

Wholesale Market Monitoring and Reporting Guideline

Draft Guideline – explanatory
statement

July 2024

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Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601
Email: aerinquiry@aer.gov.au
Tel: 1300 585 165

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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 ContractMarketMonitoring@aer.gov.au with the subject line 'Wholesale Market Monitoring and Reporting Guideline – Draft Guideline submission' by close of business, **7 August 2024**.

Alternatively, submissions can be mailed to:

Daniel Boardman
General Manager (A/g), Market Surveillance Branch
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

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 ContractMarketMonitoring@aer.gov.au with the subject line 'Wholesale Market Monitoring and Reporting Guideline – Draft Guideline enquiry'.

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Shortened forms

Term	Definition
ACCC	Australian Competition and Consumer Commission
ACCC/AER Information Policy	ACCC and AER information policy: collection, use and disclosure of information, available on the AER's website
AER	Australian Energy Regulator
AEMO	Australian Energy Market Operator
ASIC	Australian Securities and Investments Commission
ASX	Australian Securities Exchange
Implementing legislation	<p>The Acts and Regulations that apply the National Electricity Law and National Gas Law as a law of each participating state and territory. This includes:</p> <ul style="list-style-type: none"> • <i>Electricity (National Scheme) Act 1997</i> (ACT) • <i>National Gas (ACT) Act 2008</i> (ACT) • <i>National Electricity (New South Wales) Act 1997</i> (NSW) • <i>National Gas (New South Wales) Act 2008</i> (NSW) • <i>National Gas (Northern Territory) Act 2008</i> (NT) • <i>Electricity – National Scheme (Queensland) Act 1997</i> (QLD) • <i>National Gas (Queensland) Act 2008</i> (QLD) • <i>National Electricity (Victoria) Act 2005</i> (Vic) • <i>National Gas (Victoria) Act 2008</i> (Vic) • <i>Australian Energy Market Act 2004</i> (Cth)
National Electricity Law	National Electricity Law, as laid out in the Schedule to <i>the National Electricity (South Australia) Act 1996</i> (SA), and as applied by the relevant implementing legislation
National Electricity Rules	National Electricity Rules as made under Part 7 of the National Electricity Law and given force of law by section 9 of the National Electricity Law
National Gas Law	National Gas Law as laid out in the Schedule to the <i>National Gas (South Australia) Act 2008</i> (SA) and as applied by the relevant implementing legislation
National Gas Rules	National Gas Rules as made under Chapter 9 of the National Gas Law and given force of law by section 26 of the National Gas Law
OTC	Over the counter
TJ	Terajoule

1 About this document

This explanatory statement accompanies the *Draft Wholesale Market Monitoring and Reporting Guideline*.

1.1 Role of the Guideline

Our Wholesale Market Monitoring and Reporting Guideline is published in accordance with section 18EO of the National Electricity Law and section 30AT of the National Gas Law. It provides guidance about our wholesale electricity and gas market monitoring and reporting functions.

1.2 Consultation process

We commenced our consultation on the development of the Guideline in March 2024 with the release of our issues paper (section 1.2.1).

In developing the Guideline, we must follow the consultation process prescribed under Chapter 8, clause 8.7.2A of the National Electricity Rules and Part 17, rule 138C of the National Gas Rules, as a minimum. This includes providing at least 25 business days for submissions and comments on a draft instrument (the Draft Guideline). Our consultation activities to date and planned approach for the remainder of the Guideline review are described in sections 1.2.1 and 1.2.2.

1.2.1 Issues paper

To ensure a comprehensive and inclusive approach to developing the Draft Guideline, we published an issues paper on 21 March 2024 to obtain stakeholder feedback on development of the Guideline.

We consulted on:

- our approach to wholesale market monitoring and reporting, including our proposed key areas and questions for assessment and specific metrics that would be valuable for addressing the proposed key areas
- what should be routinely collected and what types and classes of information should not be collected
- our proposed targeted incremental approach
- whether, in addition to the Australian Securities and Investments Commission (ASIC) and Australian Competition and Consumer Commission (ACCC), we should consider exploring obtaining information from other agencies or bodies
- the format, frequency and granularity of information collection as well as considerations for historical collection
- the operationalisation of the AER's disclosure and procedural fairness policies and frameworks.

On 9 April 2024, we hosted a stakeholder forum to clarify our positions within the issues paper and obtain early feedback from stakeholders. We also presented to 2 industry association member meetings and met with 42 stakeholders.

We received 21 written submissions on our issues paper. The list of stakeholders that provided a written submission is provided in Appendix A: List of submissions. These submissions are publicly available on our website on the [Wholesale market monitoring guideline – initiation](#) page.

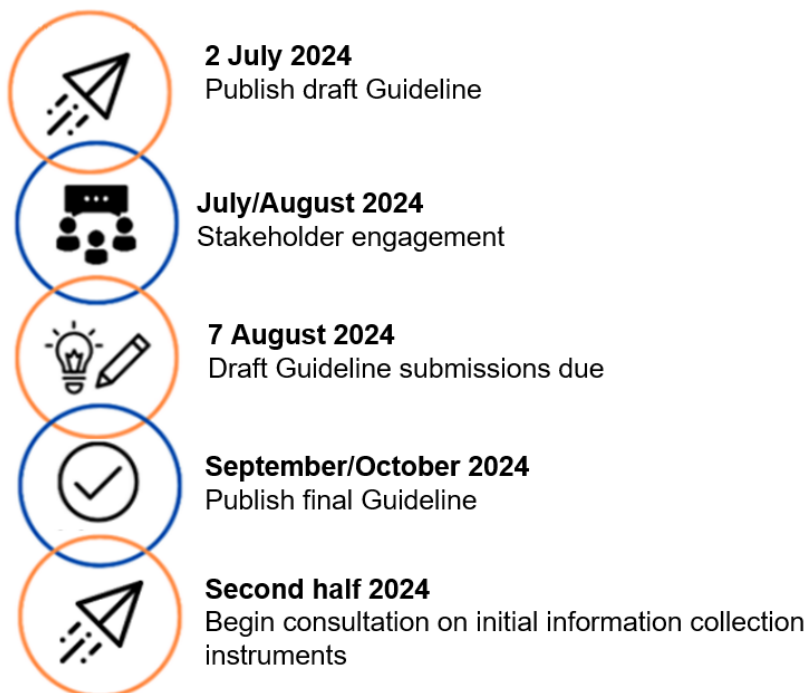
1.2.2 Draft Guideline

We are now seeking stakeholder views on the Draft Guideline. We are committed to continuing to undertake meaningful stakeholder engagement to develop a Guideline that will maximise the benefit of our enhanced functions while minimising increased burden on participants.

