

Wholesale Market Monitoring and Reporting Guideline

Explanatory statement

November 2024

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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
FEX	Financial and Energy Exchange
GSOO	Gas Statement of Opportunities
GBB	Gas Bulletin Board
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

Term	Definition
OTC	Over the counter
TJ	Terajoule

1 About this document

This explanatory statement accompanies the *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 (NEL) and section 30AT of the National Gas Law (NGL). 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). We then published a Draft Guideline for stakeholder consultation in July 2024 (section 1.2.2).

In developing the Guideline, we have followed the consultation process prescribed under Chapter 8, clause 8.7.2A of the National Electricity Rules (NER) and Part 17, rule 138C of the National Gas Rules (NGR), as a minimum. This has included providing at least 25 business days for submissions and comments on a draft instrument (the Draft Guideline). Our consultation activities to date 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 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 in the issues paper and obtain early feedback from stakeholders. We also presented to 2 industry association member meetings and met with 42 stakeholders.

1.2.2 Draft Guideline

We sought stakeholder feedback on the Draft Guideline between 2 July and 7 August 2024. During this period, we hosted a stakeholder forum and met one-on-one with 5 stakeholders.

We received 14 written submissions on our Draft Guideline. A summary of key issues raised in stakeholder submissions is provided at Appendix B. These submissions are publicly available on our website on the [Enhanced Wholesale Market Monitoring Guideline \(2024\) - Draft Guideline](#) page.

1.3 Key outcomes of the issues paper and Draft Guideline consultation

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

Key issues highlighted by stakeholders during consultation on our Draft Guideline were:

- Stakeholders reiterated their interest in avoiding duplicative information collection by regulatory agencies.
 - Stakeholders were broadly supportive of the approach to harmonise content and timing of information collection instruments with other agencies when we cannot directly obtain and use information from other agencies.
 - There were concerns expressed about similar, but not identical, information collection notices being issued by multiple agencies (for example, the AER and ACCC), noting that minor changes in information collection notices can add significant regulatory burden.
 - Some stakeholders encouraged the AER to continue exploring possible consent frameworks for obtaining information from other agencies, particularly the ACCC.
 - Some stakeholders suggested that information collection instruments could be issued jointly by agencies requiring the same information to perform their regulatory functions with reference to each agency's legislative powers.
- There was a preference for routine information collection rather than ad hoc collection. Stakeholders encouraged the AER to establish a regular and enduring reporting routine, and to allow more time for industry to respond to our first information collection instruments.
- Stakeholders requested greater clarity on the overall purpose and value of the AER's enhanced wholesale market monitoring and reporting functions. There was particular interest in further clarification on the AER and ACCC's distinct market monitoring and reporting functions.

- Some stakeholders expressed concerns about the potential secondary uses of information collected as part of the AER’s wholesale market monitoring function.

The final 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; as such, some feedback will be more appropriately responded to in this explanatory statement or addressed in information collection instruments.

Amendments made to the Guideline in response to stakeholder feedback and key issues raised include providing further detail and clarity on:

- the purpose of the AER’s enhanced wholesale market monitoring and reporting functions, including the market and policy benefits of our increased powers
- the types of people and bodies likely to receive information collection instruments under our enhanced powers
- the importance of collecting historic information to inform our wholesale market monitoring and reporting functions
- our efforts to ensure that, where relevant, our information collection instruments are harmonised with those issued by the ACCC
- circumstances in which the final Guideline may be amended.

2 Purpose and scope of our functions

2.1 Summary of purpose

Several submissions sought further clarification on the purpose of the AER's wholesale market monitoring and reporting functions, including their intended market and policy benefits.

The Guideline describes the overall purpose of our wholesale market monitoring and reporting functions with reference to our legislative requirements (sections 1.1 and 2.1 of the Guideline).

Our issues paper provided a general overview of the purpose of our enhanced functions.¹ In response to stakeholder feedback, we have provided further detail on this purpose in sections 2.1.1 and 2.1.2 of this explanatory statement.

2.1.1 Wholesale electricity market monitoring and reporting

Our enhanced wholesale market monitoring and reporting functions will enable more effective electricity market monitoring by expanding our existing remit to include markets for financial risk management products. This will enhance our capability to evaluate and report on performance, competition and efficiency in wholesale markets, enabling more detailed and useful insights on participant behaviour and market outcomes. It will also enable deeper insights into retail markets and drivers underpinning prices ultimately paid by consumers.

Activity in markets for financial risk management products can have a significant impact on spot market outcomes, and vice versa, but there is currently limited public information available. These enhanced functions will allow us to assess the impact of contracts on market outcomes and improve our understanding of the underlying drivers in electricity markets. Through these enhanced functions, our monitoring and reporting will provide important insights that will benefit industry, government and consumers by:

- facilitating well-informed and targeted advice from the AER to government and policymakers, including advice on emerging market issues as the energy transition progresses
- assisting market participants to make more informed, evidence-based decisions through facilitating greater market transparency, providing detailed analysis of market outcomes and supporting competitive and efficient markets
- improving the transparency of the electricity contract and wholesale markets, allowing the AER to highlight market features that may be impacting detrimentally on competition, market efficiency and the achievement of the National Electricity Objective

¹ AER, [Enhanced Wholesale Market Monitoring and Reporting Guideline – Issues paper for stakeholder feedback](#), Australian Energy Regulator, March 2024, p. 2.

- enriching our monitoring capability and improving our ability to assess how spot and contract markets interact and provide incentives for participant behaviour, and how those incentives flow through to market outcomes.

2.1.2 Wholesale gas market monitoring and reporting

The National Energy Laws Amendment (Wholesale Market Monitoring) Bill 2023 established a new function for the AER to monitor and report on effective competition and efficient functioning in the wholesale gas markets. This includes monitoring and reviewing bilateral trading agreements and financial risk management products, including their effect on wholesale gas markets.² Through these enhanced functions, we will produce a biennial wholesale gas market performance report similar to our existing biennial reporting for electricity markets.

