



Quarterly Compliance Report

April – June 2009

August 2009

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Contents

Glossary	1
Executive Summary	3
1 Introduction	5
2 Compliance monitoring and enforcement strategy	6
3 Gas	8
3.1 Update on investigations, enquiries and compliance issues	8
3.1.1 Participant bidding behaviour	8
3.1.2 Participant confirmation of scheduling instructions	8
3.1.3 Current bulletin board issues	9
3.2 Targeted compliance reviews	9
3.2.1 Obligation on the Bulletin Board operator to maintain up-to-date registers of Bulletin Board participants and facilities.....	10
3.2.2 Obligation on production facilities (exempt) to advise on exemption status and to provide nameplate rating information....	12
3.2.3 Obligation on production facilities to provide capacity outlook and production data.....	14
3.2.4 Obligation on pipeline operators to provide nominated and forecast delivery information, and actual pipeline gas delivery information.....	17
3.2.5 Participant issues with the bulletin board	19
3.2.9 Upcoming targeted compliance reviews.....	21
4 Electricity	22
4.1 Update on investigations, market events, enquiries and compliance issues	22
4.1.1 Investigations into events of 29 and 30 January 2009	22
4.1.2 Stanwell rebidding	24
4.1.3 International Power Australia rebids	24
4.1.4 General rebidding inquiries arising from monitoring	25
4.1.5 Spot price events exceeding \$5,000/MWh	27
4.1.6 Consultation on revised Rebidding and Technical Parameters Guideline.....	28
4.2 Audits.....	29
4.3 Targeted compliance reviews	29
4.3.1 Establishing or modifying a connection to the network	30
4.3.2 Upcoming targeted compliance reviews.....	37
4.4 Jurisdictional derogations	38
4.4.1 Derogations relating to Smelter Traders, Power Traders and Exempted Generator Agreements	38
Appendix A: AER investigations and reporting summary	40
Appendix B: Targeted rule provisions summary	42

Glossary

ACCC	Australian Competition & Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator (see www.aer.gov.au)
bulletin board	The Natural Gas Services bulletin board established under Chapter 7 of the Gas Law, commonly known as the National Gas Market bulletin board
DNSP	Distribution Network Service Provider
Electricity Law	National Electricity Law (a Schedule to the National Electricity Act)
Electricity Regulations	The National Electricity (South Australia) Regulations made under the National Electricity Act
Gas Regulations	The National Gas (South Australia) Regulations made under the National Gas Act
LNG	Liquefied Natural Gas
MIBB	Market Information Bulletin Board
MOU	Memorandum of Understanding
MCE	Ministerial Council of Energy
MSOR	The Victorian Gas Industry Market and System Operations Rules made under the <i>Gas Industry Act 1994</i> (Victoria)
MW	Megawatt
National	National Electricity (South Australia) Act 1996 (South Australia)

Electricity Act	
National Gas Act	<i>National Gas (South Australia) Act 2008 (South Australia)</i>
NEM	The National Electricity Market being the electricity wholesale exchange operated and administered by NEMMCO, and the national electricity system, which covers the following regions as at 1 July 2008: Queensland, New South Wales, Victoria , South Australia, and Tasmania
NEMMCO	National Electricity Market Management Company
Electricity Rules	The National Electricity Rules made under Part 7 of the Electricity Law
Gas Law	National Gas Law (a Schedule to the National Gas Act)
Gas Rules	The National Gas Rules made under Part 9 of the Gas Law
NGERAC	National Gas Emergency Response Advisory Committee - established by the MCE in May 2005, as part of the MOU on the National Gas Emergency Response Protocol for natural gas supply shortages affecting jurisdictions with interconnected gas supply networks
NSP	Network Service Provider
registered participants	A person who is registered by NEMMCO in any one or more of the categories listed in clauses 2.2 to 2.7 of the Electricity Rules (see NEMMCO's Registration and Exemption lists)
TNSP	Transmission Network Service Provider
\$5,000/MWh report	Reports issued by the AER under clause 3.13.7(d) of the Electricity Rules

Executive Summary

This report outlines the compliance monitoring and enforcement activities of the Australian Energy Regulator (AER) in the June 2009 quarter (1 April 2009 to 30 June 2009). The AER has compliance monitoring and enforcement roles in both gas and electricity.

In gas, the AER monitors, investigates and enforces compliance with the National Gas Law (Gas Law) and National Gas Rules (Gas Rules)¹. In the June 2009 quarter a significant development was the commencement of weekly monitoring of gas markets. Other gas-related work included targeted compliance reviews of several gas bulletin board provisions and inquiries relating to compliance with some of the bidding and dispatch rules in the Victoria gas market rules. The AER notes that it is of vital importance that such information is provided in an accurate and timely manner. Such accuracy is necessary to ensure that the bulletin board promotes transparency and is able to be fully utilised by industry.

In electricity, the AER monitors, investigates and enforces compliance with the National Electricity Law (Electricity Law) and the National Electricity Rules (Electricity Rules).

In the June quarter, the AER completed an electricity investigation regarding “good faith” rebidding by AGL. The AER decided not to pursue the matter further. More recently, the AER has instituted proceedings in the Federal Court against Stanwell Corporation Limited, for alleged contraventions of the electricity “good faith” rebidding rule.

Other electricity compliance activities in the June quarter included:

¹ Until 30 June 2009 it also assisted the Australian Competition & Consumer Commission (ACCC) in enforcing the Victorian Gas Industry Market and System Operations Rules (MSOR). From 1 July 2009, that function was transferred to the AER under the Gas Law and Gas Rules for declared wholesale gas markets. At this time, Victoria is the only jurisdiction with a declared wholesale market under the Gas Rules.

- completion of inquiries into some recent questionable rebid reasons provided by International Power, which led to International Power making commitments to improve its processes;
- reviewing the quality of reasons offered by 20 participants in their rebids;
- a review of the market events in Victoria on 29 and 30 January 2009;
- publishing 13 reports on spot market prices for electricity exceeding \$5,000/MWh; and
- monitoring jurisdictional derogations that apply to smelter traders, power traders and nominated generators in the National Electricity Market (NEM). No instances of non-compliance were reported.

Further the AER conducted targeted compliance reviews of three Electricity Rule provisions. The three provisions targeted in the June quarter all impose obligations on network businesses in relation to the network connection process. The AER will continue to closely monitor compliance in relation to network connections due to the importance in ensuring that appropriate access is maintained.

Finally, the AER is finalising arrangements for the auditing of two registered participants in respect of compliance with technical standards. One audit is of a generation business and focuses on compliance with clause 4.15 of the Electricity Rules, in respect of compliance with the generator performance standards. The other audit is of a transmission network service provider and will focus on compliance with clause 5.7.4(a1) of the Electricity Rules. These audits are part of a continuing process and over time will involve other generators and transmission businesses.

1 Introduction

The AER is responsible for compliance monitoring, reporting and enforcement under certain legislation and rules governing Australia's energy industries. It acquired regulatory oversight of the National Electricity Market (NEM) on 1 July 2005 and parts of the natural gas industry on 1 July 2008. Section 15 of the Electricity Law and section 27 of the Gas Law set out the functions and powers of the AER which include a requirement to:

- (a) monitor compliance by energy industry participants and other persons
- (b) investigate breaches or possible breaches of provisions of the legislative instruments under the AER's jurisdiction.

In carrying out its compliance monitoring and enforcement role, the AER aims to help energy industry participants achieve high levels of compliance with the:

- Electricity Law, Electricity Regulations and Electricity Rules that apply to the electricity industry
- Gas Law, Gas Regulations and the Gas Rules that apply to the gas industry

This report provides an overview of our approach to compliance monitoring and a summary of compliance outcomes and enforcement activity in the June 2009 quarter.

We welcome any comments and feedback from electricity and gas industry participants and other interested parties on any matters of compliance, including the specific areas targeted or proposed to be targeted for review.