The National Energy Rules require a minimum consultation period of 25 business days on the Draft Guideline. We have extended this to 27 business days, with written submissions due 7 August 2024.

Indicative timing for stakeholder engagement and publication of the Guideline is outlined in Figure 1.

Figure 1 Proposed timeline for the Guideline



1.3 Key outcomes of the issues paper consultation

We have considered the information and feedback provided through the stakeholder forum, written submissions and other engagement in preparing the Draft Guideline. In reaching our position in the Draft Guideline we have sought to balance several factors, including the policy intent of the AER's enhanced powers to increase transparency of markets and the increased

burden placed on participants. The AER is conscious of increased burden and will minimise burden where appropriate in line with the core principles outlined in the Draft Guideline.

Key issues highlighted by stakeholders:

- The high-level incremental approach proposed was broadly supported by stakeholders. However, some stakeholders identified a preference for an enduring approach. Several sought further clarification on the type of information to be collected and at what frequency under the incremental approach.
- There was particular interest in avoiding duplicative information collection by regulatory agencies. Where we are not able to obtain relevant information from other agencies, stakeholders were primarily in favour of the proposal of harmonisation of information collection as a means of limiting additional burden. Stakeholders suggested where existing information can be sourced and how we may effectively collect information from other agencies including aligning templates and timing.
- Stakeholders raised concerns about the distinction between the AER and ACCC roles as well as the AER's potential secondary use of information collected for market monitoring and reporting.

The Draft Guideline seeks to incorporate stakeholder views while still meeting the AER's core monitoring and reporting objectives and statutory responsibilities. We also intend for the Guideline to be an enduring document and, as such, some feedback will be more appropriately addressed when we develop information collection instruments. For the Draft Guideline, we focused on comments that provided direction on the key issues raised in our issues paper and identified underlying challenges. Where consistent feedback had been received from stakeholders, our approach has been adjusted or refined.

2 Our approach to information collection

The issues paper explored our approach to information collection, covering proposed core principles, a targeted incremental approach and options for efficient use of information.

High-level summaries of key issues raised by stakeholders are provided throughout this section, followed by our position in the Draft Guideline. Details of our response to issues and suggestions raised by stakeholders is summarised in Appendix B.

2.1 Targeted incremental approach

The targeted incremental approach we proposed in our issues paper was broadly supported by most stakeholders.

Some stakeholders identified that ad hoc and/or changing information collection instruments can pose a higher burden, and that a clear, standardised and enduring information collection approach that is consistent and predictable is typically less burdensome. We agree and we understand that consistency and predictability enable organisations to efficiently plan, resource and streamline processes for responding to information collection.

Stakeholders also sought further clarity on the timing of possible increments under this approach. Figure 2 outlines our intended implementation timeline as an indicative guide. Each increment to routine information collection will be built on information previously obtained and in line with the guidance provided in section 3.2.2 of the Draft Guideline.

Possible increments will be thoroughly considered (in line with the review/discovery component in Figure 2), having regard for a range of factors including insights from previous collections, market changes and stakeholder engagement. We will ensure our information collection processes are as consistent and predictable as possible, and that information collected remains necessary and proportionate. These considerations may result us ceasing to collect certain information from participants.

Each increment phase does not reflect one standalone information collection instrument. Rather, we anticipate that the information collection instruments issued within each incremental phase will support the regular collection of information for our routine monitoring and reporting.

Several stakeholders supported further consultation to refine and optimise the nature and timing of our collection of information. We agree and commit to ongoing transparency around information collection. We will engage participants as appropriate before issuing information collection instruments (see section 3.1 for further discussion) and will provide appropriate forewarning when we are considering changes.

Figure 2 Indicative timeline for implementation of information requests

Information collection Roadmap



*The subsequent stages are dependent on the outcome of the review/ discovery stage, specifically whether the review identifies any required updates to the information collection instruments.

As part of this incremental approach to information gathering, we identified and sought feedback on the following proposed key initial focus areas (to guide development of our initial information collection instruments):

- market liquidity
- access to markets and barriers to entry and participation
- incentives for offer behaviour
- risk positions.

While we still consider these to be relevant focus areas, the specific data fields we will seek will be clarified through the process of early engagement and consultation on our draft information collection instruments.

2.2 Efficient use of information

Several stakeholders expressed a view that we should maximise inter-agency coordination and information collection efficiency, while minimising compliance burden. We intend to address these views by:

- obtaining information from other regulatory agencies or relevant bodies where appropriate and feasible
- harmonising information collection instruments with those made by other agencies or bodies where appropriate and feasible.

This approach aligns with our principles of information collection for our wholesale market monitoring powers, which were outlined in our issues paper and refined in the Draft Guideline (see section 3.2.1):

1. Only collecting information reasonably required to perform our wholesale market monitoring functions under the National Energy Laws.
2. Maximising the benefit for the market, and ultimately for consumers, by being clear about the intended relevance of information we collect.
3. Seeking to limit participant burden by making information collection instruments that are appropriate, proportionate and efficiently issued.
4. Relying on public information and/or information collected by other agencies, where reasonably practicable and appropriate to do so.

We have continued to engage with other agencies and bodies to scope opportunities to minimise duplication of effort and streamline information collection. Through this engagement we have identified several significant challenges:

- information collected by ASIC does not appear likely to meet our needs in the first instance because
 - the Australian Securities Exchange (ASX 24) data ASIC receives through its automatic data feeds may not capture contract counterparties
 - ASIC does not collect electricity OTC contract information
 - ASIC does not collect international exchange commodity linked contract information
- AFMA ceased collecting OTC contract information in 2022

- our use and disclosure of information collected by the ACCC, including for external reporting, is likely to be subject to legal and procedural fairness barriers, such as those under the *Competition and Consumer Act 2010*, at least in the short term.

The feasibility of obtaining relevant information from other agencies or bodies may be limited by information security classifications, confidentiality or the need for restrictions to be imposed on the receiving agency around the use of the information due to relevant legal requirements. This creates challenges for the AER's capacity to suitably use the obtained information to fulfil our wholesale market monitoring and reporting function, particularly because it necessarily involves external reporting.

It may be possible to overcome limitations on the AER's ability to obtain and use information from other agencies (and by extension the need to separately seek such information) if market participants are prepared to consent to the provision of information to the AER and to its use and disclosure for our external reporting functions where relevant legislation authorises us to do so. However, several stakeholders have expressed a view that there are challenges with this option; for example, due to confidentiality clauses in contracts, participants may be unable to voluntarily provide consent.

