

Market Monitoring Information Order – Gas-2025-01

For persons obligated to submit information under
Part 10 and 18A of the National Gas Rules

November 2024

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1 Market Monitoring Information Order

1.1 Introduction

1.1.1 In accordance with section 30AL of the National Gas Law (*NGL*), the Australian Energy Regulator (*AER*) considers that it is reasonably necessary for the performance of its wholesale market monitoring and reporting functions under the *NGL* to make a market monitoring information order (*Order*) requiring each person of a class specified in this *Order* to:

- Provide information and agreements to the *AER*; and
- Maintain and keep information and agreements for a specified period.

1.1.2 This *Order* applies from 1 April 2025 until 30 June 2030.

1.1.3 The terms used in this *Order* are defined in Appendix B to this *Order* or, if the term is not defined in this *Order*, has the meaning given in *NGL* or the National Gas Rules (*NGR*). Defined terms are *italicised*.

1.1.4 This *Order* may be cited as the Market Monitoring Information Order–Gas-2025-01 (MMIO-GAS-2025-01).

1.2 Specified class of persons to which this Order applies

1.2.1 This *Order* applies to the following specified classes of persons:

- Persons obligated to publish information under Part 10 of the *NGR* (*Part 10 Class*); and
- Persons obligated to publish information under Part 18A of the *NGR* (*Part 18 Class*).

1.2.2 This *Order* requires each *Class* defined in this section of the *Order* to provide the *AER* with information as set out in section 1.3 of this *Order*.

1.2.3 Throughout this *Order*, we refer to the individual members of each *Class* as a *Class Member*.

1.2.3 For avoidance of doubt:

- The *Part 10 Class* does not include persons who are exempt from reporting actual prices payable information under Part 10, rule 101E of the *NGR*; and
- The *Part 18 Class* does not include persons who are exempt from reporting actual prices payable information under *Part 18A*, rule 198G of the *NGR*.

1.3 Time and Place for Compliance with this Order

1.3.1 This *Order* requires the *Part 10 Class* to give the *AER* the following information and agreements:

- Data Category 01 – Information published under Part 10, rule 101E of the *NGR*, with the addition of names of all *counterparties to contracts and/or agreements*.
 - Information submitted for Data Category 01 must align with data published by a *Class Member* on their websites in accordance with Part 10, rule 101E of

the *NGR*, with the addition of names of *counterparties to contracts and/or agreements* published.

1.3.2 This *Order* requires the *Part 18 Class* to give the *AER* the following information and agreements:

- Data Category 02 – Information published under *Part 18A*, rule 198E(1)(b) of the *NGR*, with the addition of names of all *counterparties to contracts and/or agreements*.
 - Information submitted for Data Category 02 must align with data published by a *Class Member* on their websites under Part 18, rule 198E(1)(b) of the *NGR*, with the addition of names of counterparties to *contracts and/or agreements*.

1.3.3 This *Order* requires each *Class* to give the *AER* the following information and agreements:

- Data Category 03 – Copies of each *contract and/or agreement* for which the actual prices payable information is published under Part 10, Rule 101E and/or Part 18A, Rule 198E(1)(b) of the *NGR*, as applicable.

1.3.4 For the avoidance of doubt, names of *counterparties to contracts and/or agreements* must be referable to information published under Part 10, rule 101E and/or Part 18A, rule 198E(1)(b) of the *NGR*, so that *counterparties* can be linked to contract information.

1.3.5 This *Order* also requires each *Class* to maintain and keep all information used to prepare the responses required under this *Order* for a period of seven years from the date the information is submitted to the *AER*.

1.3.6 A *Class Member* may provide additional information beyond that specified if the *Class Member* considers it may assist the *AER* to gain an understanding of the information prepared in response to this *Order*.

1.3.7 The information and agreements to be provided under this *Order* must be provided to the *AER* in a manner and form that:

- (a) is in an electronic format;
- (b) if submitted as a standalone file: is not protected, and allows for precedents and dependants to be traced;
- (c) for copies of *contracts and/or agreements*:
 - i is fully searchable;
 - ii is in text readable format;
 - iii is capable of text selection and a 'copy and paste' function being applied to it; and
 - iv is in .DOC or DOCX or .PDF format;
- (d) for information for Data Categories 01 and 02: is to be provided in an .XLS, .XLSX or .CSV format.