2 Compliance monitoring and enforcement strategy

The AER's compliance monitoring and enforcement strategy aims to build a culture of corporate compliance within the Australian energy industry.

Industry participants with sound compliance cultures reduce their risk of breaching regulatory obligations. A sound compliance program may also lead to lower penalties in the event that a breach occurs. Further, a culture of market compliance helps all industry participants engage confidently in commercial decisions and negotiations.

In June 2009, the AER issued a revised *Compliance and Enforcement – Statement of Approach*² covering electricity and gas, which aims to enhance transparency about our compliance monitoring and enforcement strategy.

The previous compliance and enforcement strategy involved the AER performing a comprehensive compliance risk assessment of the Electricity Rules. This risk assessment has now been extended to cover the Gas Rules.

The risk assessment helped the AER identify:

- areas of focus
- the appropriate monitoring mechanism for each provision
- the intensity of monitoring
- the appropriate ways to encourage compliance

Our compliance monitoring mechanisms include audits, targeted compliance reviews, market monitoring, and imposing reporting requirements. In carrying out our monitoring functions, we aim for:

- consistency in monitoring over time

² See <http://www.aer.gov.au/content/index.phtml/itemId/685897/fromItemId/656069>.

- cost effective monitoring for energy industry participants and the AER
- transparency, with information generally published subject to any confidentiality requirements.

In our targeted compliance reviews, provisions are selected for review based on the following principles:

- provisions with relatively high compliance risk are targeted as a matter of priority
- both systemic issues and those with the potential for isolated but significant incidents are addressed
- there is no unnecessary discrimination between registered participants, which are generally selected at random.

The targeted compliance reviews aim to determine:

- registered participants' understanding of their obligations under the relevant rules
- what systems and processes, including compliance programs and plans, registered participants have in place to deal with their obligations.

While the majority of obligations under the Electricity and Gas Rules do not require registered participants to establish specific compliance programs, the AER takes into account a participant's compliance culture in determining its enforcement response to breaches. In assessing a participant's compliance culture, the AER has regard to whether the participant's systems and processes are effective, up-to-date and tested regularly.

3 Gas

The AER is responsible for monitoring, investigating and enforcing compliance with the Gas Law and Gas Rules. In the June 2009 quarter, we assisted the ACCC in monitoring and enforcing compliance with the Victorian gas market (Victorian Market and Systems Operations Rules (MSOR)). This role transferred to the AER from 1 July 2009.

Part 3 of this report outlines the AER's activities in this area in the June 2009 quarter. **Appendix A** provides a list of investigations/enquiries over the last four quarters, including ongoing matters.

3.1 Update on investigations, enquiries and compliance issues

3.1.1 Participant bidding behaviour

The AER is examining the bidding and rebidding of gas quantities by various market participants for the 21 November 2008 gas day. The AER has written to a number of participants to ascertain whether their bids complied with clause 3.1.10 of the MSOR in force at that time. Under that clause, a market participant is required to ensure that injection and withdrawal bids are made in good faith and represent its best estimate of the quantities of gas it expects to inject/withdraw from the transmission system, should the market operator schedule that gas.

3.1.2 Participant confirmation of scheduling instructions

The AER has made enquiries of VENCORP (now AEMO) and participants regarding inconsistencies between the amount of gas bid by participants at a particular injection point and that scheduled by VENCORP on the 11 June 2009 gas day. The enquiries encompass the relevant market participants' compliance with clauses 3.1.10 and 3.1.13 of the MSOR (now part of the gas rules) on 11 June. Those inquiries are ongoing. Clause 3.1.10 requires injection bids to be best estimates of expected injection capability if scheduled by the market operator. These bids must be made in good faith. Further, the market participant is also required to be able to modify gas

injections in accordance with bids. Clause 3.1.13 requires market participants to conform to scheduling instructions in all material respects.

3.1.3 Current bulletin board issues

The AER monitors the quality and consistency of information posted on the bulletin board on an ongoing basis.³ The AER also receives regular compliance reports from the bulletin board operator indicating whether the data has been provided in accordance with obligations under the Gas Rules and the bulletin board procedures.

In July 2009, the AER began publishing a weekly summary of the information submitted to the bulletin board operator by participants. These weekly reports are available on the AER's website, and show trends in gas production and pipeline flows over time.⁴

Through its weekly report the AER also highlights failures to submit information by participants.

The obligations to provide and update information on the Bulletin Board contained in the Gas Rules and associated procedures exist to facilitate trade within and between Australian gas markets. The submission of accurate data, in accordance with obligations, is vital to achieving this objective. Failures to submit this data also affect the AER's ability to provide a fully accurate and transparent view of the gas market to interested parties. Compliance with the bulletin board provisions will be a continued area of focus for the AER.

3.2 Targeted compliance reviews

Targeted compliance reviews form an important element of the AER's ongoing compliance monitoring program. At the beginning of 2009, the AER began targeted compliance reviews of particular provisions of the Gas Rules. These reviews explore

³ The role of operating the National Gas Market Bulletin Board (bulletin board) was transferred from VENCORP to the AEMO on 1 July 2009. The enabling legislation for the bulletin board is found in chapter 7 of the Gas Law and part 18 of the Gas Rules. The associated bulletin board procedures can be found on the bulletin board website.

⁴ See: <http://www.aer.gov.au/content/index.phtml/itemId/729309>

participant compliance practice and aim to improve stakeholder understanding of the Gas Rules. The AER publishes the results of the reviews in these quarterly compliance reports.

In the June 2009 quarter, the AER targeted the following provisions of Part 18 of the Gas Rules:

Table 1: Gas Rules provisions targeted for review – June 2009 quarter

Clause	Relevant parties (subject to current review)	Obligation	No. of targeted participants
148(8) and 154	Bulletin Board operator	Maintenance of up-to-date registers of Bulletin Board participants and facilities, including facilities declared exempt.	1
152(4) and 164	Production facility operators (exempt)	Obligation to advise the Bulletin Board operator of any changes to exemption status, and to provide nameplate rating information.	3
165 and 166	Production facility operators	Obligation to provide 3 day capacity outlook data and actual production flow data to the Bulletin Board.	4
145, 181- 184	Pipeline facility operators	Obligation to provide nominated and forecast delivery data and actual pipeline gas delivery data to the Bulletin Board	2

3.2.1 Obligation on the Bulletin Board operator to maintain up-to-date registers of Bulletin Board participants and facilities

The Gas Rules require the bulletin board operator to maintain up-to-date registers of participants and facilities—including exempt facilities—and to publish these on the bulletin board website.⁵ The operator must also publish a notice on the bulletin board when a new facility is added, or when the classification of a facility changes.⁶

⁵ Gas Rules cl. 148(8), 154(1)

⁶ Gas Rules cl. 154(2)

The AER asked the operator to provide details of:

- systems and quality assurance processes in place to comply with obligations under clauses 148(8) and 154, in accordance with the relevant bulletin board procedures
- specific instances (if any) of where the operator became aware that participants details on the bulletin board were not up to date, how the operator became aware of this, and the systems put in place to rectify these issues.
- specific instances (if any) of where the bulletin board operator has not published up-to-date details of any bulletin board facilities or facilities that have been declared exempt under Gas Rules 149, 150 or 151, the reasons for not doing so, and the systems put in place by the bulletin board operator to rectify these issues.
- specific instances (if any) of where the operator did not publish a notice of change after it became aware that a facility had become exempt or ceased to be a bulletin board facility; the reasons for not doing so; and the systems put in place by the operator to rectify those issues.

Summary of responses

The bulletin board operator has created a register that allows participants to update their own details as required. The registration forms are available on the bulletin board website.⁷

Instructions on how to register are provided in the participant registration pack. The registration kit and user information pack, and additional user information and forms, are also published on the bulletin board website.

The register is maintained manually. When participants send their registration forms electronically, the details are stored in an organisation register. Staff then manually update these details, including any registration changes, on the bulletin board.