The majority of trade in gas is through bilateral contracting, which is currently opaque. These enhanced functions will allow us to assess the impact of these contracts on market outcomes and improve our capability to evaluate performance, competition and efficiency in wholesale gas markets. Through these enhanced functions, we will provide valuable insights for market participants, policymakers and consumers by:

- providing increased visibility of market structure issues and barriers to entry across wholesale gas markets, enabling market participants to make more informed investment decisions and supporting effective competition
- facilitating informed and targeted advice from the AER to government and policymakers, including on the effect of contract markets on market outcomes and infrastructure gaps
- improving the transparency of Australia's gas sector and providing insights into the underlying drivers of gas prices and participant behaviour.

We note that wholesale gas market reforms in recent years have created several new reporting obligations for gas market participants, including AEMO's Gas Bulletin Board (GBB), the establishment (and subsequent extension) of the ACCC's Gas Inquiry, and the introduction of the Gas Code.³ Key differences between the AER's surveillance and reporting, and reporting conducted by other agencies, is outlined in section 2.3.

2.2 Scope and focus of our enhanced monitoring and reporting functions

Some participants raised concerns that the scope of our wholesale market monitoring and reporting functions was not clearly outlined in the Draft Guideline and the difference in scope between electricity and gas functions was not made sufficiently clear. Our functions are as set out in the National Electricity Law and the National Gas Law, and we have included a further description of them in the final Guideline.

² The wholesale gas markets include: the 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) and other wholesale markets prescribed by the Regulations.

³ Competition and Consumer (Gas Market Code) Regulations 2023.

The initial focus of our monitoring and reporting activities will also be informed by our initial focus areas. Our issues paper identified and sought feedback on the 4 proposed key initial focus areas for our wholesale market monitoring and reporting functions:

1. market liquidity
2. access to markets and barriers to entry and participation
3. incentives for offer behaviour
4. risk positions.⁴

Focus areas 1, 2 and 4 are relevant to our wholesale market monitoring and reporting functions for both gas and electricity and will inform the initial scope and focus of all our monitoring and reporting activities. Focus area 3 is specific to electricity.

We have chosen not to further delineate our focus areas in the Guideline because we intend for it to be an enduring document. The Guideline also envisages that the AER may, where appropriate, issue and consult on focus papers, which will allow us to engage with stakeholders and maintain transparency about our priorities and methods of assessment.

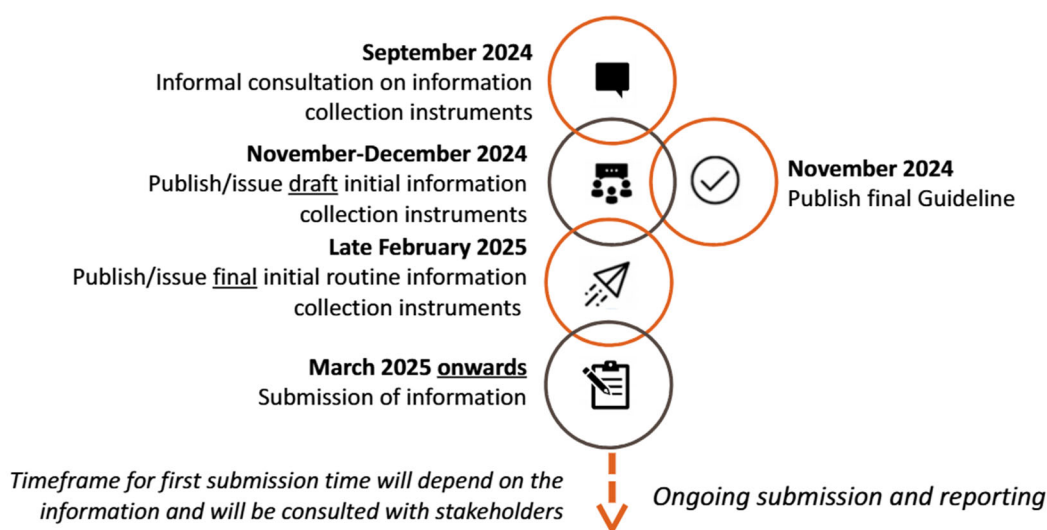
2.2.1 Timeline for first information collection

Stakeholders sought further clarity on when the AER intends to begin collecting information from market participants and the length of time that participants will have to respond to information collection instruments.

Figure 1 illustrates our current planned timeline for gathering information from market participants. We will consult in more detail with participants on submission timelines during consultation on our draft initial information collection instruments.

⁴ AER, [Enhanced Wholesale Market Monitoring and Reporting Guideline – Issues paper for stakeholder feedback](#), Australian Energy Regulator, March 2024, pp. 14–17.

Figure 1 Indicative timeline for development of first information collection instruments



2.3 Relationship to existing functions and other agencies

Several stakeholders raised ongoing concerns about the distinction between the scope and purpose of the AER’s enhanced wholesale gas market monitoring and reporting functions and the work being progressed by the ACCC on the Gas Inquiry and Gas Code of Conduct.

As communicated in the explanatory statement that accompanied the Draft Guideline, we are conscious of the potential for overlap between our functions and the ACCC’s functions.⁵ We will continue to engage closely with the ACCC to minimise overlap and maximise complementary reporting and value for government, industry and consumers.

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

We understand that potential overlap is a key concern for stakeholders and have included a summary in Table 1 of some of the key distinctions between the AER and ACCC functions as they are currently performed for the wholesale gas markets. As AEMO also performs a range of key reporting functions for east coast gas markets, we have also included these to illustrate the range of reporting products across key regulatory agencies.

⁵ [AER, Wholesale Market Monitoring and Reporting Draft Guideline – explanatory statement](#), Australian Energy Regulator, pp. 15–17.