Noting the above, while we will continue to work with these agencies and bodies, we do not expect to be able to obtain information collected by other parties in the short term to use for our market monitoring and reporting function. Therefore, for the first information orders and notices and for historical collection, we intend, where appropriate and feasible, to harmonise our information collection instruments with those made by other agencies or bodies. This may include aligning elements including timing, definitions, templates, frequency and time periods.

Several stakeholder submissions also identified that the Australian Energy Market Operator (AEMO) may collect information relevant to our market monitoring and reporting functions. We currently obtain and use information collected and generated by AEMO and will continue to explore further opportunities to leverage AEMO's data in the future.

2.3 Information collection processes

Stakeholders expressed a desire for greater clarity around the specific process we propose to use for collecting information. We are taking a technology-neutral approach in the Guideline, reflecting our intention for it to be enduring, and will detail specific processes in the relevant information collection instrument. Consistent with our core principle to limit burden, where practical, we will endeavour to engage early with stakeholders on specific processes to provide clear guidance and understand stakeholder perspectives to ensure that the collection approach is clear and easy to navigate.

We are currently preparing for our first information collection instruments. For the first instruments, we expect to collect datasets in mandated templates and digital documents (for example, Excel, PDF) submitted via a secure portal or similar information exchange solution, with access restricted via user authentication and authorisation.

We are engaging with other government agencies, including the ACCC, to learn from their information collection activities. We are also exploring the feasibility of reusing existing information exchange solutions, which may help improve consistency of user experience across different information gathering processes and limit burden.

We will endeavour to improve the information collection mechanism over time based on experience and stakeholder feedback.

3 Other steps to minimise burden

The Energy Laws require that the Guideline include information on the processes designed to minimise the time and resources participants will devote to responding to information collection instruments. In this section, we outline these processes and explain how they inform the application of the framework created by the Guideline.

3.1 Additional consultation on draft instruments

Stakeholders emphasised the importance of appropriate consultation before receiving information collection instruments to ensure they understand what will be required. They noted that this will minimise burden associated with responding to information collection instruments and ensure that the information provided best addresses the AER's needs.

As outlined in section 4.1 of the Draft Guideline, we are required to adhere to the legislation's minimum consultation requirements. To further address stakeholder comments that enhanced consultation can reduce burden, we intend to extend beyond the minimum requirements for the development of initial orders and notices by (where practical and appropriate):

- providing a longer consultation timeframe for submissions than the minimum proscribed by the legislation – this is not likely to be possible when developing urgent information orders or notices
- making our consultation accessible – for example, by holding conferences, workshops, meetings or information sessions.

We may also undertake these additional consultation actions when developing subsequent orders and notices.

3.2 Compliance and enforcement

The Guideline sets out our high-level approach to compliance, including certification of quality and completeness (section 4.5.1) and our compliance framework (section 4.8).

We have several avenues available to us to attest to the quality and completeness of information provided to us, including a statutory declaration.¹ However, we acknowledge that statutory declarations can present additional burden for participants. Accordingly, we intend to ask market participants to use a signed pro forma for certification instead. The pro forma would be signed by a representative or officer of the organisation as agreed by the AER.

Individual information collection instruments will specify whether certification is required, what form the certification is to take and who is an appropriate signatory. We will engage with stakeholders on this as part of consulting on information collection instruments and will seek to balance burden, efficiency and confidence in the information we collect.

Our general approach with new obligations is to work with participants to assist them to understand their obligations so they can put in place robust systems and processes to

¹ Section 18EM, National Electricity Law; Section 30AR, National Gas Law.

achieve compliance. This approach to compliance is informed by our Compliance and Enforcement Policy,² which sets out the principles we apply when taking a risk-based approach to our compliance and enforcement work.

3.3 Secondary use

Several submissions sought further clarification on the potential secondary use of our information collection and some raised concerns over the use of information for compliance and/or enforcement purposes.

The amendments to the National Energy Laws removed previous limitations on using information initially collected for market monitoring for other purposes (section 18D of NEL was deleted to enable this). Therefore, we may, where appropriate, use information initially obtained for the purpose of performing our wholesale market monitoring reporting functions for other purposes connected with the performance of a function or power of the AER.

Market monitoring information orders and market monitoring information notices will be issued for the purpose of performing our market monitoring and reporting functions. We are precluded by the legislation from using these information collection instruments for certain other specified purposes. However, once the information has been collected we may, where appropriate, use the information for other AER functions. These uses may include compliance and enforcement activities, the calculation of the default market offer, the retailer reliability obligation, policy development and other AER decisions.

Using information for secondary purposes minimises burden by limiting duplication of information collection instruments.

Our orders and notices will clearly explain the purpose of our information collection and the relevance of such reporting for transparency purposes.

3.4 Distinction between AER and ACCC functions

3.4.1 Electricity

We do not anticipate any significant overlap between the additional work that we will undertake in performing our enhanced wholesale electricity market monitoring and reporting functions and the work being progressed by the ACCC as part of the Electricity Inquiry.

We already report regularly on the performance of electricity markets, including through our quarterly reports, prices above \$5,000/MWh reports, ad hoc special reports, the state of the energy market reports, and the biennial wholesale electricity market performance report.

In addition, the ACCC's Electricity Inquiry is scheduled to end in 2025.

3.4.2 Gas

We are conscious of the potential overlap between the AER's expanded wholesale gas market monitoring and reporting function and work being progressed by the ACCC on the Gas Code of Conduct and the Gas Inquiry.

² [AER Compliance and Enforcement Policy](#), Australian Energy Regulator, July 2021.

Whilst both agencies have broad functions that have some overlap, each has some discretion in how we implement our functions and what we focus on. Accordingly, we will continue to work closely with the ACCC to minimise overlap occurring and maximise complementary reporting and providing value for government, industry and consumers.

As part of scoping for our new biennial gas reporting we are undertaking a fulsome review of existing reports produced, including by other areas of the AER under existing functions and by other agencies and bodies (for example, ACCC). This review will help us to ascertain where overlaps exist and to identify gaps where new analysis and insights would be valuable.

Accordingly, while some of the information collected for the ACCC's and AER's functions will likely align, we expect that our focuses and the questions we seek to answer will be distinct.

We already report regularly on gas market outcomes, including through our quarterly and special reports, significant price variation reporting and the state of the energy market reports.

Our expanded powers equip us to collect a wider set of information for monitoring and reporting on gas wholesale markets, defined primarily to include facilitated spot markets, specifically:

- declared wholesale gas markets
- short-term trading markets
- gas trading exchanges
- wholesale markets for the transportation or storage of covered gas, including a capacity auction
- wholesale markets prescribed by the Regulations.

