.

Table 2.1 Guidelines review project timeline

Milestone	Proposed date
Publish draft instrument	15 March 2024
Public stakeholder forum	26 March 2024
Submissions due	19 April 2024
Final instrument published	July 2024
Commencement date	1 January 2025

2.1.2 Implementation timing

We aim to publish the new Guidelines in July 2024, with a commencement date of 1 January 2025, when the new Guidelines take effect. Regulated entities would commence reporting under the revised Guidelines on 1 January 2025.

We believe that a lead time of around 6 months gives regulated entities and the AER an appropriate amount of time to adjust systems and processes. We are seeking stakeholder feedback on the proposed implementation time frame and any other implementation choices to help reduce the costs of reporting under the revised Guidelines. The current Guidelines will still be valid until the commencement of the revised Guidelines.

Consultation question on implementation timing

Question 1: What are your views on the proposed implementation time frame of 6 months and commencement date of 1 January 2025?

Question 2: What further steps can the AER take to minimise the costs of reporting under the revised Guidelines?

2.2 New rules

Since early 2019, there have been a number of changes to the NERR (listed in Appendix 1) due to rule changes made by the AEMC or changes initiated by the South Australian Minister responsible for energy under sections 238AB or 238AA(1) of the NERL. These rule changes introduced several new obligations, including protecting customers affected by family violence, and made amendments to existing reportable obligations, such as billing requirements.

We have assessed the rule changes and determined the following consumer protections are already captured under the existing self-reporting framework because they fall within the currently reportable obligations listed in the current Guidelines:

- Advance notice of price change – the rule requires retailers to provide consumers with 5 business days' advance notice of price changes under rule 46 of the NERR. Rule 46 is an existing obligation that is reportable by retailers half yearly.
- Estimated meter reads – the rule places requirements on retailers to adjust an estimated bill based on a small customer's reading of the meter, where requested by the customer under rule 21 of the NERR. Rule 21 is an existing obligation that is reportable by retailers half yearly.
- Metering installation time frames – the rule change included providing more flexible notification requirements for retailer and distributor planned interruptions provided the customer explicitly consents under the NERR. Rule 90 is an existing obligation that is reportable by distributors half yearly.
- Metering coordinator planned interruptions – the rule requires the distributor to carry out the interruption for a new meter installation or replacement on the date agreed with the retailer and the customer, or if no date is agreed, within 25 business days from the date of the request from the retailer under rule 91A of the NERR. Rule 91A is an existing obligation that is reportable by distributors half yearly.
- Life support customer registration – the rule includes the requirement that the incoming retailer or distributor must inform the customer that they may reuse medical confirmation provided to their previous retailer or distributor for the purpose of registering their premises for life support provided it meets certain criteria under rules 124(1) and 124(4) of the NERR. These rules are existing obligations that are reportable by retailers and distributors immediately.
- Bill content and billing requirements – the rule change included that a retailer must comply with the billing guideline when preparing and issuing a bill under rule 25(1) of the NERR. Rule 25 is an existing obligation that is reportable by retailers half yearly.

Where a new obligation or amendment falls within the existing reportable obligations included in the Guidelines, it is the AER's expectation that regulated entities report non-compliances with the obligations in accordance with the Guidelines.

3 New reportable obligations

We are proposing to introduce 7 new obligations for retailers and distributors to report on. These are a mix of new obligations introduced by the AEMC in the past 5 years and existing Tier 1 CPP obligations we have assessed as high-risk obligations (such as obligations with a high potential of harm to customers).²

3.1 Additional obligations for immediate and half yearly reporting

3.1.1 Family violence

New measures to protect customers affected by family violence came into effect on 1 May 2023. Thirteen new consumer protections for residential and small business customers affected by family violence were introduced, none of which are reportable under the current Guidelines.

Protecting vulnerable consumers while enabling consumers to participate in energy markets is a key objective for the AER. Our *Towards energy equity strategy*³ highlighted in action 1 the strategy's aim to improve protections for consumers affected by family violence. Ensuring the self-reporting of non-compliances of these key consumer protections will enable the AER to monitor and investigate any compliance issues in a timely manner.