Table 1 Key distinctions between agencies' functions in gas monitoring and reporting

Agency	Role	Reporting and analysis relevant to competition and efficiency
Gas production		
AER	Reserves and resources reporting	Reports on price assumptions used by gas field owners to prepare volume estimates
AEMO	Reporting on future production outlook, including through the Gas Statement of Opportunities (GSOO) and Victorian Gas Planning Report.	Provides analysis on the current and future adequacy of supply, but not analysis of cost-reflectiveness of supply. Also monitors trends in the supply of, and demand for, gas in the east coast markets to support informed and efficient decision making by participants.
Bilateral gas supply markets		
AER	Monitoring and reporting on bilateral gas contracts and transactions	Focuses on the competitiveness and performance of facilitated wholesale gas markets (the spot markets), including interaction between facilitated markets and bilateral contracting
ACCC	Administering the Gas Inquiry (until 2030) and Mandatory Gas Code of Conduct (review scheduled for 2025)	<ul style="list-style-type: none"> • Gas Inquiry: Monitoring the pricing, volume and availability of gas, the pricing and availability of offers and the pricing, volume and availability of other goods or services • Mandatory Gas Code of Conduct: Administers rules, mostly related to bilateral contracting, requiring gas to be supplied at reasonable prices and on reasonable terms
AEMO	Monitoring and reporting on short term gas transactions, including through the Quarterly Energy Dynamics report	<ul style="list-style-type: none"> • Publishing information on transactions carried out both bilaterally and through the Gas Supply Hub to support informed and efficient decision making by participants.
Spot markets		
AER	Publishing wholesale gas market quarterly and biennial reports	Provides information and analysis on prices, demand, generation, contracts, market outlook and new entry and exit; enhanced functions will significantly increase the detail of these reports
ACCC	Administering the Gas Inquiry (until 2030)	While the Gas Inquiry has a wide scope to examine the spot markets, it has not routinely done this mainly because the AER has responsibility there. The ACCC has considered spot market prices in its interim Gas Inquiry reports but does not routinely conduct in-depth analysis of the overall performance and efficiency of the spot markets

Agency	Role	Reporting and analysis relevant to competition and efficiency
AEMO	Publishing the Quarterly Energy Dynamics report	Provides information on market dynamics, trends and outcomes across all markets it operates to inform decision making by participants and policy makers.
Gas transportation, compression and storage		
AER	Undertaking routine wholesale market monitoring and reporting	Evaluates whether transportation, compression and storage contracting is impacting effective competition and efficient functioning in the wholesale markets
ACCC	Administering the Gas Inquiry (until 2030)	<p>The ACCC conducts analysis of transport, compression, and storage capacity, using GBB data from time to time to support investigation and reporting on supply adequacy.</p> <p>Past interim reports have included analysis of prices in transportation, compression and storage contracting. The ACCC ceased reporting on pricing following the recent NGR Part 10 and 18 reforms.</p>
AEMO	Publishing information through the GBB and the GSOO	Includes detail on likely future investments in transportation, compression and storage to facilitate trade and informed and efficient decisions by participants

Note: All roles listed are enduring unless otherwise stated.

There are 3 areas for gas markets that will be covered by ongoing AER reporting, utilising our enhanced wholesale market monitoring and reporting functions:

- the efficiency and competitiveness of facilitated spot markets for wholesale gas (for example, the Gas Supply Hub, Short Term Trading Market and Victoria Declared Wholesale Gas Market)
- the interaction between the bilateral contracting market and facilitated spot markets for gas
- the efficiency and competitiveness of gas transport, compression and storage services, including the interaction between these services and the facilitated spot markets for gas.

The AER already reports on facilitated spot markets for gas and will continue to do so, albeit with a stronger focus on effective competition and efficient functioning within these markets as required by our new legislation. We do not currently report on the interaction between these markets and the bilateral contracting market but intend to include this in our first biennial gas competition report.

Although the ACCC's Gas Inquiry role has wide scope to examine the spot markets, it has not routinely done so; instead, it typically relies on AER reporting of spot market pricing and

performance in its interim Inquiry reports. Where the ACCC has referred to the spot markets in interim Gas Inquiry reports, this has generally been for the purposes of ensuring the spot markets are not being used to circumvent the Gas Code requirements.⁶

Our enhanced gas competition reporting functions will be complementary to our existing pipeline monitoring and reporting functions, enabling us to take a whole-of-market approach to reporting. As part of harmonising our information collection instruments, we will continue to routinely engage with the ACCC on our information collections as well as our monitoring and reporting activities to enable a holistic picture of the gas markets. This will include working together to minimise the possibility of different interpretations arising from the same information.

⁶ The Gas Market Code does not apply to the domestic facilitated spot markets.

3 Our approach to information collection

The Guideline details our approach to information collection, including core principles underpinning our information collection and mechanisms to ensure efficient use of information.

High-level summaries of key issues raised by stakeholders are provided throughout this section. Details of our response to specific issues and suggestions raised by stakeholders are summarised in Appendix B.

3.1 Efficient use of information

3.1.1 Information available from existing sources for gas monitoring and reporting

Gas industry stakeholders encouraged the AER to use information already reported under other mandatory reporting requirements under the NGR.⁷

In line with our information collection principles, we will use information already accessible from existing reporting for our wholesale market monitoring and reporting. This currently includes:

- bilateral commodity contracts under 1 year (obtained through the GBB)
- data concerning confidential bids and offers (obtained via the Gas Supply Hub and Capacity Trading Platform)
- a wide range of data concerning pooled markets (obtained from the Victorian Declared Wholesale Gas Market and the Short Term Trading Markets)
- data concerning anonymous bids (obtained via the Day Ahead Auction)
- certain gas transportation, compression and storage information (submitted directly to the AER or obtained via information published on gas service providers' websites).

We are also exploring the possibility of obtaining additional information, such as information related to the Gas Statement of Opportunities from AEMO.

We do not intend to duplicate collection of this information under our enhanced powers. Where this information is not sufficiently complete for our wholesale market monitoring and reporting functions, we may collect additional information under our enhanced powers. However, we will minimise burden for participants by taking steps to reduce duplicative collation and production of information. For example, we intend to request pipeline operators submit Actual Prices Payable information to the AER in the same format as published on their websites, with additional information appended that enables the AER to identify contract counterparties.

⁷ This includes National Gas Rules, Parts 10, 15, 18, 19, 20, 22, 25 and 27.

In line with our targeted incremental approach, we will continually review the information we collect under our enhanced powers and consider whether any adjustments are warranted. This includes considering any changes in our ability to obtain and use it from alternative sources.

3.1.2 Obtaining and using information from other agencies

Several stakeholders encouraged the AER to further explore more efficient ways of obtaining relevant information than requiring information from participants, including directly obtaining information from other agencies.

As outlined in the explanatory statement for the Draft Guideline,⁸ 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.

The AER is continuing to engage with other agencies to explore potential mechanisms for obtaining information directly.

