



Quarterly Compliance Report:

National Electricity and Gas Laws

April – June 2013

Published July 2013

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AER reference: 51362-D13/90681

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Executive summary

The purpose of this Quarterly Compliance Report (**QCR**) is to outline the Australian Energy Regulator's (**AER**) compliance monitoring and enforcement activity under the National Electricity Law (**Electricity Law**) and National Gas Law (**Gas Law**)—including the rules and regulations which sit under those Laws. This QCR covers the period 1 April to 30 June 2013 (**the June 2013 quarter**).¹

The first chapter provides an update on compliance and enforcement work undertaken for the gas markets. We outline an incorrect submission of capacity data by AGL for the short term trading market (**STTM**) and a number of errors for the Victorian gas market. We also report on key findings from our audit of Jemena's Eastern Gas Pipeline.

There is an update for the strategic compliance project which seeks to improve demand forecasting for the STTM. While the accuracy of demand forecasts by Origin Energy and AGL has remained relatively consistent with the previous quarter, there was less of a bias towards over or under forecasting.

Chapter two contains details of a number of electricity matters, such as:

- Origin Energy ramp rate rebidding for the Shoalhaven Hydro Scheme
- a failure by EnergyAustralia to provide customers with access to metering data
- an update on instrument transformer testing which Responsible Persons were required to complete by the end of the quarter (we discuss how AEMO will report testing results to us and our next steps)
- undertakings by Ergon Energy in relation to the regulatory test for a network augmentation around Stanthorpe in Queensland
- the conclusion of our audit of Macquarie Generation's Bayswater Power Station.

Of particular note is a survey we distributed as part of a strategic compliance project to review the electricity transmission connections process. The survey seeks to assess compliance by network businesses with the National Electricity Rules (**Electricity Rules**) and to determine how satisfied connecting customers were with the connection process. The survey was sent to over 150 connecting parties relating to a total of over 350 projects. Responses to the survey are due during the next quarter.

This report also summarises the Australian Energy Market Operator's (**AEMO**) response to our targeted compliance review regarding protecting confidential information in the electricity market. AEMO's response outlined a number of improvements that have been made to its internal processes following recent confidentiality breaches in gas.

For those readers from network businesses, sections 2.3 (electricity transmission connections), 2.4 (meter data quality and upgrades) and 2.7 (regulatory test for Stanthorpe augmentation) will be of particular interest.

¹ Previous QCRs are available on [our website](#).

Background

The AER is responsible for monitoring compliance and enforcement under legislation and rules governing Australia's wholesale energy markets, including those applying to Network Service Providers. Section 15 of the Electricity Law and section 27 of the Gas Law set out our functions and powers, which include:

- monitoring compliance by energy industry participants² and other persons
- investigating breaches, or possible breaches, of provisions of the legislative instruments under our jurisdiction.

Consistent with our [statement of approach](#), we aim to promote high levels of compliance, and seek to build a culture of compliance in the energy industry. A culture of compliance will:

- reduce the risk of industry participants breaching their regulatory obligations
- assist in ensuring industry participants can engage confidently in efficient energy markets.

As part of this process, we undertake a continuous compliance risk assessment of the Electricity and Gas Rules to identify appropriate focus areas and monitoring/compliance mechanisms. These mechanisms include our strategic compliance projects, audits, the imposition of reporting requirements, market monitoring, and targeted compliance reviews.³

In selecting the areas for review, we adopt the following principles:

- consideration of risk (the greater the risk, the higher the priority)
- a commitment to ensuring that both systemic issues and those with the potential for isolated but significant impact are addressed.

In carrying out our monitoring functions, we aim for:

- cost effectiveness for energy industry participants and the AER
- transparency (subject to confidentiality requirements).

While most obligations under the Electricity and Gas Rules do not require registered participants to establish specific compliance programs, we take into account a participant's compliance framework when determining responses to breaches. In assessing compliance culture, we consider whether compliance programs and processes are effectively applied, up-to-date and tested regularly.

² Entities registered by AEMO under Chapter 2 of the Electricity Rules or in accordance with Part 15A of the Gas Rules.

³ Provisions of the Gas Rules and Electricity Rules that have been targeted for review in previous quarters are listed in Appendix B.