1.3.8 The information and agreements are to be provided electronically via the *AER Portal*,¹ which is available at <https://portal.aer.gov.au>. Subject to *AER* approval, the information and agreements may be submitted via another method.

1.4 Dates for submitting information to the AER

1.4.1 This *Order* requires each *Class* to give the required information and agreements to the *AER* from 1 April 2025 to 30 June 2030, in accordance with Table 1.

Table 1: Schedule of response dates

Information requirement	Submission dates
One-off historical collection of information applying to periods before this <i>Order</i> was made	
All information required under Data Categories 01, 02 and 03 for relevant information published on <i>Class Members'</i> websites between 31 December 2023 and 31 March 2025.	Submission must be provided to the <i>AER</i> no later than 31 May 2025.
All information applying to periods after this <i>Order</i> was made	
All information required under Data Category 01	Submission must be provided to the <i>AER</i> within two weeks of relevant information being published on a <i>Class Member's</i> websites under Part 10 of the <i>NGR</i> .
All information required under Data Category 02	Submission must be provided to the <i>AER</i> within two weeks of relevant information being published on <i>Class Member's</i> websites under Part 18A of the <i>NGR</i> .
All information required under Data Category 03	Submission must be provided to the <i>AER</i> within two weeks of relevant information being published on <i>Class Member's</i> websites under Part 10 of the <i>NGR</i> and/or under Part 18A of the <i>NGR</i> .

Process for requesting a submission extension

1.4.2 A *Class Member* may contact the *AER* in writing to request an extension of time to submit information in response to this *Order* before the relevant submission deadlines outlined in above.

1.4.3 The request should specify the length of the extension sought and the reason for the extension.

1.4.4 The *AER* will review the request to determine whether to grant an extension and, if it agrees to the extension, set a revised date for submission.

¹ The *AER* portal is maintained by the *AER* and is the information gateway between entities and the *AER*. The *AER* portal is accessed by entities via the *AER* website.

1.5 Reasons for issuing this Order

- 1.5.1 In accordance with section 30AL of the *NGL*, the *AER* considers it is reasonably necessary for the performance of its wholesale market monitoring and reporting functions under the *NGL* for each Class to give information and agreements to the *AER* in the manner and form specified in this *Order*.
- 1.5.2 The *AER*'s wholesale market monitoring and reporting functions are set out in Chapter 2, Part 1, Division 1AA of the *NGL*. The functions relevant to this *Order* include but are not limited to:
- Regularly and systematically monitoring and reviewing the performance of monitored markets;
 - Identifying and analysing whether there is effective competition and efficient functioning in relation to the wholesale gas markets (as defined under section 30AA of the *NGL*);
 - Identifying and analysing whether there are features of the market that may be impacting detrimentally on the achievement of the *national gas objective*;
 - Other monitoring or analysing functions, conferred on the *AER* by the *NGR*, relating to offers and prices, including forecasts and actual prices and bidding, within the wholesale gas markets.
 - Preparing, at least once every two years, a report on the results of the performance of the *AER* wholesale market monitoring functions. This report must include a discussion and analysis of the matters outlined in section 30AC(3) of the *NGL*.
 - Providing advice, as the *AER* thinks fit, on the results of the performance of these functions to the Energy and Climate Change Ministerial Council.
- 1.5.3 Market participants need to be able to move and store gas to effectively participate in the wholesale gas markets. Service providers for Part 10 and/or Part 18A facilities have obligations to publish actual prices payable information online. The *AER* requires the information which has been published on a *Class Member's* websites with the addition of *counterparty* names.
- 1.5.4 The *AER* requires the counterparty names for the information that has already been published in order to understand the access that each gas market participant has, or does not have, to transport and storage, and on what terms. This is required to enable the *AER* to assess market concentration and market power in different regions, evaluate whether market conditions are enabling effective competition, and monitor where access to transport, compression and storage infrastructure create critical barriers to entry for market participants.
- 1.5.5 The *AER* also requires the *contract and/or agreement* documents associated with the actual prices payable information published on a *Class Member's* website under Part 10 and/or Part 18A of the *NGL* (contract documents).
- 1.5.6 The actual prices payable information published on a *Class Member's* website under Part 10 and/or Part 18A of the *NGL* only indicates whether a contract uses standard or non-standard terms – it does not include any detail on those terms and conditions. Those terms and conditions, including pricing terms and other contractual rights, are

important for fully understanding the characteristics of the service (including any limitations on the service) that market participants are receiving at those prices.