- We have considered obtaining individual exchange traded data with counterparty information directly from the exchanges (ASX and FEX).
 - While useful for certain measures, at this time this approach will not enable us to determine corresponding parties to orders because these markets are anonymous and trading is carried out on a principal-to-principal basis. Only trades that are entered for the purposes of the Market Liquidity Obligation or the voluntary market making scheme currently carry any identifiers.⁹ Obtaining visibility of counterparty information is important because it would address a key information gap with public data and allow more detailed analysis.
 - The Guideline identifies the exchanges as parties from whom we may collect information and we will continue to explore options for obtaining information directly from them going forward.
- We have considered the ability to obtain and use information from the ACCC under certain circumstances where market participants consent to having information provided to the AER and to its use and disclosure for our external reporting functions.
 - Some stakeholders identified that there are challenges with this option: for example, due to confidentiality clauses in contracts, participants may be unable to voluntarily provide consent.
 - For this to be a feasible option we consider that the AER’s ability to use and disclose information would need to be the same across the information provided by all

⁸ AER, [Wholesale Market Monitoring and Reporting Draft Guideline – explanatory statement](#), Australian Energy Regulator, pp. 11–12.

⁹ We received one submission noting that the New Zealand regulator receives de-anonymised trade level information directly from the ASX for their wholesale market monitoring and reporting functions. We note that New Zealand has a different legislative framework to Australia; New Zealand’s legislation requires businesses to have unique identifiers linked to ASX trades, which is not the case in Australia.

relevant persons (that is, whether provided by consent or provided under an information collection instrument issued by the AER).

- While we have not included any further detail on consent in the Guideline, we are continuing to explore options for consent and will engage further with stakeholders. We expect to be able to provide further detail on how we consider consent may operate and how it may be given as part of our consultation for the first draft information collection instruments.

While we will continue to work with other 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 functions. As such, where appropriate and feasible, we intend to adopt a harmonisation approach in the first instance, as discussed in section 3.1.3.

3.1.3 Harmonisation of information collection instruments with the ACCC

Where we are unable to obtain and use information from another agency directly, stakeholders supported our proposal of harmonising our information collection instruments with those made by other agencies or bodies. This includes aligning the timing, definitions, templates, frequency and time periods of collected information.

Some stakeholders expressed concerns that there may be small differences between agencies' information collection requirements that will create additional burden when responding. We acknowledge that even small differences could create a material impact on respondents' burden. We are closely engaging with the ACCC on the development of our information collection instruments to minimise the risk of small differences arising.

Stakeholders will also be able to provide feedback during the consultation period on the draft information collection instruments. This will allow for any unforeseen or unintended issues with the harmonisation approach to be considered before the final notice is issued.

We will maintain ongoing communication with the ACCC to manage future template variations and seek alignment where possible and feasible.

3.1.4 Other options explored for minimising burden of duplicative regulatory reporting

Stakeholders proposed 2 additional alternatives for minimising burden where the AER cannot directly obtain and use information already provided to another agency. We have considered these suggestions and provide our position on them below.

Issuing single joint information collection instruments by multiple agencies

Several stakeholders suggested if the AER and ACCC require the same information for their different functions, that a single joint information collection instrument be issued on behalf of both agencies.

For our initial collection, we consider it likely that seeking to align the substance of the AER's information collection instruments with those of other bodies (the harmonisation approach) will be the more effective way of reducing the burden on respondents. As agencies collect information under distinct statutory powers, issuing joint instruments presents significant

legal and practical challenges. However, we will continue to consider if this approach would be practicable in the future.

Referencing other regulators' notices

One stakeholder suggested if the AER requires the same information as reported to another agency, that the AER could collect the information by referencing the other agency's notice within its own notice.

For our initial collection we are exploring the feasibility of collecting information with reference to another agency's collection notice, and expect that relevant stakeholders will be able to provide feedback on such an approach during consultation on our draft information collection instruments. We will also continue to consider where it may be appropriate and practical to collect information with reference to another agency's notice in the future.

3.2 Historic information collection

Stakeholders requested that the AER provide additional clarity on the purpose and processes for historic information collection. We have added a new section into the Guideline (section 3.4) on historic information.

More detailed information on the AER's processes for collecting historic information will be provided during consultation on our initial information collection.

Stakeholders have communicated that there is significant burden in setting up new reporting systems to meet AER requirements, which would be compounded by the AER requiring a large historical dataset. In recognition of this feedback, we intend to predominantly limit historic collection to the past 2 to 3 years.

For gas, we intend to limit historic information collection as follows:

- We do not intend to collect any information on gas storage, transport and compression prior to the commencement of Part 10 of NGR reporting. Given participants were not required to collate and store information related to these contract types before this, we understand it would be highly burdensome to collect further historic information.
- Where we are harmonising information collection with the ACCC (including for gas supply agreements, gas swaps and master sales agreements), we intend not to collect any historic information submitted to the ACCC prior to the development and release of the ACCC's data portal in March 2023. This is to minimise the need for market participants to reformat or redocument historic information.

For electricity, we also intend to limit historic collection for most information types to 2 to 3 years. We intend to collect 5 years of historic information for exchange trades and power purchase agreements. This is because:

- For exchange trades: we consider the further historic period is necessary for identifying potential long-term impacts of key market events and understanding how participants have reacted to extreme market volatility. We consider it will be easier to provide historic data on exchange trades than OTC contracts, and that this approach appropriately balances our data requirements against minimising participant burden.

- For power purchase agreements: since these are typically longer-term agreements, we consider 5 years of historic data is necessary to appropriately assess the extent of any changes in how renewable generation is being contracted over time.

3.3 Minimum threshold for gas

Several stakeholders expressed concerns about the proposed minimum threshold of 1 TJ per day for the collection of gas contracts, and noted that it does not align with the ACCC's Gas Inquiry threshold of over 500 TJ in total volume.

We have retained the 1 TJ per day threshold in the Guideline. Although we acknowledge this is not consistent with the ACCC's threshold, it is consistent with the lower GBB threshold. We will also not collect any contracts with a term less than 1 year because these are captured by the GBB (section 3.1.1).