Under the draft Guidelines, we recommend the addition of the 3 CPP obligations related to family violence as detailed in Table 2.1. We consider timely notification of the breaches of these CPPs is crucial because it provides necessary protections to the affected customers to ensure their safety, wellbeing and access to tailored support in unique situations.

Table 3.1 Family violence reportable obligations

Rule	Description	Proposed frequency
NERR rule 76A	Requirement for retailers to have, publish, implement, maintain, comply with, review and update a family violence policy (Tier 1 – CPP)	Half yearly
NERR rule 76D	Requirement that a retailer must first have regard to family violence customer safety and take into account the particular circumstances of the family violence customer (Tier 1 – CPP)	Immediate
NERR rule 76G(1)	Requirement that the retailer (and its contractors/agents) not disclose or give access to family violence customer to any other person without the consent of the customer (Tier 1 – CPP)	Immediate

² See the [AER Compliance and enforcement policy](#) for further information.

³ AER, [Towards energy equity strategy](#), Australian Energy Regulator, October 2022, p.16.

As part of the Victorian compliance reporting framework⁴ retailers are required to report potential or actual breaches of time sensitive life support obligations and family violence obligations to the commission within 2 business days of detection. Stakeholders at the preliminary workshop were open to aligning reporting requirements with other jurisdictions. Based on this feedback, the AER is proposing to align reporting frequencies with Victoria where possible to deliver regulatory consistency.

3.1.2 Presentation of standing offer prices

Under the draft Guidelines, we propose adding section 24 of the NERL (Tier 1 CPP) as a half-yearly reporting requirement. This obligation ensures that consumers have access to clear and understandable pricing information by requiring retailers to publish their standing offer prices, in accordance with the AER Retail Pricing Information Guidelines.

Monitoring this obligation aligns with the AER priority of enabling consumers to participate in the energy market by supporting the easy comparison of pricing offers.⁵ The equivalent obligation for presenting market offer prices, section 37 of the NERL, is already reportable half-yearly by retailers. We consider that the potential customer harm of a retailer failing to publish market prices prominently is equivalent to the potential customer harm of a retailer failing to publish the standing offer price.

We have considered the reporting burden and impact of this proposal. In circumstances where retailers are already required to report non-compliances with market offer pricing obligations and standing offer pricing obligations in the Victorian jurisdiction, we do not consider the addition of the standing offer obligations as reportable under the Guidelines would add significant reporting burden given the feedback from stakeholders on aligning reporting requirements.

3.1.3 Energisation on request for sale of energy

Under the draft Guidelines, we propose adding the Tier 1 CPP, rule 19(2)(b) of the NERR as a half-yearly reportable obligation. This obligation sets out the requirement for the responsible retailer to, as soon as possible, arrange energisation by a metering coordinator or distributor on request by the customer under a standing offer.

In line with our approach to other re-energisation obligations, which are currently reportable, we consider it appropriate to extend the Guidelines to include this obligation. Monitoring compliance with energisation obligations aligns with the AER's strategic priority 1, enabling consumers to participate in energy markets. Energy is an essential service and ensuring its provision aligns with basic human rights.

We have considered the reporting burden and impact of this proposal, noting that retailers operating in Victoria are required to report the equivalent obligation under the Victorian Compliance and Performance Reporting Guideline.

⁴ See the Essential Service Commission of Victoria (ESCV), [Compliance and Performance Reporting Guideline \(Version 8\)](#), for further information.

⁵ AER, [AER Strategic Plan 2020–2025](#), December 2020, p. 10.

3.1.4 Re-energisation

Under the draft Guidelines, we propose adding the Tier 1 CPPs, 106 and 106A of the NERR as half-yearly reportable obligations. These obligations set out the requirement for retailers and distributors to arrange re-energisations in accordance with the energy laws. They also set out that if a distributor is required to re-energise a shared customer's electricity it must do so in accordance with the energy laws.

Under the current Guidelines, retailers and distributors are required to report non-compliances related to re-energisation of premises under rule 121 and 122, respectively. These rules set out the obligations to re-energise customers who have been de-energised within 10 business days. Expanding the existing reporting to include all re-energisations aligns with the AER's strategic priority 1. We have taken into account the reporting burden and consider that the impact of this proposal is not significant because regulated entities should already have systems in place to monitor and report de-energisations.