1 Gas

We are responsible for monitoring, investigating and enforcing compliance with the Gas Law and Rules, including but not limited to, the Short Term Trading Market (**STTM**), the Victorian gas market and the Bulletin Board.

This part of the report provides an update on investigations, compliance matters and projects in the gas markets.

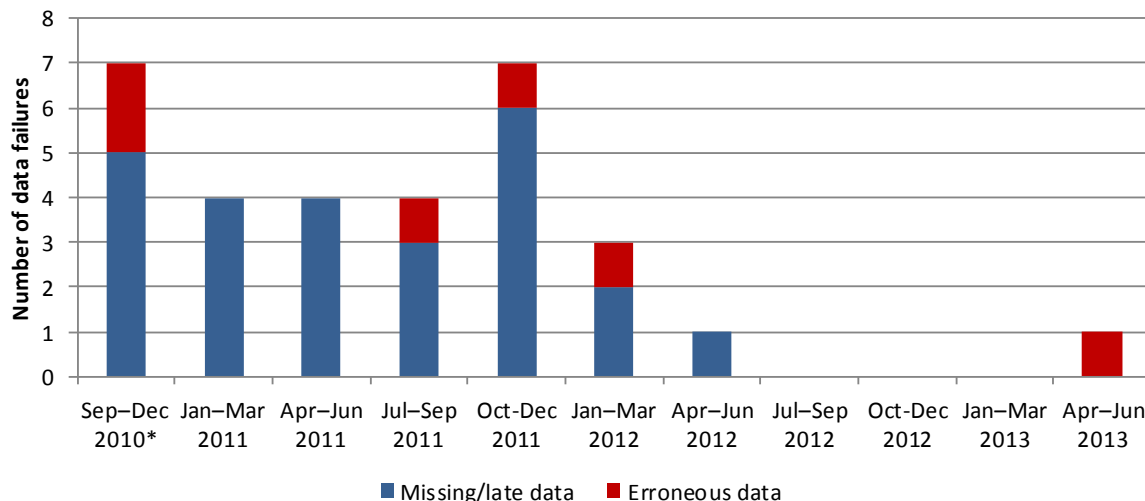
Short Term Trading Market

Part 20 of the Gas Rules sets out participants' responsibilities within the STTM, which encompasses three gas trading hubs: Adelaide, Sydney and Brisbane. The rules outline how wholesale gas is traded and include requirements for pipeline operators to submit pipeline capacity and allocation (gas flow) data.

1.1 Capacity and allocation data quality

During this quarter we continued to monitor the quality of STTM data. Figure 1.1 below illustrates the performance of STTM participants in submitting capacity and allocation data from the start of the STTM to June 2013. Data failures are categorised as relating to either 'missing/late' or 'erroneous' data.

Figure 1.1 Data failures since STTM commencement



* September 2010 has been grouped with the December 2010 quarter. Therefore, this data point represents four months.

Despite the general improvement in the quality of data provided to the STTM, one event did occur in April as a result of human error by AGL with respect to its Camden facility (see section 1.2).

A failure to provide accurate and timely data can lead to inefficient pricing signals and market outcomes, resulting in inappropriate wealth transfers between participants. It may also undermine the integrity and reliability of the STTM, discouraging potential entrants or even causing participants to exit the market.

1.2 AGL capacity error for Camden

AGL submitted incorrect capacity information to AEMO for its Camden facility for the 1 April 2013 gas day. AGL intended to advise the capacity was 16.2TJ, however it submitted 0.9TJ. AGL explained that the incorrect submission was due to a combination of human and system errors.

AGL considers human error was the main cause since manual checks by staff should have picked up other errors. AGL had previously implemented a practice of manually reviewing and verifying capacity data prior to submitting it to AEMO, however, this process was not followed for the 1 April 2013 gas day. Following this incident the Manager of Gas Operations reinforced this requirement with the trading team and the need to consult the daily checklist of tasks to manage the risk of human error.

In terms of system errors, AGL addressed what it thought to be file formatting issues contributing to the error for 1 April in early June 2013. However, subsequently AGL advised that formatting issues may not have been a problem on the day—rather there was potentially an IT problem with a link between its ‘STTM Nominator’ system and a temporary database.

Following this incident, we sought undertakings from AGL to ensure that similar errors do not occur in future. AGL has now committed to a broad review of its IT systems and the training program for its gas traders. It will report its findings and recommendations to us by the end of August 2013.