Where a participant informs the operator of a change in contact details, or if the operator becomes aware of such changes, it makes the changes itself. There have been

⁷ <http://www.gasbb.com.au/Data/Notices/Documents>

instances where the details of certain participants were found to be out of date. The operator has advised that some issues are still being resolved with the relevant parties.

The facilities register is maintained and published on the bulletin board under ‘notices’. The form to register a facility is also provided on the bulletin board website.

The bulletin board operator advised that instances of exemptions are infrequent and are dealt with on a case-by-case basis under the Gas Rules and bulletin board procedures. The operator granted only three exemptions in the last twelve months. The operator advised that, to its knowledge, there are no exempt facilities for which details are out to date. The operator endeavours to annually review all contact, ownership and status details for exempt facilities. Further, participants must apply annually for continued exemption. The operator takes that opportunity to update contact details.

Review outcomes

While the bulletin board operator endeavours to maintain the registers of participants, facilities and exempt facilities up to date, there are no formal procedures and systems to ensure the registers are accurate. At this stage, there is a greater reliance on participants coming forward when their contact, ownership and status details have changed. The operator is in the process of sending reminder notices to all exempt participants to update their details.

The AER sees potential benefit in a standing requirement for all registered participants and facilities—including exempt facilities—to provide up-to-date contact details on an annual basis, as part of the annual process of providing the nameplate capacities of their facilities. The operator has advised that it is exploring this possibility, and will endeavour to confirm the accuracy of information on its registers when it contacts participants as part of the annual process of updating contact details, operational information, and facility types.

3.2.2 Obligation on production facilities (exempt) to advise on exemption status and to provide nameplate rating information

Under the Gas Rules, the operator of a production facility with a nameplate rating of less than 20 TJ per day is exempt from the daily reporting requirements of the bulletin

board. Clauses 152(4) and 164 of the Gas Rules set out a number of obligations that continue to apply to these operators.

The service provider or operator of an exempt facility must provide written notification to the bulletin board operator when it becomes aware that the facility no longer meets the terms of its exemption.⁸ An exempt facility operator must still notify the operator of the nameplate rating of its facilities by the date specified in the bulletin board procedures (or an alternative date specified under the exemption notice).⁹ The facility operator must notify the operator as soon as it becomes aware of any changes to production that will alter the nameplate of the facility for more than one year.¹⁰

The AER wrote to the operators of the three production facilities that are exempt from daily reporting requirements on the bulletin board:

- **AGL**, the operator of the Camden coal seam methane production facility
- **Anglo Coal**, the operator of the Dawson Valley production facility
- **Mosaic Oil**, the operator of the Silver Springs production facility.

The participants were asked to provide details of:

- systems and processes in place to comply with obligations under clause 152(4) and clause 164 and relevant bulletin board procedures
- the management of production levels and procedures in place to notify the bulletin board operator of any breaches of the production levels allowed under the exemption
- any quality assurance processes in place to ensure the accuracy of data provided to the operator
- situations (if any) of where the facility operator was aware that the facility may no longer meet the exemption criteria, how this came to the facility operator's attention, and actions taken to rectify the issue
- occasions (if any) where the facility operator did not advise the bulletin board

⁸ Gas Rules cl. 152(4)

⁹ Gas Rules cll. 164(1), 164(2)

¹⁰ Gas Rules cl. 164(3)

operator of a change in the nameplate rating and actions taken to rectify this.

Summary of Responses

Each respondent stated that systems and procedures were in place to monitor daily production flows from their facilities. Participants also reported that flow meters and forward estimates allowed them to measure plant output. For instance, AGL noted that the production estimates used by its gas traders are also used by management to monitor production at Camden CSM, enabling tracking of daily plant output. Anglo Coal uses equipment provided by the Queensland Gas Pipeline operator (Jemena) to measure production from the Dawson Valley facility and confirm that the plant is producing under its 20 TJ threshold.

All respondents identified methods used to monitor their exemptions, each noting that there have been no breaches of the production threshold allowed under their exemptions. Respondents suggested that significant capital investment would be required to upgrade the capacity of their plants, making it difficult to increase the nameplate ratings above 20 TJ. AGL advised it has plans to increase daily production at Camden CSM to around 20 TJ later in 2009, depending on the success of its expansion plans. AGL acknowledged the requirement to monitor this expansion and notify the bulletin board operator should production rise above the threshold.

Each of the participants approached were required to report their nameplate rating to the bulletin board operator by 30 June, under their exemption notices. The AER has confirmed with the operator that AGL and Anglo Coal have provided the nameplate capacity ratings of their respective facilities, and have had their exemptions extended. The exemption for AGL at Camden has been extended to 31 December 2009 to reflect a planned expansion, while Anglo Coal received an extension to 30 June 2010.

The bulletin board operator is still in discussion with Mosaic Oil on the provision of updated nameplate capacity rating of the Silver Springs facility, which was due on 30 June 2009.

3.2.3 Obligation on production facilities to provide capacity outlook and production data

Bulletin board production facility operators must provide a production capacity

outlook for each facility for the current day and the next two gas days.¹¹ Operators must also provide daily production data for each facility by 12.00 pm local time on the day following the relevant gas day.¹²

The AER asked a sample of production facility operators to provide details of:

- systems and processes in place to comply with obligations under clauses 165 and 166 and the relevant bulletin board procedures
- instances (if any) of where the required data was not provided to the bulletin board, including details of the systems and programs put in place to rectify this
- any quality assurance processes in place to ensure the accuracy of data provided to the bulletin board operator.

In the June 2009 quarter the AER wrote to Esso and Woodside Energy regarding the Longford and Otway production facilities respectively. The responses were reviewed alongside responses from Queensland Gas Company and Santos, which were selected for review in the March 2009 quarter.

Summary of responses

The responses indicated that each participant has developed internal systems and processes to assist with the provision of bulletin board data. Initiatives include the development of electronic upload tools, documented internal procedures, and the training of additional staff to assist with data requirements. As with the responses from the March 2009 quarter, participants reported that 3-day capacity outlook data and actual flow data is compiled by plant staff in the first instance, and then provided to operations staff for checking and consolidation prior to uploading onto the bulletin board.

Santos has developed a system whereby capacity outlook data is provided by the various plant operators at the beginning of each gas day, and then updated daily at

¹¹ Gas Rules, cl. 165. Clause 5.4 of the bulletin board procedures sets out the requirements in more detail.

¹² Gas Rules, cl. 166. See also clause 5.5 of the bulletin board procedures.

about 5:00pm. Each Friday, forecast capacity for the weekend and the Monday gas day is uploaded in a similar manner. All data, including actual production flows, is provided by plant operators to the commercial operations staff at head office for review and consolidation, prior to uploading onto the bulletin board.

Queensland Gas Company has developed a set of systems and procedures for the management of data for its Berwyndale South facility. These include instructions outlining the steps to upload data on the bulletin board via a web application. The system allows users to view the latest log file to check the status of the last uploaded file to ensure there are no errors. Access to the web application is restricted to authorised users. Queensland Gas Company is developing and trialling a new system to allow data from internal production and sales reports to be automatically uploaded on the bulletin board.

Esso uses a program to upload data from the Longford gas plant on the bulletin board, based on specifications in the participant build-pack. This system provides capacity outlook data by calculating gas day demand and maximum ramp up rates, in conjunction with any capacity restrictions. Actual production flow data is obtained from metered flow readings at Longford.

Woodside Energy advised that plant staff at the Otway gas plant provide the required outlook and flow data to head office in Perth, where it is confirmed with production forecasting staff and the production engineer. Once verified, the data sheets are updated and uploaded on the bulletin board from the head office.

At the AER's request, participants identified instances where data required under clauses 165 and 166 was not provided in accord with the timelines in the bulletin board procedures. The incidents were variously attributed to operational issues and limited resources at remote plants which caused delays in the provision of data. Inadequate procedures and systems along with file formatting issues also led to the upload of faulty data on various occasions.

In each case participants have implemented measures to rectify these issues:

- Santos has arranged for additional resources to assist in the uploading of actual production flow data at its remote production facilities in Queensland.