Through monitoring of bilateral contracts that we have not previously had access to, we will have far better scope to evaluate the competitiveness and efficiency of those markets.

The ACCC's primary functions in gas wholesale markets are related but distinct:

1. The ACCC has been directed to conduct a wide-ranging inquiry into the supply of and demand for natural gas in Australia, and to publish regular information on the supply and pricing of gas.³
2. Its role monitoring and enforcing compliance with the Mandatory Gas Code of Conduct,⁴ through which the ACCC investigates alleged breaches of the code, monitors and enforces compliance with conditional exemptions granted by the Minister, determines the reasonable price for wholesale gas and publishes certain information relating to exemptions.

The functions will likely require collection of overlapping information from market participants and we are taking steps to maximise the efficiency of this process to reduce the burden on participants (as outlined in section 2.2 of this explanatory statement). Where appropriate, the

³ [ACCC Gas Inquiry 2017-30](#), Australian Competition and Consumer Commission.

⁴ [ACCC Gas Market Code](#), Australian Competition and Consumer Commission, July 2023.

AER will draw on the findings of the ACCC's reports in forming its views about the matters that the AER is required to monitor and report on under the National Gas Law.

Beyond our immediate functions, we have a price information publishing role already established in the National Gas Rules that is more closely linked to the ACCC's Gas Inquiry function but which takes effect when the Gas Inquiry ends.⁵ This is currently scheduled to be in 2030. This mechanism for continuity of functions should also help to minimise overlap in roles. We will work with the ACCC to manage the transition of this function to ensure that it is done in a manner that maximises benefit for industry and consumers.

⁵ Rule 140B and transitional rule 81, National Gas Rules.

Appendix A: List of submissions

Following the release of the Guideline review issues paper on 21 March 2024, we invited stakeholder submissions.

Stakeholders who provided a written submission

Type of stakeholder	Stakeholder
Industry participants	Alinta Energy (Alinta)
	APA Group
	AGL Energy (AGL)
	Australia Pacific LNG (APLNG)
	EnergyAustralia
	ENGIE
	Esso Australia (Esso)
	FEX Global (FEX)
	Jemena
	Origin Energy (Origin)
	Senex Energy (Senex)
	Shell Australia (Shell)
	Snowy Hydro
Stanwell	
Industry associations and agencies	Australian Competition and Consumer Commission (ACCC)
	Australian Energy Council (AEC)
	Australian Energy Producers (AEP)
	Australian Financial Markets Association (AFMA)
	Australian Pipelines and Gas Association (APGA)
	Energy Users Association of Australia (EUAA)
	Public Interest Advocacy Centre (PIAC)

Stakeholders who attended consultation meetings

Type of stakeholder	Stakeholder
Industry participants	AGL Energy
	APA Group

Type of stakeholder	Stakeholder
	Australia Pacific LNG (APLNG)
	Arena Energy Consulting
	Arrow Energy
	CS Energy
	Delta Electricity
	EnergyAustralia
	Energy Locals
	Energy Queensland
	ENGIE
	Ergon Energy
	Essential Energy
	Esso Australia (Esso)
	Flow Power
	Genuity
	Greenview Strategic Consulting
	Hydro Tasmania
	Iberdrola
	Jemena
	Origin Energy (Origin)
	Pacific Blue
	RMHEDGE
	Ready.Energy
	Red Energy
	Shell Australia (Shell)
	Simply Energy
	Snowy Hydro
	Solstice Energy
	Stanwell
	Windlab

Type of stakeholder	Stakeholder
Industry associations, agencies and bodies	Australian Energy Producers (AEP)
	Australian Energy Council (AEC)
	Australian Financial Markets Association (AFMA)
	Australian Pipelines and Gas Association (APGA)
	Australian Energy Market Commission (AEMC)
	Energy Consumers Australia (ECA)
	Essential Services Commission of South Australia (ECOSA)
	Energy Users Association of Australia (EUAA)
	New South Wales Department of Climate Change, Energy, the Environment and Water (DCCEEW)
	Queensland Department of Energy and Climate (QDEC)
	Renewables, Climate and Future Industries Tasmania (ReCFIT)

Appendix B: AER response to submissions on the issues paper

Details of our response to the material issues and suggestions raised by stakeholders are summarised in Table 1.

Table 1 AER response to stakeholder submissions

Submissions	Comments	AER response
Assessment framework		
ENGIE EUAA	Supports the continued use of the structure-conduct-performance framework.	We note stakeholder support on this matter.
ENGIE	Notes the need to consider the physical, economic and political realities of the market, as well as the long investment timeframes for generation and transmission assets.	We will consider these practical realities of the market while assessing the performance, effective competition and efficient functioning of wholesale markets.
Alinta	Suggests the AER should apply Structure-Conduct-Performance framework flexibly if market outcomes do not meet orthodox expectations and market imperfections should be measured against the market's already high level of efficiency.	We will use the Structure-Conduct-Performance framework as the primary basis of our analysis and will draw upon a broad range of measures in assessing market efficiency. See sections 2.1 and 2.2 of the Draft Guideline for further information.
Shell	Suggests the AER should be clear on its objectives and the outcomes it is seeking to achieve through monitoring and reporting.	We are proposing to take a reasonably broad approach for the Guideline to ensure that it can be enduring and our monitoring can adapt and respond to market and environmental changes. However, our overall objectives are to monitor and report on efficiency and effectiveness in the markets to support protection of consumers and promote competition and transparency.
Key focus areas		
AEC Alinta EUAA Origin	Supports the proposed 4 focus areas.	We note stakeholder support on this issue.
Alinta	Suggests each area needs to be carefully defined and the AER	We will provide as much information as is appropriate for information use-case when

Submissions	Comments	AER response
	needs to clearly articulate the use-case for information collections.	consulting on specific information collection instruments.
EnergyAustralia	Suggests focus on 2 key issues: <ul style="list-style-type: none"> • liquidity issues in the forward contract market • participant offer/high price bidding behaviour in electricity spot markets. 	We note the importance of these issues and will consider these points when undertaking our monitoring and reporting function and developing information collection instruments.
Senex	Suggests deferring reporting requirements for gas producers due to differences between electricity and gas markets. States that a uniform approach to enhanced market monitoring (and information collection) is not necessarily appropriate. Notes that the collection of Gas Supply Agreements would provide limited insight into the operation of the AEMO-facilitated markets.	We are mindful of the difference in the maturity and operations of electricity and gas markets. While we are seeking to have a consistent approach to our function across electricity and gas, we will vary our approach as necessary to reflect differences in the markets. We will continue to consult with stakeholders as we implement these new functions. Our monitoring and reporting functions include an obligation to report on bilateral trading agreements, including their effect on the wholesale gas markets. We will consider the value of information when developing our information collection instruments, in accordance with our core principles.
AFMA	Suggests bilateral gas transport and supply contracts, and non-standard derivative contracts are not appropriate indicators with which to measure market liquidity. Suggests the AER should perform its initial market liquidity analysis based on information available from ASIC, ASX and AEMO and determine the extent to which OTC derivative information would assist based on this initial analysis.	We will be mindful of the suggestions when we regularly evaluate our focus areas.
ENGIE	Questions if 'risk positions' should instead be described as 'contract positions', because the former may be interpreted as extending beyond an assessment of contracts.	We confirm that 'risk positions' are the relevant focus area because this term appropriately reflects the AER's new functions, which includes a requirement to monitor and report on the operation, availability and effect of financial risk management products.