To ensure our information collection instruments for bilateral gas contracts are fully harmonised with the ACCC's (section 3.1.3), in our initial information collection instruments we intend to align with the ACCC's threshold and not collect any contracts less than 500 TJ in total annual volume. However, this will create a reporting gap for contracts that have a term greater than 1 year, as well as a volume greater than 365 TJ but less than 500 TJ. We may alter our approach in the future to close this reporting gap, but consistent with the information collection principles outlined in section 3.2.1 of the Guideline, we will consider the value of this relative to the increase in burden it might impose.

3.4 Consultation approach planned for information collection instruments

Stakeholders continued to seek clarity on specific reporting requirements, including requesting clear definitions of information to be collected, the circumstances in which information will be collected and response timeframes.

We will engage early with stakeholders in developing information collection instruments to provide clear guidance but have provided some additional general detail below.

3.4.1 Processes for collecting information

Stakeholders continued to express a desire for greater clarity around the specific processes we propose to use for collecting information.

For our initial information collection, we intend to use a data portal to facilitate the secure submission of information. Further detail on the operation of this data portal will be provided during consultation on our initial information collection instruments.

We are taking a technology-neutral approach in the Guideline, reflecting our intention for it to be enduring, and will detail specific processes for collecting information in each relevant information collection instrument. This provides us with the flexibility to adjust our approach over time if there is benefit in doing so, without requiring significant revisions to the Guideline. For example, where improvements to process would reduce participant costs or enable more efficient or secure information collection – such as through process automation.

3.4.2 Data security

Some stakeholders raised concerns about the security of collected data and sought further detail beyond that included in section 5.3 of the Guideline.

Further detail on specific data security arrangements will be provided during consultation on our initial information collection instruments.

As indicated in the explanatory statement for our draft Guideline, we do not consider it to be practical for documents requiring validation to be password protected by market participants for our automated internal data handling requirements. We will consider the feasibility of allowing password protection for other files and provide guidance in our information collection instruments. Individual information collection instruments will specify the file format required for submissions, which may include file formats that cannot be password protected.

In addition to the requirements set out in section 5.3 of the Guideline, we intend to protect participant information by:

- encrypting data at rest – when uploading data through the AER portal, each instance of data is assigned its own unique storage in the Microsoft Blob Storage Container authenticated with security tokens
- imposing user access controls on all information collected under our enhanced functions
- tracking user access to all information collected and ensuring staff accessing information are kept accountable to their privacy obligations.

We are currently enhancing our IT capability to enable the above data security. All information collected by the AER is stored onshore in approved government information management systems.

More broadly, we acknowledge that collecting information under these enhanced functions introduces information handling and security risks. As we implement these functions, we are committed to enhancing our information access and management procedures as necessary to mitigate these risks.

Appendix A: List of submissions

Following the release of the draft Guideline on 2 July 2024, we invited stakeholder submissions (Table A1 and Table A2).

Table A1 Stakeholders who provided a written submission

Type of stakeholder	Stakeholder
Industry participants	AGL Energy (AGL)
	Alinta Energy (Alinta)
	APA Group
	Australia Pacific LNG (APLNG)
	EnergyAustralia
	ENGIE
	Origin Energy (Origin)
	Senex Energy (Senex)
	Shell Australia (Shell)
Industry associations and agencies	Australian Energy Council (AEC)
	Australian Energy Producers (AEP)
	Australian Financial Markets Association (AFMA)
	Australian Pipelines and Gas Association (APGA)

Table A2 Stakeholders who attended consultation meetings

Type of stakeholder	Stakeholder
Industry participants	Alinta Energy (Alinta)
	APA Group
	Australia Pacific LNG (APLNG)
	CDC Data Centre
	CS Energy
	Delta Electricity
	Energy Global Company
	Energy Queensland
	Epic Energy
	Essential Energy

Type of stakeholder	Stakeholder
	Genuity
	Gladstone LNG
	Jemena
	Johnson Winter Slattery
	Next Business Energy
	Origin Energy (Origin)
	RMHEDGE
	Santos
	Sea Gas
	Senex Energy (Senex)
	Shell Australia (Shell)
	Solstice Energy
	Stanwell
	TRAC Partners
Industry associations, agencies and bodies	Australian Energy Producers (AEP)
	Australian Financial Markets Association (AFMA)
	Australian Pipelines and Gas Association (APGA)
	Energy Consumers Australia (ECA)
	Energy Users Association of Australia (EUAA)
	Essential Services Commission of South Australia
	Tasmania Department of Premier and Cabinet
	Victoria Essential Services Commission

Appendix B: AER response to submissions on the Draft Guidelines and explanatory statement

Details of our response to the material issues and suggestions raised by stakeholders are summarised in Table B1.

Table B1 AER response to stakeholder submissions

Submissions	Comments	AER response
Information likely to collect		
AFMA APA	Suggests the Draft Guideline provides limited guidance about participants' reporting requirements and requests clear definitions of information to be collected and the circumstances in which collection may occur.	<p>We continue to take a reasonably broad approach for the Guideline to ensure it can be enduring and our monitoring can adapt and respond to market and environmental changes. We have provided further detail on parties we are empowered to collect information from in section 3 of the Guideline.</p> <p>We will provide specific detail on the type of information and frequency of collection in individual information collection instruments.</p>
EnergyAustralia	Seeks clarity on whether we will be requesting bilateral sales contracts between retailers.	<p>We intend to collect bilateral contracts between retailers, as well as contracts between retailers and suppliers, and retailers and end users. This is consistent with our intent to harmonise where possible with the ACCC, noting that these contracts are included within the scope of current ACCC information collections.</p> <p>We have amended Appendix B in the Guideline to be clearer on the types of bilateral contracts we intend to collect.</p>
EnergyAustralia	Suggests collection of operating cost information, rather than the provision of fuel contracts, would be more useful to understand fuel contract information, marginal costs for generators and participants' bidding behaviour.	<p>In our initial information collection, we intend to collect information on generators' marginal costs rather than individual fuel contracts.</p> <p>We may review this in the future if we determine that we still require detailed information on fuel contracts for our analysis, in line with our targeted incremental approach.</p>