- Queensland Gas Company has developed new procedures and systems to automatically acquire bulletin board data from internal daily production reports.
- Esso has created an upload program that checks its data and formatting against the requirements of the Participant Build-Pack. The program also checks the validity of data for quality assurance purposes.
- Woodside Energy has trained additional staff to ensure that resources are available to provide data to the bulletin board when primary staff are absent, and has also developed a procedure to check daily flow data against end-of-day allocation figures using its Gas Balancing and Nominations System.

Participants have advised that between 26–28 April they were unable to access the bulletin board, which resulted in data not being uploaded or provided late. Bulletin board helpdesk staff were unavailable during this time.

Review outcomes

The responses indicate that participants have been able to develop and implement systems and procedures to achieve satisfactory compliance with clauses 165 and 166. Nothing in the responses indicates any significant compliance issues in the provision of 3-day capacity outlook and actual production flow data. It is noteworthy that participants continue to update and refine IT systems and provide training for back-up personnel to better meet their data provision obligations under the Gas Rules.

The AER has discussed with the bulletin board operator some concerns raised by participants during this quarter. The concerns related to difficulties in accessing the bulletin board website and difficulties in contacting the helpdesk on weekends. The availability of the helpdesk is discussed further below.

3.2.4 Obligation on pipeline operators to provide nominated and forecast delivery information, and actual pipeline gas delivery information

Pipeline operators are required to provide up-to-date nominated and forecast delivery information, as well as actual pipeline gas delivery information, to the bulletin board

operator for each gas day.¹³

As part of its review of these provisions, the AER wrote to BBI TGP Pty Ltd and SEA Gas Ltd, in relation to the Tasmanian Gas Pipeline and SEAGas Pipeline facilities respectively, and asked for details of:

- systems and procedures in place to ensure compliance with clauses 173 and 174 of the Gas Rules
- any instances where the required data was not provided to the bulletin board operator, including details of the systems and programs put in place to rectify these issues
- any quality assurance processes in place to ensure the accuracy of data provided to the operator.

Summary of responses

Tas Gas Networks (Tas Gas) advised that it currently operates the Tasmanian Gas Pipeline on behalf of BBI TGP. Both Tas Gas and SEAGas advised they have automated systems in place to ensure the timely delivery of the data onto the bulletin board. Tas Gas uses an automatic synchronising software package to report on daily delivery nomination data. This software is designed to automatically receive nominations from shippers, summarise the nominations, and send the data to the bulletin board operator.

Tas Gas advised that there had been instances in which the delivery nominations and actual flow data were uploaded late, due to an undetected intermittent failure of the automatic synchronisation software to deliver data to the bulletin board operator. To reduce the risk a recurrence, Tas Gas advised the AER that it will work closely with the bulletin board operator to ensure that all relevant data is delivered and updated. The automatic synchronising software package will be used three times a day as opposed to once a day. Tas Gas will conduct periodic manual checks of the software.

SEAGas has created automated systems to provide the required data at the same time

¹³ Gas Rules, cll. 173, 174

as schedules are amended within the SEAGas IT system. Periodic manual checks of bulletin board data ensure the information is updated on a regular basis as required.

SEAGas also noted a few instances where operational data had not been provided due to errors in processing weekly information. Other instances of late provision of actual delivery data were attributed to the expiry of user passwords, so that SEAGas staff were unable to log on to the bulletin board and upload the operational data. SEAGas was not aware that its password was due to expire. SEAGas advised that timely action was taken to rectify instances of potential non-compliance as soon as they were identified. SEAGas has also recommended that the bulletin board be updated to accept late nominations, arguing that this would be beneficial for the purpose of analysing historic data and trends in the trading market.

Review Outcomes

The responses received indicate that both SEAGas and Tas Gas have developed automated systems to comply with their reporting obligations under clauses 173 and 174. In response to instances of non-provision or late provision of data, participants have made changes to IT systems and worked with the bulletin board operator to identify and rectify the issues.

The AER has discussed with the bulletin board operator the concerns relating to password expiry and technical restrictions which do not allow the submission of late data. The operator considers that accepting late data would be poor practice, as the Gas Rules require that nomination data be provided prior to the gas day. It further noted that most nominations are provided on time and in accordance with the bulletin board procedures, and that there is sufficient data available to analyse historic trends in the market.

3.2.5 Participant issues with the bulletin board

In its March 2009 compliance report, the AER identified a number of issues raised by participants in relation to the operation of the bulletin board. The issues included difficulties in contacting the operator and receiving timely responses to queries, and concerns relating to the usability of the comma separated values or 'csv' file format of bulletin board files. Participants also highlighted certain categories of data that could be obtained from pre-existing systems maintained by pipeline operators.

Some participants suggested it would be helpful to have a data-checking facility on the bulletin board for use immediately following the upload of data.

These issues were discussed with the bulletin board operator, which provided the following comments in response.

- **Usability of ‘CSV’ file format for uploading bulletin board data** – the operator considers the CSV format to be a common industry standard and, while the bulletin board does provide a manual upload interface option, considers it reasonable that participants be able to compile CSV files. The operator also notes that direct data entry is prone to errors and can be more expensive.
- **Contacting the Bulletin board helpdesk** – a review by the operator found that helpdesk assistance has met internal KPI targets, and that technical support has been fairly prompt and effective overall. Resources are shared amongst the various operational areas of AEMO, including the bulletin board, and other functional areas, markets and systems, such as the Market Information Bulletin Board (MIBB) for the Victorian Gas Market.
- **Use of common bulletin board user IDs for internal organisational training purposes** – The operator explained that the current user ID arrangement follows internal IT policy. The operator indicated that a user providing data should be identifiable and responsible for data provided, and that individual usernames/passwords provide for a more secure data upload process.
- **Introduction of a data-checking facility on the bulletin board** – The operator advised that participant uploaded transactions are polled and verified every 5 minutes by bulletin board systems, with the results posted in transaction logs. Participants can verify whether there are any issues with the uploaded data within 5 minutes, and can usually automate this checking process using a file transfer protocol to download the transaction log.
- **Provision of bulletin board data from pipeline operator’s web systems** – The operator advised that the bulletin board is the only common Australia-wide information system for gas; as such, all participants are encouraged to adopt this system. There is no uniformity in other operators’ online systems as they follow different standards and rules. However, facility operators are encouraged to set up

internal systems to extract any data from other web systems which can be used to upload data to the bulletin board.

- **Process for improving participant processes and compliance** – The operator indicated that while many participants have automated systems to upload data, there has been less focus on having staff that understand the manual provision of data on an ad-hoc basis. The operator has encouraged participants to develop a better understanding of bulletin board documentation and obligations under the Gas Rules. The operator also indicated that further training can be made available, including organisation-specific training sessions, as requested by participants.

The AER encourages participants and the Bulletin Board operator to engage on issues such as this, where there may be potential to improve both compliance practice and Bulletin Board functionality as experience with the Bulletin Board continues to grow. A productive and cooperative dialogue between AEMO and Bulletin Board participants will allow ongoing refinement of processes to ensure that the potential benefits of the Bulletin Board are fully realised

3.2.6 Upcoming targeted compliance reviews

The AER will target a number of provisions of Part 19 of the Gas Rules¹⁴ for compliance review in the September 2009 quarter, including:

- Gas Rules 211 and 213, in respect of the submission of demand forecasts
- Gas Rule 229 in respect of the appointment of an allocation agents

The full list of gas provisions targeted over previous quarter is provided at **Appendix B** of this report.

¹⁴ Victorian Wholesale Gas Market

4 Electricity

The AER is responsible for monitoring, investigating and enforcing compliance in the national electricity arrangements. The AER has functions at the national level under the Electricity Law and Electricity Rules.