Submissions	Comments	AER response
		Where appropriate, in preparing information collection instruments we will engage with stakeholders to understand and address any relevant challenges and issues.
Esso	<p>Suggests the AER review the following publications:</p> <ul style="list-style-type: none"> • the Australian Energy Market Commission’s ‘2020 Biennial Review into Liquidity in Wholesale and Gas Pipeline Trading Markets’ • the Productivity Commission’s ‘Examining barriers to more efficient gas markets’. 	We have read the suggested publications and will consider the issues discussed alongside a range of other existing material when assessing approach and performance.
Shell	Notes interest in the AER’s intention; specifically, whether the purpose is policy change or mitigating known issues.	Our role is to systematically monitor and report on wholesale markets in accordance with our legislated requirements. This role supports the efficient operation of the wholesale markets because it allows early detection of issues affecting market performance and allows us to provide timely advice to policymakers.
EnergyAustralia	Suggests the AER’s new monitoring functions are too broad and that the problem statement for each of the focus areas is not clear. It is also unclear which markets each of the focus areas is referring to.	<p>The core principles outlined in our issues paper and section 3.2.1 of the Draft Guideline form the basis of our proposed approach to collecting information.</p> <p>The focus areas identified in the issues paper outline our general intent. We will refine the details of each focus area over time, including as we develop our information collection instruments.</p>
Information likely to collect		
Stanwell APGA	Seeks clear guidance on the type of information participants will be required to produce and at what frequency.	Appendix A of the Draft Guideline outlines what information the AER expects to routinely collect. We will provide specific detail on the type of information and frequency of collection in individual information collection instruments.
ENGIE	Suggests information collected routinely should primarily relate to exchange-traded contracts and other positions that may vary over short time periods, while information on longer-term	We acknowledge that the diversity of contracts should be accounted for and may collect information at different frequencies accordingly.

Submissions	Comments	AER response
	contracts (for example, Power Purchasing Agreement) will be most usefully provided on a less frequent basis.	
Alinta	Notes that bespoke arrangements carry more cost and effort to provide.	We anticipate that the collection of non-standard OTC contracts may be necessary in certain circumstances. However, in line with our core principles (see section 3.2.1 of the Draft Guideline), we will be mindful of relevant challenges and will consult with stakeholders on market monitoring information notices and market monitoring information orders. We may also consult, if we consider it appropriate to do so, on the proposed use of our general information gathering powers.
EUAA	Suggests the AER expand the scope of information to be collected, including the types of contracts and negotiation processes.	We do not propose to include these expansions at present in the Guideline, having considered the value-add against increased participant burden. Information around negotiation processes is information that we do not anticipate collecting (see Appendix B in the Draft Guideline). We may adjust this position in the future.
Information not likely to collect		
AFMA Alinta	Suggests not collecting contracts for the transmission or distribution of electricity.	We agree and do not expect to collect contracts for the transmission or distribution of electricity.
AFMA Alinta	Suggests not collecting contracts relating to fuel and other inputs used in the generation of electricity.	We expect to collect contracts relating to fuel and other inputs used in the generation of electricity because they will provide crucial insight into fluctuating fuel prices, potential restraints and the implications on the wholesale market and safety of the NEM.
AEP AFMA Origin	Suggests not collecting contracts that haven't been executed and relevant correspondence.	We do not expect to collect such information (see Appendix B of the Draft Guideline).
AEC	Suggests not collecting contracts that haven't been executed.	As above.
Origin	Suggests not collecting gas location and time swaps.	We anticipate collecting gas location and time swaps due to the insight they can provide into wholesale markets. However, we do not expect to collect contracts already submitted

Submissions	Comments	AER response
		to the Gas Bulletin Board (see Appendices A and B of the Draft Guideline).
Origin	Suggests not collecting electricity exchange for physical transactions.	We anticipate that we may collect exchange for physical contracts where it is deemed appropriate to fulfill our functions.
Alinta	Suggests not collecting bespoke, one-off contracts.	We do not consider it feasible to rule out bespoke contracts because this would encompass many contracts in wholesale markets.
Minimum threshold for gas		
AEC Alinta	Suggests a minimum threshold of 500 terajoules (TJ) for bilateral trading agreements.	Following stakeholder input on information collection harmonisation, we suggest aligning the threshold with that used by the ACCC. We propose to not collect bilateral trading agreements made between a retailer and an end user below 1 TJ in volume per day (see Appendix B of the Draft Guideline).
AGL Shell	Suggests the threshold should be consistent with AEMO short-term transaction reporting and/or ACCC one used.	As above.
AEP AFMA Origin	Suggests not collecting gas contracts with a term of less than 3 months or a total contract quantity below 500 TJ.	We propose to not collect bilateral trading agreements made between a retailer and an end user below 1 TJ in volume per day, or contracts already submitted to the Gas Bulletin Board (see Appendix B of the Draft Guideline).
Incremental approach		
ECA EUAA	Suggests a preference for a broader approach, where all information is considered and collected in the first instance.	We note this suggestion, however the proposed incremental approach received broad support from stakeholders and we intend to take this approach.