- 1.5.7 Those terms and conditions may operate as barriers to obtaining pipeline capacity in ways that can have a significant impact on competition in relevant markets. For example, terms related to exclusivity or other preferential arrangements can serve as a barrier to other market participants in accessing transport, compression or storage services. The AER therefore requires access to the contract documents to appropriately examine how these terms and conditions restrict the availability of pipeline capacity.
- 1.5.8 For these reasons, the detailed terms and conditions, are required to enable the AER, to assess market concentration and market power in different regions, evaluate whether market conditions are enabling effective competition, and monitor where access to transport, compression and storage infrastructure create critical barriers to entry or participation for market participants.
- 1.5.9 The AER has considered whether it is able to obtain the information and agreements in another way and, where possible, has attempted to minimise the burden placed on each Class in providing the information. *Counterparty* information and contract documents are held only by each Class and are currently not publicly available or reported to another entity.
- 1.5.10 The AER considers that the information sought in this *Order* will enable it to perform its functions under Chapter 2, Part 1, Division 1AA of the *NGL* and contribute to the achievement of the *national gas objective*.

2 General requirements

2.1 Compliance with this Order

2.1.1 Each Class must comply with this *Order*, in accordance with section 30AQ of the *NGL*.

2.1.2 The requirement to comply with this *Order* is a Tier 1 civil penalty provision, as per Schedule 3 of the *National Gas (South Australia) Regulations 2008* (SA). Failure to comply with this *Order* may result in the *AER* taking compliance or enforcement action, such as issuing an infringement notice or seeking a civil penalty under the *NGL*. Knowingly providing a response that is false or misleading may also be an offence under the *NGL* and a serious offence under the *Criminal Code Act 1995* (Cth).

2.2 Variation of this Order

2.2.1 The *AER* may amend or replace any part of this *Order* periodically in accordance with the consultative procedures set out in rule 3.2.8 of the *NGR*.

2.3 Applying for an exemption from this Order

2.3.1 The *AER* may, by written notice, exempt a person from compliance with the *Order* in whole or part and conditionally or unconditionally, in accordance with section 30AQ of the *NGL*.

2.3.2 An application for exemption from providing the information under the *Order* must be provided in writing, using the exemption application form in Appendix C. The *AER* will consider exemption applications on a case-by-case basis.

2.3.3 In granting an exemption from compliance with some or all of the reporting requirements in this *Order*, the *AER* may require the applicant to notify the *AER* in writing about changes in circumstances such as:

- a change in the applicant's name to which the exemption applies; or
- a change in the applicant's circumstances that gave rise to the exemption application.

2.3.4 From time-to-time, the *AER* may need to revisit its decision as to the nature of the exemption.

2.4 Resubmission of information provided under this Order

2.4.1 The *AER* may require each Class or a *Class Member* to resubmit information under this *Order*. The *AER* will notify each Class or the *Class Member* in writing of any requirements to resubmit information, identify the information that is required to be resubmitted, and provide the reason for the resubmission request.

2.4.2 If a *Class Member* requests to resubmit information provided under this *Order*, the *Class Member* must notify the *AER* in writing and:

- (a) identify the information that is to be resubmitted;
- (b) provide the reason for the resubmission; and
- (c) advise whether or not the resubmitted information results in a material change in its response to the *Order*.

- 2.4.3 If the *AER* considers that information should be resubmitted to the *AER*, the *Class Member* must resubmit the relevant information as directed by the *AER*.
- 2.4.4 If a *Class Member* resubmits information the *Class Member* is required to verify the resubmitted information by way of a proforma in accordance with section 3 of this *Order*.

2.5 Confidentiality

- 2.5.1 The *AER*'s obligations regarding confidentiality and disclosure of information provided to it by regulated entities are governed by the *NGL*, the *CCA* and other applicable Commonwealth legislation such as the *Privacy Act 1988* (Cth).
- 2.5.2 Information provided to the *AER* in response to a market monitoring information order is taken to have been given to the *AER* in confidence, under section 30AD of the *NGL*.
- 2.5.3 The *AER* will protect the information that is given to it in confidence, or obtained by compulsion, from unauthorised use or disclosure pursuant to section 44AAF of the *CCA*.
- 2.5.4 The *NGL* and *CCA* set out circumstances where disclosure of confidential information is permitted by the *AER*.