4.1 Update on investigations, market events, enquiries and compliance issues

This part of the report provides an update on:

- outcomes during the June 2009 quarter arising from past investigations¹⁵
- market events where the wholesale spot price exceeded \$5,000/MWh¹⁶
- other compliance matters, issues and enquiries made by the AER during the June quarter

Appendix A of this report lists the electricity investigations/enquiries and \$5,000/MWh reports over the last four quarters, including ongoing matters.

4.1.1 Investigations into events of 29 and 30 January 2009

The AER investigated the operation of the NEM on 29 and 30 January 2009, when extreme temperatures in Victoria and South Australia led to record electricity demand. There were also significant interruptions to transmission lines and interconnectors. In combination these events led to spot prices above \$5,000/MWh, administered pricing and load-shedding.

The AER sought to determine whether registered participants and the National Electricity Market Management Company (NEMMCO, the market operator, which became AEMO on 1 July 2009) complied with the Electricity Rules on these days. The AER is focusing on specific operational and reporting obligations of NEMMCO and network businesses which aim to ensure that full reporting and appropriate

¹⁵ Public electricity investigation reports issued by the AER are available from its [website](#).

¹⁶ These reports are available from the [AER website](#).

management of system security occurs in the event of significant interruptions to power system capabilities.

A number of factors contributed to the events of 29 and 30 January. In addition to the extreme temperatures in Victoria and South Australia, there were also short notice reductions in the availability of the Basslink interconnector and progressive reductions in the availability of a number of Victorian generators. These events, coupled with the unplanned outages of two transmission lines on 30 January 2009, left the power system in an insecure state, causing NEMMCO/AEMO to load-shed to balance demand and supply.

The AER sought written information from NEMMCO and registered participants on the causes of outages, communication between NEMMCO and market participants, and NEMMCO's management of power system security. The AER also sought information from the network businesses' regarding the effectiveness of their protection and control systems and the operation and performance of their call centres.

The AER reviewed responses to its initial inquiry and found that operational obligations had been met by NEMMCO and registered participants. At this time, the AER considers that there are no compliance issues raised by the events of 29 and 30 January. However, the AER identified some broader issues relating to the performance of, and reporting on, network capabilities by network businesses. A NEMMCO report on the events of 29 and 30 January indicated that information on network performance issues was not provided to NEMMCO in a timely manner. The AER is considering the implications of this and may seek to discuss this issue with participants in the future.

Further, initial responses from Victorian network businesses indicated that call centres were operating as per the requirements of the Victorian distribution code. However, the call centres were unable to provide appropriate notice to customers due to the short notice occurrence of the events. Participants stated that a number of means were used to provide notice to customers of the outages, including electronic media, websites and their telephony systems. One participant provided a service that allowed customers to check areas affected by the outage by postcode. All Victorian distributors reported significantly higher call volumes than for the previous January.

These are detailed in Table 2.

Table 2: Calls to DNSP call centres on 29 and 30 January 2009

Participant	Calls Received 29 January	Calls Received 30 January	Daily Average Calls 2008	Average January Calls 2008
Jemena	30378	90218	336	553
Powercor	14701	40192	819	1123
Citipower	4163	4038	179	135
United Energy	138808	39998	655	898
SP AusNet	22853	18145	1034	1317

4.1.2 Stanwell rebidding

Although the matter did not arise in the June quarter, the AER notes that it has instituted proceedings in the Federal Court of Australia (Brisbane) against Stanwell Corporation Limited (Stanwell) for alleged contraventions of the Electricity Rules. Stanwell is a Queensland Government owned electricity generator.

The AER has alleged that Stanwell did not make several of its offers to generate electricity on 22 and 23 February 2008 in ‘good faith’ as required by clause 3.8.22A of the Electricity Rules.

The proceedings arose from the AER’s report into the sustained high electricity prices in Queensland on 22 and 23 February 2008.

The AER has sought orders including declarations, civil penalties, a compliance program, and costs. Updates will be provided in future quarterly compliance reports.

4.1.3 International Power Australia rebids

On 28 May 2009 the AER wrote to International Power Australia in relation to a number of bids from its Hazelwood units that, prima facie, did not fulfil the requirement of clause 3.8.22(c) by providing brief, verifiable and specific reasons. Some of the bids were missing reasons altogether. Other rebids contained irregular and informal language which was not verifiable or specific.

The AER considered that the bids raised compliance concerns. The AER was particularly concerned given that it had raised compliance issues relating to International Power's rebid reasons earlier in 2009.

In accordance with an undertaking sought by the AER, International Power committed to:

- conduct an internal review of all rebids and inflexible bids to assess compliance with the requirement to provide brief, verifiable and specific reasons on a monthly basis for six months commencing on 1 August 2009 and ending on 31 January 2010 (Relevant Period);
- provide the AER within 14 days after the end of each month during the Relevant Period the results of the preceding month's internal review conducted in accordance with point 1;
- notify the AER at the same time as the provision of the results under point 2 whether, in International Power's reasonable opinion, there are any rebids or inflexible bids arising from the internal review conducted in accordance with point 1 that raise possible compliance concerns due to the non provision of brief, verifiable and specific reasons; and
- conduct further training of all its operational staff (including unit controllers) who are responsible for submitting rebid and inflexible.

The AER considers that compliance with the requirements to provide brief, verifiable and specific reasons is important to the functioning of the market and in assisting the AER in determining the underlying reason for the rebid. It is an important aspect of the AER's bidding behaviour monitoring regime and limits the necessity to seek further clarification from market participants using clause 3.8.22(c). The AER constantly monitors compliance in this area and treats breaches of these obligations as a serious matter.

4.1.4 General rebidding inquiries arising from monitoring

The AER monitors the performance of the NEM on an ongoing basis to screen for indicators of any non-compliance. This monitoring relies on publicly available data and information provided by AEMO and other entities. While market monitoring is

used to screen for non-compliance with a wide range of provisions, this part of the report focuses on queries made by the AER in relation to rebidding.

In the NEM, scheduled generators and market participants submit wholesale electricity offers and bids for each of the 48 intervals in a trading day.¹⁷

Clause 3.8.22A of the Electricity Rules requires scheduled generators and market participants to make dispatch offers, dispatch bids and any rebids in “good faith”.

Under clause 3.8.22 of the Electricity Rules, market participants must provide to AEMO, at the same time as a rebid is made:

- a brief, verifiable and specific reason for the rebid; and
- the time at which the event(s) or other occurrence(s) adduced by the market participant as the reason for the rebid occurred.

Equivalent requirements apply where a market participant advises AEMO that a scheduled generating unit, scheduled network service or scheduled load is inflexible¹⁸, under clause 3.8.19 of the Electricity Rules.

The information requirements in clause 3.8.22 can assist in determining whether scheduled generators and market participants make dispatch offers, dispatch bids and rebids in “good faith”.

Table 3 summarises the number of compliance issues reviewed by the AER during the June quarter relating to the quality of rebid reasons provided under clauses 3.8.19 (inflexibility) and 3.8.22 (rebidding).

¹⁷ These offers and bids cover prices and volumes in up to 10 price bands, and can be varied through rebidding.

¹⁸ The situation where, in accordance with the Electricity Rules, a scheduled generating unit, scheduled load or scheduled network service is only able to be dispatched in the trading interval at a fixed loading level specified in accordance with clause 3.8.19(a) of the Electricity Rules.

Table 3: Rebidding reviews in the June 2009 quarter

Electricity Rules Clause	Compliance issue	No. of participants under review
3.8.19(b)(1)	The rebid submitted does not provide a brief, verifiable and specific reason why the scheduled generating unit, scheduled network service or scheduled load is inflexible	5
3.8.22(c)(2)(i)	The rebid submitted does not provide a brief, verifiable and specific reason for the rebid	5
3.8.22(c)(2)(ii)	The rebid submitted does not include the time at which the event(s) or other occurrence(s) adduced by the scheduled generator or market participant as the reason for the rebid occurred	15

In addition to the above, and the “good faith” investigation referred to in part 4.1.1 of this report, the AER is also reviewing the commitment of scheduled generating units by two participants.