Submissions	Comments	AER response
AFMA	Suggests the AER should not collect data about generator fuel costs and instead rely on publicly available data.	<p>To analyse the efficiency and performance of the monitored markets, the AER needs to understand the potential ability for generators to profitably participate in the market. This requires an understanding of how their costs change over time.¹⁰</p> <p>Our analysis of publicly available data, such as AEMO’s Integrated System Plan data, indicates that it is often at variance to actuals due to infrequent updating. Such variance may lead the AER to conclude that generators are more profitable than they actually are, which may lead to maladaptive policy formulation affecting the health and efficiency of the energy market.</p> <p>Access to confidential information will enable a more accurate and comprehensive analysis of market outcomes and longer-term trends. In our initial routine information collection, we intend to require information on generators’ marginal costs, rather than detailed information on fuel costs.</p>
EnergyAustralia	Notes it may be difficult to provide standardised data for non-standard contracts such as weather derivatives.	We are mindful of the challenges of providing standardised data for bespoke contracts. As part of developing the information collection instruments, we will consult with stakeholders on the design of any standardised templates and consider alternative options for providing relevant information, including on non-standard terms.
EnergyAustralia	Requests clarity on the meaning of ‘emissions-related contracts’ for gas.	Emissions-related contracts with respect to gas refers to contracts that offset the environmental impact of producing or transporting gas – for example:

¹⁰ Section 18B of the NEL sets out what the AER must have regard to in assessing effective competition. This includes whether prices are determined on a long-term basis by underlying costs rather than the existence of market power, even though a particular competitor may hold a substantial degree of market power from time to time.

Submissions	Comments	AER response
		<ul style="list-style-type: none"> • contracts linked to large-scale generation certificates • contracts linked to the safeguard mechanism • contracts facilitating emissions trading. <p>We do not currently intend to collect these contracts in the first routine information collection instruments. However, consistent with our targeted incremental approach, we may consider collecting these in the future.</p>
EnergyAustralia	Suggests the AER should not collect any information submitted to the GBB or any contracts or information provided to the Australian Energy Market Operator (AEMO).	We agree. We already obtain other information from AEMO and will not seek to collect that information from participants, as set out in section 3.1.1.
Historic information collection		
Engie	Suggests the AER should only collect historic information where there is a very clear policy justification, and that the Guideline should specifically refer to proposed processes for collecting historic information.	<p>We address our approach to historic information collection in section 3.4 of the Guideline and section 3.2 of this Explanatory Statement.</p> <p>More detailed information on the AER's processes for collecting historic information will be provided during consultation on our initial information collection.</p>
AEC Origin	Suggests historic information collection should be limited to the past 2 years.	We intend to limit most our initial collection of historic information to 2 to 3 years. See section 3.2 of this Explanatory Statement for more detail.
EnergyAustralia	Requests the AER limit the scope of historic collection of gas contracts to 3 years based on commencement date.	As above.
EnergyAustralia	Expresses concern that historic contract data in spreadsheet format is burdensome.	<p>We will engage with participants to explore suitable options for historic information collection during consultation on our initial information collection.</p> <p>Where we require information that has previously been provided to another agency in a certain format, we intend to require that information be provided in</p>

Submissions	Comments	AER response
		the same format, to minimise burden. We will also continue to explore a possible consent framework for obtaining information directly from other agencies.
Obtaining information from other agencies or bodies		
AGL APA APGA	Suggests the AER should consider the most efficient way to obtain relevant information, including whether it could be obtained in another way such as information already provided under Parts 10, 15, 18, 19 and 27 of the NGR.	We are committed to obtaining information efficiently, including considering existing and alternative sources. See section 3.1 of this Explanatory Statement for further detail.
AEP Shell AFMA Senex APA APLNG	Suggests the AER should explore obtaining and using information already provided to other agencies, including potential mechanisms for both historic information and future information.	We are continuing to explore options for obtaining and using information already provided to other agencies, as outlined in section 3.3.1 of the Guideline and section 3.1 of this Explanatory Statement.
Alinta	Encourages the AER and the ACCC to resolve overlapping information requests as soon as possible.	As above. Where the AER and ACCC require access to the same data for our distinct functions, we intend to harmonise our information collection instruments where possible to minimise participant burden.
AFMA	Suggests that separate but identical information collection instruments from multiple agencies are practical but not viable in the long term.	We are continuing to explore options to consolidate information collection instruments and share information with other agencies wherever practical and feasible.
APLNG	Suggests the AER should seek to establish a consent framework to receive information from other agencies.	We are continuing to explore the possibility of a consent framework, but to be feasible in practice the AER's ability to use and disclose information would need to be the same across the information provided by all market participants (that is, whether provided by consent or provided under an information collection instrument issued by the AER). Some participants have highlighted challenges with providing consent. See section 3.1.2 of this Explanatory Statement for further detail

Submissions	Comments	AER response
Shell AFMA	Suggests the AER should explore obtaining information from the ASX.	<p>We have further explored obtaining information on individual trades with counter-party information directly from the exchanges (ASX and FEX). This is unlikely to be an option because unique identifiers linked to ASX or FEX trades are not required under the relevant ASIC Market Integrity Rules. See section 3.1.2 of this Explanatory Statement for further detail.</p> <p>We are continuing to explore options to efficiently obtain other information from the exchanges as well as clearing parties.</p>
AGL	Suggests that if the AER requires information that has already been provided to another regulator, the AER should require that information be provided by reference to the other regulator's information collection instrument.	We have addressed this feedback in section 3.3.1 of the Guideline and section 3.1.4 of this Explanatory Statement. Where appropriate and practical to do so, we may refer to other agencies' notices in our information collection instruments.
Information collection		
APLNG Senex	Suggests combined processes where one information collection instrument is issued on behalf of all relevant government bodies.	Combined instruments present both legal and practical challenges because agencies collect information under separate and distinct statutory powers. However, we will continue to consider if this approach would be practicable in the future. See section 3.1.2 of this Explanatory Statement for further detail.
AGL	Suggests any information collection instrument should identify the relevant wholesale market monitoring functions and why the information is reasonably required or reasonably necessary for the performance of those functions.	The Market Monitoring Information Notice or Market Monitoring Information Order will include details on why the information is required to fulfil the AER's wholesale market monitoring and reporting functions.
AEP Shell Engie APGA Senex AEC	Supports harmonisation of the timing and form of information collection instruments, where information sharing is not possible.	<p>We will seek to adopt this approach where possible. For our initial information collection, we are seeking to harmonise information collection templates with the ACCC where possible.</p> <p>However, where necessary, we may issue ad hoc information collection instruments. When we do so we will</p>