Submissions	Comments	AER response
Stanwell	Suggests the approach is vaguely described, which makes it difficult to arrange required systems, processes and resources. To reduce costs, suggests a more sustainable longer-term system that is enduring and efficient, which does not become more onerous as the AER's information requests expand.	<p>We have provided more detail on our proposed incremental approach, including an indicative timeline in section 2.1 of this explanatory statement.</p> <p>We are currently exploring the design of information collection mechanisms and how the system will work with our proposed incremental approach. We have also provided more detail on our approach to information collection in section 3.2 of this explanatory statement. We will endeavour to engage with stakeholders early on this to help ensure that the collection approach limits burden.</p>
AEC APA APLNG Alinta Snowy Hydro	Supports the incremental approach.	We note stakeholder support on this.
AFMA ENGIE	Suggests the approach should be an enduring information collected model that is sustainable for both participants and the AER.	We are supportive of using an enduring information collection approach where appropriate. However, where necessary, we may issue ad hoc information collection instruments. When we do so we will endeavour to engage with stakeholders to minimise burden, where possible.
ENGIE	Suggests future updates should be preceded by formal consultation with stakeholders.	<p>We will adhere to our obligations to consult on amendments to the Guideline as per the Energy Rules.⁶</p> <p>We note that we are empowered to make minor or administrative amendments to the Guideline without complying with the above-mentioned consultation requirements.⁷ However, we will endeavour to consult with stakeholders where practicable.</p>
AEP	Suggests the purpose of the wholesale gas market report needs to be clearly articulated before additional reporting	The purposes of our gas monitoring and reporting functions, including the biennial wholesale gas market report, are outlined in the NGL. ⁸ Section 3.4 of this explanatory

⁶ cl. 8.7.2A, National Electricity Rules; r. 138C, National Gas Rules.

⁷ cl. 8.7.2A, National Electricity Rules; r. 138C, National Gas Rules.

⁸ *National Gas (South Australia) Act 2008* s 30AC.

Submissions	Comments	AER response
	requirements are imposed on gas producers.	statement provides additional context on the intent of these enhanced functions.
Alinta	Supports a co-design approach for guideline. Suggests forming a working group to assist defining the scope, costs and value of information.	We are publicly consulting on our Draft Guideline and encourage all stakeholders to provide input to shape its development. We will also work closely with stakeholders in developing our information collection instruments.
Obtaining information from other agencies or bodies		
AEP AFMA AGL Alinta APA APGA APLNG EnergyAustralia Esso EUAA Jemena Shell Snowy Hydro Stanwell	Notes much of the information could be sourced elsewhere. ACCC inquiries were particularly emphasised.	We are conscious of minimising burden and duplication where appropriate and we are exploring options to obtain information from other agencies or bodies. Where this is not feasible, we will seek to harmonise information collection. See section 2.2 of this explanatory statement for further detail.
AEC AEP Alinta APA APGA APLNG ENGIE Origin Senex Shell Stanwell	Supports harmonisation to avoid duplication. Suggestions were made to use the same content, rules, collection intervals or even using templates.	As above.
Esso	Recommends that further development and implementation of the Guideline	We are required to publish the Guideline by 8 November 2024. Developing a framework to obtain information from other agencies or

Submissions	Comments	AER response
	is paused until obtaining information from other agencies or bodies is either adopted or ruled out.	bodies is a lengthy process. Where this is not feasible, we will seek to harmonise information collection. As noted in section 2.2 of this explanatory statement, obtaining information from other agencies or bodies is unlikely in the first instance. To meet our statutory deadlines, pausing the developmental process is not practicable. However, we will continue to clearly communicate and consult with participants during this process.
APLNG	Suggests establishment of an inter-departmental committee to identify opportunities to improve efficiency of obtaining information from other agencies and bodies.	We acknowledge the merits in seeking to avoid duplication and reporting inefficiencies and are open to further discussions.
AEP	Notes the AEP is looking to establish a forum to identify potential areas of duplication and reporting inefficiencies and to consider potential solutions.	As above.
APLNG	Suggests combined requests where one information request is issued on behalf of all relevant government bodies.	<p>We are unlikely to issue combined information collection instruments. Combined instruments present both legal and practical challenges because agencies collect information under separate and distinct statutory powers.</p> <p>We are continuing to explore options to obtain information from other agencies and bodies. Where this is not feasible, we will seek to harmonise information collection to collect the same information while avoiding the challenges and complexity of joint information collection.</p>
Secondary use		
AEC AEP Alinta Origin Senex Shell Snowy Hydro	Suggests information collected for wholesale market monitoring and reporting purposes should not be used for compliance and/or enforcement.	New information collection instruments must be issued for the purposes of fulfilling our wholesale market monitoring and reporting functions. However, once collected, the information may be used for secondary AER powers and functions, including compliance and enforcement. See section 3.3 of this explanatory statement for more detail.

Submissions	Comments	AER response
AFMA ENGIE	Seeks explicit guidance and clarification on the use of collected information for compliance and enforcement.	As above.
Information collection elements		
Stanwell	<p>Suggests the AER engage early and provide participants opportunity to provide feedback on the information needed to address the AER's hypotheses and whether it might already be publicly available.</p> <p>Suggests an engagement period of more than the 20 days would improve understanding on both sides.</p>	<p>We will work closely with stakeholders in developing our information collection instruments to understand factors including the information required to address our hypotheses and whether the information may be available elsewhere (in line with our core principles outlined in section 3.2.1 of the Draft Guideline).</p> <p>As highlighted in section 3.1 of this explanatory statement, we propose to engage in additional consultation on initial draft market monitoring information orders and market monitoring information notices.</p>
AFMA	Suggests the AER seek feedback on the information requested and the questions it is seeking to answer.	As above.
AEP Origin EnergyAustralia	Suggests information collection be accompanied with engagement with the reporting participant to ensure information is interpreted accurately and in context.	We will consult with participants where appropriate to understand the provided information.
Snowy Hydro	Notes their view that the pricing outcomes of futures and OTC markets are closely related, and that consequently OTC information provides limited additional insights to what can be obtained from futures market information. Suggests collection of OTC information should be minimised as much as possible.	We consider collecting OTC contract information would enable enhanced understanding of overall hedging positions. It will also give us insights into any shifts in the market and enhance our ability to provide strong evidence-based analysis to inform our reporting.
Jemena	Notes potential overlap in information collection with the AER's proposed new Annual Compliance Order (under s48 of NGL) for pipeline service providers.	<p>We are conscious of avoiding duplication and do not expect to seek information obtained by the AER through other powers (see Appendix B of the Draft Guideline).</p> <p>Sections 2.2 and 3.3 of this explanatory statement outline our approach to the efficient</p>