Consultation question on the addition of new reporting obligations

Question 3: What are your views on the proposed introduction of:

- family violence – rules 76G(1) and 76D of the NERR as immediate retailer reportable obligations, and rule 76A of the NERR as a half-yearly retailer reportable obligation
- presentation of standing offer prices – section 24 of the NERL as a half-yearly retailer reportable obligation
- energisation on request for sale of energy – rule 19(2)(b) of the NERR as a half-yearly retailer reportable obligation
- re-energisation – rules 106 and 106A(1)-(3) of the NERR as half-yearly retailer reportable obligations and rules 106 and 106A(4)-(6) of the NERR as half-yearly distributor reportable obligations?

3.2 Reporting of material breaches

We propose to introduce a new requirement to report any material breach of relevant obligations to the AER as soon as reasonably practicable after the breach has been identified by the regulated entity.

The purpose of the material breach reporting requirement is to ensure timely reporting of any material breach of an obligation under the NERL and NERR and National Energy Retail Regulations. Prompt notification of such breaches provides the opportunity for early intervention by the AER and ensures that appropriate action can be taken to rectify the breach, minimise the risks and harm associated with the conduct and avoid a recurrence of the breach.

The proposed material breach reporting requirement applies to breaches of any obligation under the NERL, NERR and applicable Regulations, except for obligations listed at Appendix A.1 of the draft Guidelines, which are reportable on an immediate basis. The proposed material breach reporting requirement is activated when the regulated entity becomes aware of a breach or potential breach of a relevant obligation that will likely have a material adverse impact on consumers or the NEM.

The draft Guidelines set out the factors that a regulated entity must consider when determining whether a breach is material and guidance to assist with the assessment. The information provided is for guidance only and is not a prescriptive procedure for determining if a breach is material. Regulated entities should consider all factors giving rise to the breach and the actual (or potential) harm. A breach may be considered material notwithstanding only one of the listed considerations is applicable. It is the AER's expectation that a regulated entity's Board and/or senior management will develop a comprehensive assessment methodology to determine whether a breach is material.

While it is a regulated entity's responsibility to assess whether a breach is material, we recognise that impact may not be clear in every case. In such circumstances we encourage regulated entities to consult with the AER and consider taking a conservative approach by reporting a breach as material.

As detailed in section 2, as part of the review of the Guidelines, the AER was seeking opportunities to align reporting requirements with other jurisdictions, while still meeting the purposes of the Guidelines. The introduction of a material breach reporting obligation aligns with retailer and distributor reporting obligations that already exist in Victoria, South Australia, the Australian Capital Territory, the Northern Territory and Western Australia. In proposing the material breach reporting, the AER has endeavoured to align with the existing reporting to minimise the cost to serve for regulated entities. An example is the proposed timing for material breach reporting, which is as soon as reasonably practicable, aligning with the material breach time frames required in Victoria.⁶

Consultation question on reporting of material breaches

Question 4: What are your views on the proposed introduction of the reporting of material breaches to the AER as soon as reasonably practicable?

Question 5: Is there any further information that will assist in understanding the AER expectations, and if so, what would you find helpful?

⁶ ESCV, [Compliance and Performance Reporting Guideline – Version 8](#), May 2023, pp. 9 and 11.

4 Refinements to current reporting requirements

We consider that the inclusion of the reporting requirements outlined in section 4 of this explanatory statement are critical to ensuring that regulated entities are focused on compliance with high-risk, high-priority obligations. However, we acknowledge that these changes are likely to increase reporting burden. Therefore, under the draft Guidelines, we sought to balance the introduction of new reporting requirements with the refinement of existing requirements. This includes proposals to remove reporting requirements of some lower risk obligations. We are seeking to balance these factors to ensure that the AER is notified of higher risk breaches in a timely way, while minimising increases to the overall reporting burden.

4.1 Reducing frequency of quarterly reporting

Under the current Guidelines, obligations relating to the following themes are reportable on a quarterly basis:

- de-energisation of premises (retailer and distributor obligations)
- re-energisation of premises (retailer and distributor obligations)
- explicit and informed consent.