4.1.5 Spot price events exceeding \$5,000/MWh

The AER is required to publish a report¹⁹ covering the circumstances in which the spot price²⁰ in the electricity wholesale market or the electricity ancillary services market²¹ exceeds \$5,000/MWh in a trading interval²². The reports enhance the transparent operation of the NEM and help identify instances of non-compliance.

¹⁹ Under clause 3.13.7 (d) and (e) of the Electricity Rules.

²⁰ The price for electricity in a trading interval at a regional reference node or a connection point as determined in accordance with clause 3.9.2 of the Electricity Rules.

²¹ Market ancillary services are required to maintain the power system frequency within the standard. These services are offered into the market systems by registered providers (usually generators) along with energy market offers from the same provider and dispatched by NEMMCO in each 5-minute dispatch interval.

²² A trading interval is a 30-minute period ending on the hour (Australian Eastern Standard Time) or on the half hour and, where identified by a time, means the 30 minute period ending at that time.

In the June 2009 quarter, the AER reported on 13 occurrences where spot prices exceeded \$5,000/MWh in Tasmania.²³

On one occasion on 1 June, the high prices were primarily due to rebidding activity by Hydro Tasmania.

For 11 of the high-price events (occurring between 10 and 19 June 2009) the high prices arose when sudden and repeated reductions in the output from non scheduled generation owned by Hydro Tasmania resulted in the dispatch of other high-priced Hydro Tasmania generation. Coincident with this, there was a step change in the amount of generation capacity offered at prices above \$5,000/MWh by Hydro Tasmania.

The remaining high price event occurred at 5pm on 16 June at which time, while there was no reduction in the output from non scheduled generation, there was a significant amount of capacity priced above \$5,000/MWh by Hydro Tasmania for that trading interval.

The AER further noted that in early April 2009, Hydro Tasmania priced over 900MW of its capacity at prices just below the \$5,000/MWh threshold. This capacity was set up a day in advance and there was no significant rebidding. Prices during this period reached \$350/MWh. Whilst the AER is not obligated to publish specific reports on prices below \$5,000/MWh, such significant price variations are captured by the AER's weekly reporting.

A list of the \$5,000/MWh reports published by the AER during the previous four quarters is attached in **Appendix A**. The reports are available on the [AER website](#).

4.1.6 Consultation on revised Rebidding and Technical Parameters Guideline

²³ See: <http://www.aer.gov.au/content/index.phtml/itemId/714860>

The AER issued a draft revised rebidding and technical parameters guideline for consultation²⁴ in July 2009. The draft takes account of submissions received during the initial consultation to May 2009. The AER invited comments on this draft by 14 August 2009. A final guideline is scheduled for publication by 25 September 2009.

4.2 Audits

Auditing is one mechanism used by the AER to verify and assess compliance by registered participants with their obligations under the Electricity Law, the Electricity Regulations and the Electricity Rules. The audits aim to ensure that market participants have robust and effective compliance programs in place.

There are two main types of audits:

- audits of registered participants' internal systems and processes
- technical audits focusing on compliance with technical standards under the Electricity Rules.

During the June 2009 quarter, the AER commenced a review of Eraring Energy's compliance program in respect of its obligations under clause 4.15 of the Electricity Rules. This clause requires that a compliance program is instituted and maintained to monitor compliance with the performance standards based on schedule 5.2. This audit is ongoing and the AER expects to publish a summary of the results shortly.

The AER is also finalising arrangements for a review of TransGrid's compliance with clause 5.7.4(a1) of the Electricity Rules. This provision relates to the requirement for a compliance program, in respect of its protection and control systems and the performance requirements of schedule 5.1. Further details regarding this audit will be published in the September quarter.

4.3 Targeted compliance reviews

As discussed in part 2 of this report, targeted compliance reviews are an important

²⁴ Consultation undertaken in accordance with clause 8.9(g) of the Electricity Rules. For more information on this guideline, refer to <http://www.aer.gov.au/content/index.phtml?itemId=727855>.

element of the AER’s compliance monitoring activities. The AER targets the provisions of at least 24 Electricity Rules each year for detailed review.

Appendix B lists the Electricity Rules provisions targeted over the last four quarters. Table 4 lists the provisions targeted in the June quarter.

Table 4: Electricity Rules provisions targeted for review – June 2009 quarter

Clause	Relevant parties (subject to the current review)	Obligation	No. of targeted participants
5.3.2	NSPs	Provision of technical information to connection applicants	17
5.3.3		Procedures to ensure 5.3.2 is complied with in a timely manner	
5.3.5		Preparation of an offer to connect	
5.3.6		Confirmation that offers to connect are in accordance with 5.3.6	

4.3.1 Establishing or modifying a connection to the network

In the June 2009 quarter, the AER focussed on reviewing the provisions of the Electricity Rules dealing with establishing or modifying a connection to a network—rule 5.3 of the Electricity Rules. This is currently of particular importance following the commitment by the Council of Australian Governments to implement an expanded national Renewable Energy Target²⁵. The revised target of 45,000GWh per annum is likely to increase connection enquiries and applications. A critical aspect of any generation development is proper and timely connection to networks.

As a first step, the review focused on clauses 5.3.2, 5.3.3, 5.3.5 and 5.3.6, which require a network business to:

- facilitate the processing of connection enquiries and applications by providing technical information to the connection applicant;

²⁵ This will incorporate the existing Mandatory Renewable Energy Target (MRET) scheme and similar State-based schemes.

- respond to connection enquiries by liaising with applicants and potentially affected network service providers, and providing prescribed information within specified timeframes as outlined in the Electricity Rules;
- consult with the connecting party, other affected parties and NEMMCO regarding the risks and obligations in respect of the proposed connection; and
- provide offers to connect, including the proposed terms and conditions for connection to the network, within the time period specified in the preliminary program, and as specified in the Electricity Rules.

In the June 2009 quarter, the AER requested information from the seventeen primary network businesses—ActewAGL, Aurora Energy, CitiPower, Country Energy, ElectraNet, Energex, EnergyAustralia, Ergon Energy, ETSA Utilities, Integral Energy, Jemena, Powercor, Powerlink, SP AusNet, TransGrid, United Energy Distribution and Transend. The businesses were asked to provide:

- confirmation that they provide technical information to connection applicants in accordance with 5.3.2(f)
- details of systems and procedures to ensure their obligations under clause 5.3.3 are met, and how these are applied in practice
- details of the manner in which they liaise with other network service providers with whom they have connection agreements where there is a belief that compliance with those agreements may be affected
- confirmation that they provide the prescribed information under clauses 5.3.3(b), 5.3.3(b1) and 5.3.3(c) within the prescribed timeframes
- details of systems and procedures to process applications and make offers to connect
- confirmation that offers to connect an applicant’s facilities to the network are made within the applicable timeframes, and details of any internal monitoring, auditing or other processes used to assess the timeliness of responses to connection applications
- confirmation that their offers to connect are made in accordance with clauses 5.3.6(b), 5.3.6(b1) and 5.3.6(c)
- details of instances when their offers to connect were inconsistent with, or more onerous than, the conditions contained under schedule 5.1 and, as applicable, schedules 5.2, 5.3 and 5.3a

- details of instances of delays in meeting the required timeframes, including any steps taken to liaise with connection applicants and/or other affected parties and improve compliance with the relevant obligations
- any other relevant information.

Regulation of the distribution networks is currently transitioning from state-based arrangements to the national regime. Each jurisdiction is at a different stage of that transition. Under derogation 9.28.2 of the Electricity Rules, the South Australian distribution network service provider ETSA Utilities is not required to comply with the targeted provisions. Instead, ETSA Utilities must comply with Chapter 3 of the South Australian Electricity Distribution Code, which covers establishing and modifying connections. The Essential Services Commission of South Australia is responsible for regulating this Code and has confirmed that its audits of ETSA Utilities have not identified any significant compliance issues with the provisions of the Code.