Submissions	Comments	AER response
		use of information and secondary uses for collected information.
AFMA APGA	Notes the potential efficiency gains of regular, standardised reporting, as opposed to ad hoc manual reporting, which can be extremely costly to comply with.	Where possible, we propose using a clear, standardised and enduring information collection approach that is consistent and predictable. However, we may issue ad hoc information collection instruments, when appropriate.
ENGIE	Notes that reporting historical contract information is a significant burden and is much more challenging than reporting recent information.	We understand the burden historical collection poses and will consider this in developing our information collection instruments. We will obtain information already provided from other regulatory agencies or relevant bodies where appropriate and feasible in accordance with section 2.2 of this explanatory statement and will engage with participants on individual information collection instruments.
AEC Snowy Hydro AEP	Suggests historical information should be limited to the previous 2 years.	As above.
AEC	Suggests the issues paper is unclear on how integrated portfolios will be dealt with and encourages the AER to engage with participants before drawing conclusions from contract information because some contracts are quite complex.	We will engage with participants, where appropriate, on individual information collection instruments and will consult with participants, where appropriate, to understand the provided information.
Shell	Suggests the AER needs specific positions across regions to show trends at scale. Suggests the AER should avoid timing requests coincidentally with known events or periods of high demand for industry. Suggests the AER continue to collect information from suppliers, not users/customers.	We will consider these points when considering information collection instruments.
APLNG	Notes a preference for standardised and scheduled collection rather than ad hoc collections.	We understand the benefits of consistency and predictability and will aim to collect information in incremental phases and engage participants, where appropriate,

Submissions	Comments	AER response
		before issuing information collection instruments or considering changes.
EnergyAustralia	<p>Suggests the AER should seek qualitative information to understand the trading approaches adopted by participants.</p> <p>Suggest the AER does not collect information from the entire market if it is only required from a few participants.</p>	<p>We intend to seek qualitative information in addition to quantitative information to enhance our understanding of wholesale markets and address our hypotheses.</p> <p>Our approach to collecting information will be as outlined in section 3.2.1 of the Draft Guideline.</p>
Alinta APGA	Suggests the AER rely on public information where practical.	As above.
Alinta	Notes that the level of granularity taken by DMO5/6 was due to specific issues. Suggests that, under normal circumstances, granularity should not be that high because it increases the burden on retailers.	Where appropriate, we will engage with participants on information collection instruments, including factors such as granularity.
EUAA EnergyAustralia	Suggests requests should not be different based on participant size and obligations should be applied equally.	We are conscious of differential burden and will engage with participants, where appropriate, while developing information collection instruments.
EUAA	Supports more frequent and granular reporting (for example, quarterly detailed reporting) to help inform timely policy responses.	We note this suggestion and will consider it when developing information collection instruments.
AFMA	Suggests frequency should be 6 monthly to allow the AER to observe how participants manage their exposure to seasonal peaks.	As above.
Snowy Hydro	Suggests information should not be collected at a frequency of greater than once per year, and historical information should not be sought for more than 2 years' prior.	As above.
Confidentiality and information protection		
AFMA	Seeks clarity about the handling of commercially sensitive or	We agree that secure handling and storage of commerciality sensitive and confidential

Submissions	Comments	AER response
ENGIE APLNG Shell AEP EnergyAustralia Stanwell	confidential information and seeks assurance of information security.	information is crucial. We have included details on information storage and handling in section 5.3 of the Draft Guideline.
Shell	Notes the importance of security of information and notes concern that organisations may be identifiable even where information is anonymised through 'back-solving'.	We agree that information security is crucial. When producing our reports, we will consider whether the anonymisation and aggregation of information may still reveal confidential aspects and consider whether it is appropriate to address this. Further detail on disclosure is included in section 5.1 of the Draft Guideline.
ENGIE	Supports the proposed procedural fairness measures. Suggests the AER commit to a longer minimum period, than the 5 business days, for an organisation to respond to a notice proposed disclosure. Noting the complexity involved in assessing the potential harm of a potential disclosure of contract information that may identify the participant's position.	We appreciate the complexity involved in responding to a notice of proposed disclosure. We will consider providing a longer consultation timeframe for responses to proposed disclosure notices than the minimum prescribed by the legislation, where appropriate and feasible.
AEC	Notes factors to consider when disclosing information, including redactions of confidential and commercially sensitive information, and third party confidentiality obligations.	We will consider requests to redact information that is unlikely to materially affect our ability to undertake our functions.
Origin AEP	Recommends participants retain the right to redact confidential and commercially sensitive information.	As above.
EUAA	Notes that procedural fairness is important but there is a need to ensure this process does not unnecessarily delay timely publication of reporting.	We agree that it is important for reporting to be timely and will seek to ensure that an appropriate level of procedural fairness is provided as efficiently as possible.
AEP	Questions the following:	1) Documents will not be able to be submitted with password protection. General information on the manner and

Submissions	Comments	AER response
	<ol style="list-style-type: none"> 1) Can participants provide password protected documents and send via encrypted file transfer, or will they be required to upload documents? 2) What security protections will be applied? 3) Has the AER considered steps for if an AER employee who has recently handled sensitive information of a participant takes new employment with a competitor? 	<p>form of submission is included in section 4.5 of the Draft Guideline. Further detail on our approach to information collection is also set out in section 2.3 of this explanatory statement. Specific processes will be consulted on for each information market monitoring information order and market monitoring information notice.</p> <ol style="list-style-type: none"> 2) We are committed to effectively managing information security. Further details are provided in section 5.3 of the Draft Guideline. 3) Australian Public Service (APS) employees continue to be subject to statutory confidentiality obligations after they have left the APS.
Reporting		
AGL	<p>Suggests the guideline should clarify the scope of the AER's monitoring and reporting functions. Notes interest in how the AER's reports that sit outside the scope of its reporting functions fit within its wholesale market monitoring and reporting framework and obligations.</p>	<p>The scope of the AER's wholesale market monitoring and reporting functions is defined by the energy laws. Our Draft Guideline outlines the framework and approach we intend to apply in performing these functions.</p> <p>We also have a series of other performance reporting obligations – as defined by the energy laws and rules – across wholesale, network and retail market segments, as well as our annual State of the energy market report. We will draw on these as required to inform and assist our analysis of wholesale market performance.</p> <p>Section 5 of the Draft Guideline outlines our proposed approach to use of information collected as part of these functions.</p>
EUAA	<p>Supports more frequent reporting than biennial to keep things timely for transparency. Real-time (or as close as possible) reporting would be ideal for consumers.</p>	<p>We publish a suite of reports on the performance of wholesale markets, which are of varying frequencies and form part of our overall monitoring and reporting activities. Some of the more frequent regular reports include our wholesale quarterly reports and price event reporting (see section 2.3 of the Draft Guideline).</p> <p>While real-time (or highly frequent) information collection would assist us to identify and report on trends and rapidly emerging challenges promptly, we currently consider that less frequent collection is more</p>