We consider that non-compliance with these obligations has a high risk of potential harm to affected consumers. Therefore, it is appropriate to retain these obligations as reportable under the Guidelines. However, under the proposed ‘material breach’ reporting requirement, more serious non-compliance with these obligations will be reportable to the AER as soon as reasonably practicable. As a result, we propose to reduce the frequency of reporting of (non-material) breaches of these obligations from quarterly to half-yearly. This will support the AER’s ability to focus on more serious conduct proximate to the time of the conduct and will assist to balance the overall reporting burden on regulated entities.

Consultation question on reducing frequency of quarterly reporting

Question 6: What are your views on the proposed reduction in the reporting of current quarterly reporting obligation to half-yearly reporting?

4.2 Clarification on reporting of de-energisation

Retailer and distributor de-energisation obligations are set out in the NERR under the overarching obligations (rule 107) and associated specific obligations (rules 111–120).

Under the current Guidelines, de-energisation obligations that are considered as having a higher risk of potential harm are reportable on an immediate basis and the remainder are reportable on a quarterly basis. However, under the current Guidelines, the overarching de-energisation obligations are listed as reportable on both an immediate and quarterly basis. As a result, we have noted some inconsistencies in the reporting of de-energisation breaches under the current Guidelines.

Under the draft Guidelines, we propose to clarify the reporting requirements to make it clear that, where de-energisation breach is reported on an immediate basis, it does not need to be reported again on a half-yearly (currently quarterly) basis.

Consultation question on clarification of reporting on de-energisation

Question 7: What are your views on the proposed changes to address the inconsistencies observed by the AER in the reporting on de-energisations?

4.3 Streamlining of reporting obligations

This section sets out the proposal to remove certain lower risk obligations from the half-yearly reporting requirements. These changes are proposed in the context of the addition of the material breach reporting requirement. Therefore, while reporting of non-compliance with these obligations would no longer be required on a half-yearly basis as a matter of course, more serious non-compliance is likely to be reported to the AER via ‘material breach’ reporting requirements and ombudsman schemes.

4.3.1 Billing

Currently there are 8 rules relating to billing obligations that are reportable on a half-yearly basis. We propose to remove the following 3 rules under the NERR to streamline the reporting requirements and ensure reporting is focused on the higher risk billing obligations:

- rule 26, which sets out that the pay-by date for a bill must not be earlier than 13 business days from the date on which the retailer sent the bill to a small customer (this is not a CPP)
- rule 28, which sets out that a retailer must provide a small customer with historical billing data for the previous 2 years at no charge – we consider that this is a lower risk obligation because this information is now available via several retailers’ apps and will be available with the Consumer Data Right for electricity
- rule 29 of the NERR, which sets out that a retailer must review a bill if requested by a small customer in accordance with the retailer’s standards complaints and dispute resolution process.

4.3.2 Retail contracts

Under the current Guidelines, retailers are required to report non-compliance with market retail contract obligations on a half-yearly basis. Under the draft Guidelines, we propose to retain reporting of the key obligations (rules 46 and 48A of the NERR) and remove the following 4 rules under the NERR from half-yearly reporting:

- rule 47, which sets obligations relating to a customer’s right to withdraw from a market retail contract
- rule 48, which sets out the requirement for a retailer to give notice of the end of a fixed term retail contract and details the requirements of the notice
- rule 49, which sets out when a market retail contract terminates
- rule 50, which sets out the minimum requirements for market retail contract terms and conditions relating to dispute resolution.

Where the conduct does not constitute a ‘material breach’, we consider that compliance with these obligations can be monitored through other sources such as reviewing market contracts and referrals from ombudsman schemes.

4.3.3 Explicit and informed consent

Under the draft Guidelines, we propose to remove one of the obligations relating to explicit and informed consent (EIC). Rule 46A of the NERR sets out matters relevant to a customer’s consent for entering into a market retail contract. Given that this is not a CPP, and key EIC conduct will be reportable under the other EIC obligations,⁷ we propose to remove rule 46A of the NERR to streamline EIC reporting requirements.