From 1 January 2009, the responsibility for the regulation of electricity distribution networks in Victoria transferred from the Essential Services Commission to the AER. The AER is now responsible for administering both the Electricity Rules and the relevant Victorian regulations and guidelines, which remain in play in their current form until the end of 2010. The AER is currently exploring how best to make these two regulatory frameworks interact from a compliance point of view and will continue that work over the coming quarters. Responses that referred to Victorian jurisdictional regulations have been excluded from this review and will be reported on in the next quarterly compliance report.

Response summary

Connection enquiry

All network service providers showed that they provide the technical information to connection applicants which is required under clause 5.3.2(f). Several network businesses provided details of documents and procedures they have in place which incorporate these requirements. For instance, Transend, Aurora Energy, ElectraNet and Country Energy have standard documents or templates which ensure that the required technical information is provided to connection applicants. TransGrid's

standard procedure for responding to connection enquiries incorporates the necessary technical information. EnergyAustralia has put in place an internal auditing process to ensure compliance with this clause.

Powerlink, TransGrid and SP AusNet noted that they provide this information subject to the confidentiality obligations in clause 5.3.8.

SP AusNet advised that VENC Corp (AEMO) is primarily responsible for the obligations relating to clause 5.3.2(f) and the associated schedules 5.1, 5.2, 5.3 and 5.3a. However, when requested, SP AusNet does coordinate and provide information in relation to exit and entry services of the connection enquiry.

Response to connection enquiry

Networks businesses use a variety of systems and procedures to help ensure they meet their clause 5.3.3 obligations. Most responses indicated that responsibility for a connection enquiry is assigned to individuals or teams which manage the response in accord with established procedures. Standard documents—such as guidelines, charters, flowcharts, questionnaires, spreadsheets, matrixes, templates, forms and documented policies or procedures—are used throughout the process. For instance, Energex has implemented a ‘Connection Enquiries and Applications under the National Electricity Rules’ policy and a ‘Network Connection Enquiries’ procedure. Energex provides training presentations to staff to ensure the policy and procedure are understood.

TransGrid, SP AusNet, CitiPower, Powercor, Integral Energy, Ergon Energy, ActewAGL, ElectraNet and Energy Australia all reported they have systems in place to register or track enquiries to ensure prescribed timeframes are met. Many network businesses use IT systems for this and other purposes such as generating reports and internal auditing. For instance, Integral Energy’s Connection Application Management System is used to register, monitor and report on applications. Transend, TransGrid and Powerlink’s systems are modelled on Grid Australia’s Connection Process Overview.

Jemena and its related company United Energy Distribution (Jemena being the operator and manager of United Energy Distribution) have implemented separate

procedures for enquiries depending on their complexity and whether or not network planning is required. Similarly, Powercor and its related company CitiPower (jointly owned and managed) use different systems and procedures for responding to connection enquiries depending on whether the application is for small or large customer loads. ActewAGL adapts its response to connection enquiries based on whether the request is for a connection of small renewable generation facilities, or if it requires an upgrade or construction of network connection assets or shared network assets.

All network businesses provided details of how they ensure compliance with clause 5.3.3(a), which requires liaising with other network service providers with which they have connection agreements when the terms and conditions of those agreements may be affected. For instance, Transend conducts technical investigations to ensure connections do not adversely impact on the security, quality of supply or ability to meet system standards. Powerlink's connection process includes various phases of technical investigations such as a preliminary analysis, network modelling, and joint assessments with AEMO on proposed performance standards. Several network service providers also noted that they hold planning forums to discuss projects and review network issues and solutions.

All responses confirmed that they provide the prescribed information to connection applicants under clauses 5.3.3(b), 5.3.3(b1) and 5.3.3(c) within the prescribed timeframes. As previously mentioned, network businesses often rely upon standard procedures, documents or IT systems to meet the required timeframes.

Integral Energy notes that they provide the prescribed information within the prescribed time frames, except in relation to 5.3.3b(6) whereupon they provide a proposed preliminary program. The connection applicant must then approach an accredited service provider to design and construct the connection, and negotiate the timeframes and proposed milestones for delivery of connection assets.

Offer to connect

The systems and procedures used by network businesses to ensure they meet their obligations in relation to offers to connect are similar to those put in place for the connection enquiry stage. For instance, several network service providers delegate

this responsibility to individuals or teams, and use standard documents throughout the process. Ergon Energy’s procedure for assessing applications and making offers to connect forms part of its end-to-end process for establishing or modifying a network connection.

All network businesses use internal monitoring or auditing processes to ensure their offers to connect are made within applicable timeframes. The businesses use a variety of processes to ensure their offers are timely—including documented procedures, registering and tracking applications, IT system alerts, key performance indicator reports, data schedules, work instructions, regular meetings, compliance monitoring programs and management systems. For instance, Powercor’s IT system keeps track of timeframes and serves other functions such as exception monitoring, auditing and management reporting.

Nearly all network service providers stated that their offers to connect are made in accordance with clauses 5.3.6(b), 5.3.6(b1) and 5.3.6(c).²⁶ Further, the network businesses indicated that they were unaware of any instances when their offers to connect were inconsistent with, or more onerous than, the conditions contained in schedule 5.1 and, as applicable, schedules 5.2, 5.3 and 5.3a. ElectraNet noted that it has also taken into account the South Australian regulations and its wind generation licensing obligations in formulating relevant generator technical requirements.

Other information

Several network businesses reported instances of delay in meeting the required timeframes. The explanations included applicants and other network service providers being slow to provide requested information; the complexity of the connection; protracted negotiations; and high volumes of enquiries. Where delays occur, network businesses typically consult with the relevant parties to minimise delay. For instance, SP AusNet has individual project managers responsible for monitoring and following up delays. ElectraNet monitors the progress of connection applications closely, produces reports throughout the process, and reaches agreements with customers to vary timeframes when necessary.

²⁶ The AER is seeking further information from United Energy Distribution

The AER invited network businesses to provide any other relevant information. Country Energy commented that it welcomes a National Energy Consumer Framework to enhance consistency between network businesses. ElectraNet observed that it supports Grid Australia’s recommendations to improve the connection process by changing the confidentiality obligations under clause 5.3.8. TransGrid also recommended what it and other Grid Australia members refer to as a “pre-feasibility” phase, which involves consulting with applicants about their needs prior to lodging a formal enquiry in order to minimise delays and complications during the connection process. Jemena noted that it anticipates an increase in the number of embedded generator connection enquiries due to new technology and government policy to encourage clean efficient energy, and in response is improving its systems to ensure it maintains compliance with the Electricity Rules.

Review outcomes

On the basis of the responses of the seventeen network businesses, it appears that the procedures in place, if applied as described, would help the businesses to comply with the targeted provisions of the Electricity Rules.

The aim of this stage of the assessment was to ensure that network service providers have appropriate systems in place to manage connection enquiries and are able to provide the required information to prospective customers in the prescribed timeframes. This aspect of the Electricity Rules is particularly important given the recent implementation of the renewable energy scheme. Network business must be able to effectively manage a likely increase in the number of application requests.

The Electricity Rules provide a framework for network service providers to connect applicants onto their network in an efficient and timely manner. This involves ensuring appropriate resources are in place to meet these obligations. Network service providers should use good intent to satisfy the targeted provisions. There will inevitably be circumstances when these timeframes are not met, as indicated by several network businesses in their responses. The AER will continue to monitor this area of the rules as a high priority to ensure the framework remains effective, given the expected growth in this area, and widespread systemic problems do not emerge. The AER encourages both connection applicants and network businesses to come

forth if they believe these obligations are not being met or the process is becoming unworkable.

4.3.2 Upcoming targeted compliance reviews

In the September 2009 quarter, the AER will continue its review of network connection arrangements under clause 5.3 of the Electricity Rules. In particular, the AER will focus on clarifying the transitional arrangements in Victoria.