Submissions	Comments	AER response
		appropriate in light of participant burden considerations. Real-time reporting is something we may explore at a later time once we have implemented our monitoring and reporting framework. It would require consideration of a number of complex issues and further engagement with stakeholders.
AER role v ACCC role		
Senex AEC Shell Origin	Notes concerns about lack of clarity on the difference between the ACCC and AER functions with respect to gas market monitoring and reporting.	We are conscious of the potential overlaps between our market and monitoring functions and the ACCC's existing gas reporting functions. Section 3.4 of this explanatory statement provides further explanation of how we propose to take this into account in performing our functions.
AFMA	Seeks clear articulation of the differences of the AER's role from the ACCC Gas Inquiry.	As above.
AEP	Suggests the AER clearly articulate the value-add of the new gas report over and above existing reporting processes.	As above.
APLNG	Notes significant overlap of current reporting and suggests any additional reporting should have a material public benefit and additional realised benefit for the domestic gas market.	We will continue working with the ACCC to minimise any overlap in reporting in alignment with our core principles, which focus on maximising benefit for the market and consumers and minimising participant burden.
Regulatory burden		
AEP Snowy Hydro	Notes that additional mandatory reporting increases the financial burden and risk of operating in the competitive market.	We are committed to minimising regulatory burden where appropriate. Our approach to collecting information is outlined in section 3.2.1 of the Draft Guideline.
Snowy Hydro	Notes that smaller market participants may not have an in-house legal function and will need to engage external lawyers to help respond to complex OTC contractual arrangements. Notes that OTC contracts typically contain confidentiality provisions that require a counterparty to be notified of the	We are conscious of the potential for smaller participants to experience increased burden and will tailor our collection approach where appropriate. Where appropriate, we will also engage with stakeholders when developing information collection instruments to further understand burden associated with specific proposed instruments.

Submissions	Comments	AER response
	request, which may impose additional administrative burden for responding to an information request.	
Alinta	Supports the AER's intent to limit participant burden.	We note stakeholder support on this matter.
Jemena	Notes that a tabular summary of pipeline service price information is already provided to the ACCC under its Gas Inquiry at significant cost. Recommends the AER clearly demonstrate the benefit of collecting any additional information given the cost it would impose.	We note the added burden of seeking additional information to fill gaps in the ACCC collections. Will take this into consideration when developing information collection instruments.
General		
Stanwell Senex	Suggests the AER have the required expertise to analyse and interpret the information in place before requesting information.	We have extensive experience with interpreting and analysing complex datasets as well as developing expertise in new or evolving areas. We have received funding for our new functions to ensure we have the relevant skill and expertise.
Stanwell	Notes questions about processes to confirm accuracy of information and to correct inadvertent errors.	Our approach to compliance is informed by our Compliance and Enforcement Policy and is detailed in section 3.2 of this explanatory statement.
APA	Suggests market participants should have the opportunity to comment on any conclusions and recommendations the AER provides to governments based on information provided under the new powers, to avoid inaccuracies and/or misrepresentations.	Where appropriate, we will consult with relevant stakeholders about the accuracy of the information on which our proposed reports are based.
Senex Stanwell	Notes concerns that the AER has not adequately identified the benefits of the enhanced powers, or how its approach ensures there will not be unnecessary burden on market participants. Suggests further information and specificity.	We propose to minimise burden where possible through taking a disciplined approach to information collection, engaging with participants while developing information collection instruments, and seeking to obtain information from other agencies or through harmonising our information collections where practicable and appropriate (see

Submissions	Comments	AER response
		section 3 of the Draft Guideline and sections 2.1 and 2.2 of this explanatory statement).
Snowy Hydro	Does not support exempting smaller market participants from reporting requirements because unnecessary burdens should be avoided in the first place.	We note the suggestion. We do not propose exempting any class of participant but will consider individual requests for exemption where appropriate.
Senex	Notes that the development of reporting appears to be ad hoc and not coordinated. Suggests a commitment to the establishment of a central information repository across multiple regulators.	<p>The establishment of a central information repository across multiple regulators would be subject to significant legal and practical challenges because each regulator collects information under separate and distinct statutory powers.</p> <p>We are continuing to explore options to obtain information from other agencies and bodies. Where this is not feasible, we will seek to harmonise information collection (see section 2.2 of this explanatory statement).</p>
AFMA	Suggests the AER should only collect information where there is a clear reason and similar information is not available elsewhere.	In accordance with our core principles (see section 3.2.1 of the Draft Guideline), we are mindful of minimising duplication and will aim to obtain information from other agencies or bodies and harmonise collection across government agencies where feasible (see section 2.2 of this explanatory statement for more detail).
AFMA Alinta APGA Senex Shell	Suggests the AER provide clarity on reasons for information collection and its use.	Appendix A of the Draft Guideline provides an explanation, in general terms, of the relevance of the categories of information we are likely to seek.
Shell	Notes that information collection will not solve the issue of declining gas supply.	We note this feedback.
FEX	Notes that monitoring and reporting will not address the underlying issue of lack of availability of clearing entities that clear exchange traded electricity derivatives and the inconsistency of international financial regulation relating to customer margin requirements.	We note this feedback.

Submissions	Comments	AER response
PIAC	Suggests the AER address the need to monitor and report on factors affecting the achievement of the National Energy Objective and National Gas Objective.	In our reports we will identify and analyse whether there are features of the wholesale markets that may be detrimentally impacting on the efficient functioning of the market and the achievement of the National Electricity Objective or National Gas Objective.
PIAC	Suggests the AER should monitor and analyse demand response offerings and dispatches.	We note this suggestion and will consider it when developing information collection instruments.
APA	Suggests the AER should publish information about what was collected and from whom, how much was collected, what they learned and advice given to governments based on the collected information.	We are committed to promoting transparency while also appropriately protecting the confidential information collected from participants. More detail on our approach is provided in section 5.1 of the Draft Guideline.
APLNG	Suggests draft questions or more specific examples be provided to industry.	Where appropriate, we will engage with participants on the content information collection instruments, including draft questions.
AGL	Suggests greater clarity be provided on: <ol style="list-style-type: none"> 1) How notices issued under the general information gathering powers will be consulted. 2) What circumstances the AER anticipates using the general information gathering powers rather than a market monitoring information notice. 	<ol style="list-style-type: none"> 1) Where appropriate, we will consult with proposed recipients before issuing a notice under our general information gathering powers. 2) We are empowered to use various information collection instruments in fulfilling our functions. We will choose the instrument that is most appropriate for each particular purpose. The decision will be based on a range of factors and in accordance with our core principles. In general, it is likely that we will use market monitoring information orders and market monitoring information notices for information that we intend to collect on a recurring basis. We are likely to use our general information gathering powers where a one-off or occasional collection of information is needed.