Submissions	Comments	AER response
APA Origin		endeavour to engage with stakeholders to minimise burden where possible.
Senex	Suggests a single east coast market data portal, where multiple regulators post notices and participants submit responses, would alleviate reporting burden.	We note this suggestion. We will continue to explore options for more streamlined information collection solutions to meet the long-term requirements of our enhanced functions.
AFMA Senex	Requests clarity on when information collection instruments will be finalised, when participants' first reporting obligations will occur, and the mechanism participants will use to provide data.	We have provided an indicative timeline at section 2.2.1 of this Explanatory Statement. We are continuing to consider appropriate timeframes for submission of information and will seek stakeholder views during consultation on our initial information collection instruments.
Information collection criteria for gas		
AEC Shell AFMA Origin	Suggests that the collection of gas contracts above a threshold of 1 TJ/day does not align with the ACCC Gas Inquiry's approach of 500 TJ or greater with a term of 3 months or longer. Suggests that the proposed threshold increases burden and supports alignment with the ACCC.	We are retaining a threshold of 1 TJ/day in the Guideline. However, for our initial information collection, we intend to align with ACCC's threshold of collecting contracts that are 500 TJ or greater. See section 3.3 of this Explanatory Statement for more detail. We will not collect any short-term contracts (less than 12 months) because these are already captured by the GBB.
EnergyAustralia	Agrees with the 1 TJ/day minimum threshold for bilateral contracts between a retailer and end user but suggests there should also be an additional 10 TJ/year threshold and should exclude contracts with a length less than 12 months. This is suggested as a means of excluding contracts with small end users like mass market customers and very small, short-term contracts. Suggests an alternative approach to the above could be to adopt wording in the notices to exclude mass market customers, with reference to the approach adopted by the ACCC.	We do not intend to include contracts involving small end users like mass market customers. As above, we will seek to align our initial information collection with the ACCC where possible.

Submissions	Comments	AER response
Shell	Suggests expanding the threshold so it is not restricted to bilateral trading agreements from a retailer only, to facilitate closer alignment with ACCC collection.	We have amended the Guideline to clarify that bilateral trading agreements between any market participants are in scope for our information collection. See section 3.3 of this Explanatory Statement for more detail on our harmonisation approach with the ACCC.
Overlap with existing AER and other agencies' functions		
APGA	Suggests a new section in the Guideline specifically outlining the different scopes, any potential overlap and the approach to avoiding this overlap with the ACCC's Gas Inquiry.	We intend the Guideline to be an enduring document. Therefore, we have confined references to the time-limited ACCC Gas Inquiry to this Explanatory Statement. We have included section 2.1 in this Explanatory Statement for more information.
Shell	Suggests the gas wholesale market monitoring functions are duplicative of the AER's existing regulation and reporting on the Gas Supply Hub, the Short Term Trading Market and the Declared Wholesale Gas Market.	We will consider reporting undertaken by the AER and other agencies to ensure any new reporting is complementary and adds value. As noted in section 3.2.1 of this Explanatory Statement, we have undertaken a gap analysis of existing AER, AEMO and ACCC gas market monitoring and reporting functions and have identified several initial target areas for monitoring and reporting.
Shell	Expresses concern that the same information given to 2 different regulators could yield different interpretations, resulting in participant confusion.	In general, we anticipate that our monitoring and reporting functions will be sufficiently distinct from other agencies' functions to minimise this risk. However, when there is a risk that different agencies may rely on separate analyses with potential overlap, we will work with those agencies to minimise the possibility of different interpretations arising from the same information.
Secondary use		
AEC Shell Origin	Opposes secondary use of information collected through the wholesale market monitoring function for compliance purposes.	Information collected using our new collection powers must be for the purpose of enabling the AER to perform our wholesale market monitoring and reporting functions and must not be issued for the purpose of investigating a

Submissions	Comments	AER response
		<p>breach or potential breach. However, once collected, the legislation does not prohibit the collected information being used for secondary purposes, including compliance and enforcement.</p> <p>Secondary use of information will have flow-on benefits for industry by minimising the need for the AER to issue multiple information collection instruments for the same information under different functions. It will also minimise the need for the AER to issue ad hoc information collection instruments – for example, for calculation of the default market offer.</p>
Confidentiality and information protection		
Shell AFMA	Expresses concern for data security, including mitigating against human error and what security arrangements will be in place.	<p>We are mindful that the secure handling and storage of commercially sensitive and confidential information is crucial and are developing a dedicated online portal to receive submissions.</p> <p>General information on the manner and form of submission and data security is included in sections 4.5 and 5.3 of the Guideline.</p> <p>Further detail on our approach is also set out in section 3.4 of this Explanatory Statement.</p>
Shell	Supports participants uploading password-protected information via a one-way portal to which the AER has sole access.	At this stage we anticipate that documents requiring validation will not be able to be submitted with password protection because this will limit our ability to automatically receive, validate and ingest relevant files. We will consider the feasibility of allowing password protection for other files and provide guidance in our information collection instruments.
Shell	Suggests the AER should consult with market participants before publishing reports to confirm their data is being treated sensitively.	<p>Engagement with relevant parties as part of issuing information collection instruments, undertaken as appropriate, will assist in identifying and managing early any risks associated with the use of that information for our public reporting.</p> <p>We agree that treating data sensitively</p>

Submissions	Comments	AER response
		is crucial. When producing our reports, we will consider the best way to engage with relevant stakeholders before publication, including in accordance with legal requirements.
Response timeframes		
APA	Suggests that market participants should have more than 6 months to respond whenever the AER requests information that requires new templates.	<p>We will comply with our legislative requirements to consult with participants before issuing any new market monitoring information orders or market monitoring information notices. Our consultation will aim to understand the differential burden associated with providing different types of information and develop appropriate response timeframes with regard to this.</p> <p>We intend to provide longer response timeframes for our initial information collection, historic information and information that requires aligning to new templates.</p>
Alinta AFMA	Notes difficulty in assessing whether a 6-month response timeframe is appropriate without knowing the detail of reporting requirements, and requests flexibility in response timeframes depending on market responses to early information collection consultation.	As above.
Engie	Requests the final Guideline explicitly reflect additional consultation time for the first information collection instruments, noting this is currently included in the explanatory statement.	<p>The Guideline is intended to be an enduring document and does not make reference to specific provisions made for our first information collection.</p> <p>We still intend to provide additional consultation time for our first information collection instruments and have provided an indicative timeline at section 2.2.1 of this Explanatory Statement.</p>