To promote greater awareness and transparency with its targeted compliance review process, table 5 below indicates the provisions that the AER intends targeting over the remainder of 2009.²⁷

Table 5: Targeted compliance reviews in 2009

Electricity Rules Clause	Compliance issue	Quarter
1.11	NEMMCO Rule Funds	September 2009
3.3.7	Drawing on credit support	
3.3.8	Maximum credit limit & prudential margin	
4.3.4	Power system security responsibilities & obligations (NSP)	
5.2.3	Network connections – obligations of NSP's	
5.7.6	Tests of generating units requiring changes to normal operation	
8.6.3	Confidentiality conditions	
2.2.4	Market Generator status	December 2009
2.3.5	Ancillary services load	
3.7.2	Projected Assessment of System Adequacy (PASA)	
4.5.2	Reactive power reserve requirements	
4.11.1	Power system security support - remote control & monitoring devices	
7.2.5	Metering – role of the responsible person	
7.9.5	Processing of metering data for settlements purposes	

²⁷ The AER will endeavour to publish in its quarterly compliance reports an advance schedule of targeted provisions covering two quarters. The table above is indicative only and each provision will be targeted subject to prevailing operational requirements and industry events. The AER will also target other provisions by using other compliance and enforcement mechanisms, as required.

4.4 Jurisdictional derogations

Chapter 9 of the Electricity Rules preserves certain jurisdiction-specific arrangements. These are known as jurisdictional derogations and exempt particular registered participants from compliance with specified provisions in the Electricity Rules. Each quarter, the AER must prepare an assessment of the effect that any act or omission would have on the efficient operation of the market, arising from the operations of participants to whom the derogations apply. This part of the report outlines the AER's findings and notes any regulatory developments during the quarter.

4.4.1 Derogations relating to Smelter Traders, Power Traders and Exempted Generator Agreements

Chapter 9 derogations exempt Victorian smelter traders, New South Wales power traders and nominated generators in Queensland (for the purposes of exempted generator agreements) from complying with the Electricity Rules to the extent that there exists:

- any inconsistency between the Electricity Rules and a contractual requirement under the relevant agreement between the various governments and other entities
- any other specified exemption in the jurisdictional derogations.

These participants must give notice to the AER of any act or omission which partly or wholly constitutes non-compliance with the Electricity Rules.²⁸

The participants advised the AER that, for the purpose of clauses 9.4.4, 9.12.3 and 9.34.6 of the Electricity Rules, there were no instances of non-compliance which materially affected the efficient operation of the market during the quarter.

²⁸ Refer to clauses 9.4.3 (Smelter Trader – Vicpower Trading), 9.12.3 (Power Traders – Delta Electricity and Macquarie Generation) and 9.34.6 (nominated generators – CS Energy and Stanwell Corporation) of the Electricity Rules.

Appendix A: AER investigations and reporting summary

This is a summary table of the AER's public electricity and gas investigations, as well as \$5,000/MWh reports, completed during the last four quarters. It also lists ongoing matters.

Industry	Date of event	Description	Status
Electricity	4 and 10 January, 18 and 19 February 2008	Investigation into rebidding (South Australia – AGL)	Review complete
Electricity	22-23 February 2008	Investigation into rebidding (Queensland - Stanwell)	Federal Court proceedings commenced
Electricity	28 May 2008	Investigation into rebidding (Victoria – International Power)	Review complete
Electricity	23 December 2008	Heywood interconnector transfer limits reduction	Review complete
Electricity	29 and 30 January 2009	Investigation into market events	Review complete
Gas	25 July 2008	Longford plant outage	Review complete
Gas	22 November 2008	Significant price event	Review complete
Electricity	31 October 2008	\$5,000/MWh Report	Issued
Electricity	20 November 2008	\$5,000/MWh Report	Issued

Industry	Date of event	Description	Status
Electricity	23 July 2008	\$5,000/MWh Report	Issued
Electricity	31 October 2008	\$5,000/MWh Report	Issued
Electricity	20 November 2008	\$5,000/MWh Report	Issued
Electricity	13 January 2009	\$5,000/MWh Report	Issued
Electricity	15 January 2009	\$5,000/MWh Report	Issued
Electricity	19 January 2009	\$5,000/MWh Report	Issued
Electricity	28-29 January 2009	\$5,000/MWh Report	Issued
Electricity	29-30 January 2009	\$5,000/MWh Report	Issued
Electricity	31 March 2009	\$5,000/MWh Report	Issued
Electricity	1 June 2009	\$5,000/MWh Report	Issued
Electricity	10 – 19 June 2009	\$5,000/MWh Report	Issued

Appendix B: Targeted rule provisions summary

This is a summary table of the provisions under the National Electricity Rules (Electricity Rules), National Gas Rules (Gas Rules) and Victorian Gas Industry Market and System Operations Rules (MSOR) targeted for compliance reviews, which have been completed by the AER over the last four quarters. The same provision is often targeted over a number of quarters involving different participants.

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted
September 2008	Electricity	Electricity Rules 2.2.3	Classification of non-scheduled generators	3
		Electricity Rules 3.7A	Market information on planned network outages	5
		Electricity Rules 4.8.9	Power to issue directions and clause 4.8.9 instructions	1
		Electricity Rules 4.8.12	System restart plan and local black system procedures	1
		Electricity Rules 7.4.2	Qualifications and registration of Metering Providers	2
		Electricity Rules 7.8.4	Changes to metering data	2
		Electricity Rules 8.6.6	Confidentiality policy	1
December 2008	Electricity	Electricity Rules 2.2.3	Classification of non-scheduled generators	3

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted
		Electricity Rules 2.3.4	Market Customer obligations	9
		Electricity Rules 3.7A	Market information on planned network outages	5
		Electricity Rules 4.8.12	System restart plan and local black system procedures	1
		Electricity Rules 4.9.2A	Dispatch instructions to Scheduled NSPs	1
		Electricity Rules 7.4.2	Qualifications and registration of Metering Providers	2
March 2009	Gas	Gas Rules 145	Publication of information by bulletin board operator	1
		Gas Rules 165	Obligation on production facility operators to provide 3-day production capacity outlook	4
		Gas Rules 166	Obligation on production facility operators to provide actual production data	4
		Gas Rules 168	Obligation on bulletin board storage providers to provide 3-day production capacity outlook	2
		Gas Rules 169	Obligation on bulletin board storage providers to provide actual storage production data	2

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted
		Gas Rules 170	Obligation on pipeline operators to provide nameplate rating information	2
		Gas Rules 172	Obligation on pipeline operators to provide linepack/capacity adequacy indicator	2
		Gas Rules 181	Emergency information	1
		Gas Rules 182	NGERAC or a Jurisdiction may request activation or deactivation of emergency information page	1
		Gas Rules 183	bulletin board emergency use indicator	1
		Gas Rules 184	Jurisdiction may make public statements on an emergency	1
	Electricity	Electricity Rules 2.3.4	Market Customer obligations	5
		Electricity Rules 4.8.12	System restart plan and local black system procedures	3
		Electricity Rules 4.14	Acceptance of Performance Standards	1
		Electricity Rules 4.15	Compliance with Performance Standards	1
		Electricity Rules 5.3.9	Procedure to be followed by a Generator proposing to alter a generating system	n/a

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted
June 2009	Gas	Electricity Rules 5.7.3	Test to demonstrate compliance with connection requirements for generators	1
		Gas Rules 148 and 154	Maintenance of up-to-date registers of Bulletin Board participants and facilities, including facilities declared exempt.	1
		Gas Rules 152 and 164	Obligation to advise the Bulletin Board operator of any changes to exemption status, and to provide nameplate rating information.	3
		Gas Rules 165 and 166	Obligation to provide 3 day capacity outlook data and actual production flow data to the Bulletin Board.	4
	Electricity	Gas Rules 145, 181-184	Obligation to provide nominated and forecast delivery data and actual pipeline gas delivery data to the Bulletin Board	2
		Electricity Rules 5.3.2	Connection inquiry	17
		Electricity Rules 5.3.3	Response to connection inquiry	17
		Electricity Rules 5.3.6	Offer to connect	17