4.3.4 Distributor interruption to supply

Under the current Guidelines, distributors are required to report non-compliance with ‘interruption to supply’ obligations on a half-yearly basis. Included in the reporting requirements is rule 88 of the NERR, which sets out relevant definitions, and rule 89, which sets out that a distributor may interrupt the supply of energy at any time. Because these rules are not CPPs, we propose to remove them as reportable under the draft Guidelines, while maintaining rules 90–91A of the NERR as reportable.

4.3.5 Energy marketing activities

Under the current Guidelines, retailer energy marketing obligations are reportable on a half-yearly basis. The relevant obligations set out the requirements for retailers carrying out energy marketing activities.

From our review of internal and stakeholder intelligence, non-compliance with energy marketing obligations is no longer a significant issue affecting consumers. With a view to ensuring that the Guidelines remain focused on the reporting of high-risk, high-priority obligations, we propose to remove energy marketing activities obligations as reportable on a half-yearly basis. The proposal is made in the context of the proposed material breach reporting requirements, whereby material breaches of energy marketing obligations would be reportable to the AER as soon as reasonably practicable.

4.3.6 Deployment of new electricity meters

Under the current Guidelines, retailers are required to report to the AER any non-compliance relating to new meter deployments on a 6-monthly basis. New meter deployment under the NERR only relates to the replacement of existing electricity meters arranged by retailers in defined circumstances (for example, retailer-initiated roll outs). It does not include:

- meter replacements requested by a customer to enable the provision of a product or service such as to enable solar or a time-of-use tariff
- a maintenance replacement such as end of life of the meter
- a meter replacement as a result of a metering installation malfunction.

⁷ Sections 38 and 40 of the NERL and rules 57(1)(a) and 57A of the NERR.

Under the draft Guidelines, we propose to remove the following 4 rules relating to the deployment of new electricity meters:

- rule 59A(1), which sets out a customer’s right to not have an electricity meter replaced as part of the proposed new meter deployment
- rule 59A(2) and (3), which set out the requirement to give notice of new meter deployment and the details of that notice
- rule 59A(7), which sets out when a retailer cannot proceed with a replacement of the electricity meter under the proposed new meter deployment.

The AEMC conducted a review of the regulatory framework for metering services in 2023 and found benefits in accelerating the deployment of smart meters in a timely and cost-effective manner to better support customers’ needs.⁸ The AEMC also recommended the monitoring of retailer’s performance via the retailer performance reporting.⁹

We propose to remove these half-yearly reporting obligations for electricity retailers, noting that retailers will still be required to report a material breach of these obligations.

Consultation question on streamlining of reporting obligations

Question 8: What are your views on the proposed reporting amendment of the following obligations:

- billing – rules 26, 28 and 29 of the NERR
- retail contracts – rules 47-50 of the NERR
- EIC – rule 46A of the NERR
- distributor interruption to supply – rules 88-89 of the NERR
- energy marketing activities – section 53(2) of the NERL and rules 60-68 of the NERR
- deployment of new electricity meters – rule 59A (1)-(3) and (7) of the NERR?

⁸ AEMC, [Final Report Review of the regulatory framework for metering services](#), 30 August 2023, pp. ii-iii.

⁹ AEMC, [Final Report Review of the regulatory framework for metering services](#), 30 August 2023, p. 50.

5 Other changes

5.1 Submission process and submission template

Under the current Guidelines, section 3.21 and 3.22 outline the process for submitting compliance reports via an email submission and Appendix B.3 provides the Compliance Reporting Template, which details the form and information to be provided for compliance reports.

Under the draft Guidelines, we have proposed an updated process whereby submissions are made via an AER portal, accessible on the AER website. With the introduction of the AER portal, regulated entities will no longer be required to submit the AER Compliance Reporting Template Excel spreadsheet via email. Instead, compliance reports would be provided via the portal, together with the signed relevant proforma as contained in Appendices B.1 and B.2 of the draft Guidelines.

The information required for compliance reports remains unchanged under the updated process and is listed in Appendix B.3 of the draft Guidelines. Minor changes have been made to the proformas to remove the reference to the spreadsheets.