3 Assurance requirements

- 3.1 The *Order* requires an *Authorised Officer* of each *Class Member* to attest to the completeness and quality of the information provided to the *AER* in accordance with the *Order*.
- 3.2 This assurance is to be provided using the proforma in Appendix A, or via an alternate method agreed by the *AER*, and must be submitted through the *AER Portal* alongside any information provided in response to this *Order*.

Appendix A – Definitions

In this *Order*, unless the contrary intention appears:

- the singular includes the plural, and the plural includes the singular;
- the words “shall” and “must” indicate mandatory requirements;
- expressions such as “includes” or “for example”, in any form, are not words of limitation;
- a reference to any corporation, whether expressly identified or not, includes a reference to any representatives of that corporation; and
- a reference to any legislation, legislative instrument or other instrument is a reference to that legislation or instrument as in force from time to time.

Definitions for specific terms used throughout this *Order* are listed below.

Term	Definition
AER	Australian Energy Regulator.
AER Portal	The digital service used by the <i>AER</i> to receive information given to the <i>AER</i> by companies responding to this <i>Order</i> .
Authorised Officer	Refers to a person who is regarded an ‘officer’ of a company in accordance with section 9AD of the <i>Corporations Act 2001</i> (Cth).
Class Member	A person within the specified classes of persons defined in section 1.2 of this <i>Order</i> .
Contract and/or Agreement	Any master agreements and schedules and/or contracts under master agreements.
Counterparty	An entity that is a party to a contract or agreement with the <i>Class Member</i> .
CCA	<i>Competition and Consumer Act 2010</i> (Cth).
National Gas Objective	Has the meaning set out in section 23 of the <i>NGL</i> .
NGL	The 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.
NGR	The 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.
Order	Market Monitoring Information Order – Gas -2025-01 (MMIO-GAS-2025-01).

Appendix B - Proforma report

To be submitted on the *Class Member's* letterhead
[Date]

From: [Name]
[Position Title]
[Class Member name]

To: Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

AER Market Monitoring Information (MMIO-GAS-2025-01)

This submission contains information and data regarding the gas wholesale contract market activities of [Class Member name] in accordance with Market Monitoring Information Order MMIO-GAS-2025-01 and with section 30AQ of the National Gas Law.

This report and all attachments have been prepared by [Class Member name] with all due care and skill and in accordance with Market Monitoring Information Order MMIO-GAS-2025-01.

Date:

Signed

Print name

Authorised Officer

Failure to comply with this Order is a breach of the Gas Law and may attract civil penalties. If a corporation contravenes this obligation to comply, each officer of the corporation is to be taken to have contravened this obligation if the officer knowingly authorised or permitted the contravention or breach. An officer of a corporation may be proceeded against whether or not proceedings have been taken against the corporation itself.

The Criminal Code Act 1995 (Cth) makes it a serious offence to give false or misleading information to the AER knowing it to be false or misleading or omitting any matter or thing without which the information is misleading.

Appendix C – Proforma – Exemption from the Order

To be submitted on *Class Member's* letterhead

[Date]

From: [Name]

[Position title]

[Class Member name]

To: Chief Executive Officer

Australian Energy Regulator

ContractMarketMonitoring@aer.gov.au

Application for an exemption under section 30AQ of the National Gas Law (“NGL”) from complying with the Market Monitoring Information Order dated [insert date] made by the AER under section 30AL of the NGL (MMIO-GAS-2025-01).

1. (a) Name and ABN of applicant:

[insert full legal name and ABN of applicant]

(b) Short description of the business carried on by applicant:

[e.g. The applicant is an owner/operator of a pipeline]

2. Identify the part/s of the order seeking exemption from:

3. Grounds for grant of exemption:

4. Name and address of persons authorised by the applicant to provide additional information in relation to this application:

[name]

[job title]

[address]

[telephone]

[email]

Signed on behalf of the applicant by:

.....

Signature

.....

Print name

.....

Position

Dated this day of [Month] [Year]

DRAFT