Submissions	Comments	AER response
Regulatory burden		
APGA Alinta APLNG	Acknowledges the AER’s efforts to minimise burden.	We appreciate this feedback.
APA APLNG AGL AFMA AEP	Notes concern about increased regulatory costs, time and resources, having regard to existing reporting requirements.	<p>We are conscious of minimising burden including considering existing reporting requirements. This Explanatory Statement (section 3.1) provides further information on how we intend to minimise industry burden in terms of the efficient use of information.</p> <p>We will also be mindful of regulatory burden when designing and consulting on our information collection instruments, including considering the level of information we collect, the design and form of that information, and appropriate response timeframes.</p>
Senex	Suggests the Draft Guideline lacks sufficient detail to form a clear view of the level of regulatory reporting burden, and recommends the AER explains how it considered all options for minimising industry burden.	<p>As above.</p> <p>We will provide further detail of reporting requirements in our information collection notices and associated explanatory materials.</p>
Origin	Notes information collection instruments must be appropriately targeted, structured and standardised to minimise compliance costs.	<p>In line with our guiding principles, we will endeavour to appropriately target, structure and standardise our information collection instruments. Consultation on the draft information collection instruments will help ensure that the instruments are designed in a way that imposes as minimal burden as practical.</p> <p>We have provided further information in section 3.2.1 of the Guideline.</p>
EnergyAustralia	Requests the AER issues only one notice for each report during periods of possible targeted information collection, noting a preference for a single notice with a longer response time.	We will consider this approach as we develop our initial information collection. Our intent is to develop and deliver a routine schedule of reporting requirements and to minimise ad hoc information collection with short response times.

Submissions	Comments	AER response
Guideline amendment		
Engie	Requests detail clarifying circumstances in which the AER might amend or replace parts of the Guideline.	<p>We have included further detail in the final Guideline (section 1.3) on circumstances under which we may amend the Guideline.</p> <p>We will adhere to our obligations to consult on amendments to the Guideline under the National Energy Rules. We are empowered to make minor or administrative amendments to the Guideline without complying with these consultation requirements but will endeavour to consult with stakeholders.¹¹</p>
Engie	Suggests the AER establish industry working groups to assess future revisions to the Guideline.	We will consider this request when considering future revisions to the Guideline.
Industry engagement		
Engie APGA APA Alinta AFMA	Supports the AER's extensive engagement with industry to date.	We appreciate the stakeholder feedback.
AEC	Suggests the Guideline should require the AER to engage with participants post-submission to understand information that has been submitted.	<p>We are open to engaging with participants, where they are willing and able, after information has been submitted if participants believe additional context is necessary for us to appropriately understand submitted information.</p> <p>However, we have not added this to the Guideline because it may not be necessary for every type of information that we may collect under our new functions and may add unnecessary steps and burden on participants for routine information collection.</p>

¹¹ cl. 8.7.2A, National Electricity Rules; r. 138C, National Gas Rules.

Submissions	Comments	AER response
AFMA	Suggests the AER's main focus should be on helping participants navigate the implementation of this process, including by providing clarity on the new reporting requirements.	<p>We are committed to assisting industry to navigate our new reporting requirements.</p> <p>This will include providing clarity on reporting requirements during the development of our initial information collection instruments. Additionally, we will provide additional time for consultation on our initial information collection instruments beyond our legislative requirements.</p>
APA Alinta AFMA Origin	Requests the AER engage with participants prior to formally issuing all information collection notices, including the design and detail of collection templates.	<p>We agree and intend to do so where appropriate or required by law. We have provided an indicative timeline in section 2.2.1 of this Explanatory Statement and will engage with participants in developing both draft and final information collection instruments.</p> <p>As above, we will go beyond our legislative requirements for our initial information collection by offering one-on-one consultation before publishing the draft information collection instruments and providing a longer consultation timeframe on the draft instruments.</p>
General		
Shell Senex AEP APLNG	Suggests the Guidelines fail to articulate the market and policy benefits of the enhanced functions.	We have clarified the market and policy benefits of the enhanced wholesale market monitoring functions in section 2 of this Explanatory Statement. We have also included more general detail on the purpose of our enhanced functions in section 2 of the Guideline.
AGL	Suggests the Draft Guideline does not include information about the scope of the AER wholesale market monitoring functions as required by the NEL and NGL and recommends the Guideline distinguishes between the AER's gas and electricity functions.	<p>We have included further detail on the purpose and scope of our wholesale market monitoring and reporting functions for both electricity and gas in section 2 of this Explanatory Statement, and in section 2.1 of the Guideline.</p> <p>The broad scope of the AER's wholesale market monitoring and reporting functions is defined by the energy laws. The Guideline is intended to be an enduring document, and outlines at a high level the framework</p>

Submissions	Comments	AER response
		<p>and approach we intend to apply in performing these functions.</p> <p>We are seeking to have a consistent approach to our function across electricity and gas, but are mindful of the differences in these markets and will adjust our approach as appropriate.</p>
AEC	Suggests the AER should conduct long-term monitoring of the Capacity Investment Scheme as part of its new functions.	We will consider this in future reports.
Shell	Supports a process more aligned to the discontinued Australian Financial Markets Association Survey.	We have considered this feedback, as well as feedback from the Australian Financial Markets Association in developing the Guideline.
APA	Requests the AER publish transparent reporting on what ‘targeted information on factors affecting market outcomes’ it has collected and how it has been used.	We are committed to promoting transparency in the use of our information gathering powers. We are also mindful that appropriately protecting the confidential information collected from participants is crucial. We will consider this in determining the best approach to reporting on our usage of collected information.
AEP APLNG	Suggests the Australian Government should prioritise addressing forecast gas shortfalls over new reporting requirements.	We note this comment raises a matter for the Australian Government that is beyond the AER’s remit.