We consider that the introduction of a portal will offer a more efficient and streamlined process for submitting and receiving compliance reports, and reduces potential for errors in manual processing of Excel spreadsheets. Regulated entities currently use an AER portal to submit retail performance reports.

The new portal and a user guide will be available for use prior to the commencement of the Guidelines to allow for feedback and a smooth transition to the new reporting process. In response to stakeholder input, the AER will continue to accept compliance reports via email in the event of technical issues affecting submission via the portal.

Consultation question on submission process

Question 9: What are your views on the proposed implementation of a portal to submit compliance reports?

5.2 Compliance audits

Compliance audits are a tool to inform the AER of the effectiveness of a business's existing systems to monitor, identify and report on any potential breaches. Where audits reveal deficiencies in a business's systems, these can be fixed and the AER can share learnings with other businesses, leading to improvements in overall compliance systems.

We propose some modifications to section 4 of the Guidelines in relation to compliance audits. The changes seek to clarify, and in some places make more specific, the obligations on businesses when undertaking compliance audits. We have also sought to add more flexibility where possible for the AER and the regulated entities in relation to timing and provision of certain information. These changes reflect learnings and actual practice from our compliance audit programs run since 2018, as well as feedback from regulated entities and auditors.

Proposed amendments include:

- requiring auditors to have experience in the NERL, NERR and Regulations and have the capacity to deliver the results of the audit in accordance with specified time frames
- requiring regulated entities to set out audit findings in sufficient detail and to provide a documented implementation plan to the AER, including details of any recommendations for improvement and/or corrective actions made by the auditor, on conclusion of the audit
- requiring regulated entities to set out in the audit proposal the reasonable steps they will take to ensure any third party carrying out a compliance audit has access to relevant information
- removing the requirement for a draft audit report and replacing it with a mid-term progress report (to be required at the discretion of the AER)
- giving flexibility to the regulated entity and the AER to negotiate a time frame to provide the audit proposal and the final audit report, and allowing scope for virtual meetings between the parties
- clarifying next steps if the AER rejects an audit proposal
- where a regulated entity proposes to arrange a third party to carry out the audit on its behalf, requiring the audit proposal to clearly identify, and be prepared with the input of, the third party
- clarifying the invoicing process for an audit conducted by the AER
- stylistic changes to improve comprehension and flow.

Consultation question

Question 10: What are your views on the proposed changes to section 4 of the Guidelines relating to compliance audits?

Appendix 1 – New rules

Since 2019, the AEMC has made the following rule determinations under the NERL:

- *Advance notice of price changes*, Rule determination, 27 September 2018 (Advance notice of price change)¹⁰
- *Estimated meter reads*, Rule determination, 25 October 2018 (Estimated meter reads)¹¹
- *Metering Installation Timeframes*, Rule determination, 6 December 2018 (Metering Installation Timeframes)¹²
- *Minor changes*, Rule determination, 21 November 2019 (Minor changes 2019)¹³
- *Reducing customers' switching times*, Rule determination, 19 December 2019 (Reducing customers' switching times)¹⁴
- *Regulating conditional discounting*, Rule determination, 27 February 2020 (Regulating conditional discounting)¹⁵
- *Minor changes*, Rule determination, 12 March 2020 (Minor changes 2020)¹⁶
- *Introduction of metering coordinator planned interruptions*, Rule determination, 21 May 2020 (Metering coordinator planned interruptions)¹⁷
- *Minor changes 2*, Rule determination, 28 May 2020 (Minor changes 2 2020)¹⁸
- *Maintaining life support customer registration when switching*, Rule determination, 25 February 2021 (Life support customer registration)¹⁹
- *Bill contents and billing requirements*, Rule determination, 18 March 2021 (Bill content and billing requirements)²⁰
- *Minor changes 2 2021*, Rule determination, 1 April 2021 (Minor changes 2 2021)²¹
- National Energy Retail Amendment (Regulated stand-alone power systems) Rule 2022 commenced operation on 3 March 2022²²

¹⁰ See the AEMC's [advance notice price changes rule change](#) for further information.

¹¹ See the AEMC's [estimated meter reads rule change](#) for further information.

¹² See the AEMC's [metering installation timeframes rule change](#) for further information.

¹³ See the AEMC's [minor changes 2019 rule change](#) for further information.

¹⁴ See the AEMC's [reducing customers switching times retail rule changes](#) for further information.

¹⁵ See the AEMC's [regulating conditional discounting rule change](#) for further information.

¹⁶ See the AEMC's [minor changes 2020 rule change](#) for further information.

¹⁷ See the AEMC's [introduction metering coordinator planned interruptions retail rule change](#) for further information.

¹⁸ See the AEMC's [minor changes 2 2020 rule change](#) for further information.

¹⁹ See the AEMC's [maintaining life support customer registration when switching rule change](#) for further information.

²⁰ See the AEMC's [bill contents and billing requirements rule change](#) for further information.

²¹ See the AEMC's [minor changes 2 2021 rule change](#) for further information.

²² See the AEMC's [regulated stand-alone power systems rule change](#) for further information.

- *Access, pricing and incentive arrangements for distributed energy resources*, Rule determination, 12 August 2021 (Access, pricing and incentive arrangements for DER)²³
- *Protecting customers affected by family violence*, Rule determination, 15 September 2022 (Family violence)²⁴
- *Delaying Implementation of the AER Billing guideline*, Rule determination, 13 October 2022 (Delaying implementation of the AER Billing guideline)²⁵
- *National Energy Retail Amendment (Regulatory sandboxing) Rule 2022* commenced operation on 15 December 2022²⁶
- *Electricity Consumption Benchmarks*, Rule determination, 17 August 2023 (Electricity Consumption Benchmarks).²⁷

²³ See the AEMC's [access pricing and incentive-arrangements distributed energy resources rule change](#) for further information.

²⁴ See the AEMC's [protecting customers affected family violence rule change](#) for further information.

²⁵ See the AEMC's [delaying implementation AER billing guideline rule change](#) for further information.

²⁶ See the AEMC's [regulatory sandboxing rule change](#) for further information.

²⁷ See the AEMC's [electricity consumption benchmarks rule change](#) for further information.

Appendix 2 – Summary of consultation questions

For ease of reference, the full list of questions posed throughout this paper are listed below.

Question	Relevant section
Question 1: What are your views on the proposed implementation time frame of 6 months and commencement date of 1 January 2025? What further steps can the AER take to minimise the costs of reporting under the revised Guidelines?	2
Question 2: What further steps can the AER take to minimise the costs of reporting under the revised Guidelines?	2
Question 3: What are your views on the proposed introduction of: <ul style="list-style-type: none"> • family violence – rules 76G(1) and 76D of the NERR as immediate retailer reportable obligations, and rule 76A of the NERR as a half-yearly retailer reportable obligation • presentation of standing offer prices – section 24 of the NERL as a half-yearly retailer reportable obligation • energisation on request for sale of energy – rule 19(2)(b) of the NERR as a half-yearly retailer reportable obligation • re-energisation – rules 106 and 106A(1)-(3) of the NERR as half yearly retailer reportable obligations and rules 106 and 106A(4)-(6) of the NERR as half yearly distributor reportable obligations? 	3
Question 4: What are your views on the proposed introduction of the reporting of material breaches to the AER as soon as reasonably practicable?	3
Question 5: Is there any further information that will assist in understanding the AER expectations, and if so, what would you find helpful?	3
Question 6: What are your views on the proposed reduction in the reporting of current quarterly reporting obligation to half-yearly reporting?	4
Question 7: What are your views on the proposed changes to improve the inconsistencies observed by the AER in the reporting on de-energisations?	4
Question 8: What are your views on the proposed reporting amendment of the following obligations: <ul style="list-style-type: none"> • billing – rules 26, 28 and 29 of the NERR • retail contracts – rules 47-50 of the NERR • EIC – rule 46A of the NERR • distributor interruption to supply – rules 88-89 of the NERR • energy marketing activities – section 53(2) of the NERL and rules 60-68 of the NERR • deployment of new electricity meters – rule 59A (1)-(3) and (7) of the NERR? 	4

Question	Relevant section
Question 9: What are your views on the proposed implementation of a portal to submit compliance reports?	5
Question 10: What are your views on the proposed changes to section 4 of the Guidelines relating to compliance audits?	5