We will continue to monitor compliance by STTM Participants with information and data requirements with the aim of minimising data related errors. Where appropriate, we will consider enforcement measures such as issuing an infringement notice to ensure compliance with the Gas Rules. Participants are encouraged to review our [Compliance Bulletin No. 7](#) which outlines the impact of STTM facility data errors.

1.3 Administration of Sydney hub price

For the 29 May 2013 gas day, a failure in AEMO’s data processing systems caused a delay in publishing the ex post price as required under gas rule 426. As a result AEMO issued an administered ex post price of \$5.01/GJ for the Sydney hub.

AEMO published a report regarding this matter on 11 July 2013, noting that it was caused by database server performance issues. This is concerning given the previous data processing issues in late 2012 which led to delays in the publication of ex post prices. These matters were highlighted in the [December 2012 QCR](#).

AEMO has brought forward a planned deployment of a change to transfer data earlier, thereby reducing the volume of data transferred at 11am. In addition AEMO has rescheduled other system processes which may potentially affect performance at the 11am window or moved them to alternative servers.

As well as monitoring the progress of these proposed improvements, we plan to meet with AEMO to discuss this matter further.

1.4 Facility operator audits

Since 2011, we have been progressively undertaking compliance audits of STTM participants. This series of audits, which looks at compliance with information and data obligations under Part 20 of the Gas Rules, is an ongoing effort to improve the culture of compliance with STTM obligations across the

industry. This quarter we completed the fourth audit under this process, examining Jemena with respect to the Eastern Gas Pipeline.

The audit involved four steps:

- issuing Jemena an audit questionnaire
- reviewing Jemena's response to ascertain whether it adequately met the aim of the audit
- a site visit to Jemena's head office to discuss questions and issues that arose from Jemena's response
- issuing Jemena with an audit report outlining conclusions and recommendations.

Following the audit meeting on 17 June 2013, we were generally satisfied that the processes and systems which Jemena had in place, if implemented and maintained appropriately, should have been sufficient to satisfy the applicable information and data obligations under Part 20 of the Gas Rules. Our key findings were:

- Jemena has established a central framework to monitor compliance obligations and issues as they arise. There are systems in place to analyse and report on STTM non-compliance (and near misses) in a timely manner
- Jemena appears to have learnt from previous compliance issues, adding to its compliance and monitoring tools to assist in the effective provision of STTM data
- Jemena should make a concerted effort to improve its communication with the AER on compliance issues and the progress of proposed remedies as these are often not reported to us in a timely manner.

However, after the audit meeting, Jemena failed to submit data on time on 13 and 14 July 2013. We will investigate these incidents and report on outcomes in the next QCR.

During the audit, Jemena raised the fact that Gas Rule 420, a clause covered by the audit questionnaire, applies to contract holders and not STTM pipeline operators. We agree with Jemena's interpretation and will contact STTM participants who have already been audited under this process seeking updated responses for the relevant questions.

Next audit

Next quarter we will commence an audit of SEAGas. This will be the final audit in the series of STTM information and data audits.

1.5 STTM demand forecasting

In 2012, we commenced a project in response to ongoing occurrences of poor demand forecasting from a number of STTM participants. Demand forecasts are a primary input for scheduling and are used to calculate the ex ante price. Poor demand forecasting leads to inefficiencies in dispatch whereby the ex ante price is set on the basis of a higher or lower quantity of gas than is required. It can also lead to wealth transfers in the STTM, for example where large amounts of MOS (balancing gas which is parked on or loaned from pipelines) is required as a result of poor forecasts.

In previous reports we have published charts highlighting the forecasting performance of Origin Energy and AGL, two of the largest players in the Adelaide hub.⁴ The charts show monthly mean percentage error as a proportion of total demand and actual monthly error. Negative errors represent under forecast demand and positive errors represent over forecast demand.

Updated charts through to the end of June 2013 are shown in Figures 1.2 and 1.3 below. The charts show a similar level of demand forecast errors compared to previous quarters for both Origin Energy and AGL, however the bias of under forecasting by Origin and over forecasting by AGL appears to be reducing.

Figure 1.2 Origin Energy demand forecasting in Adelaide hub

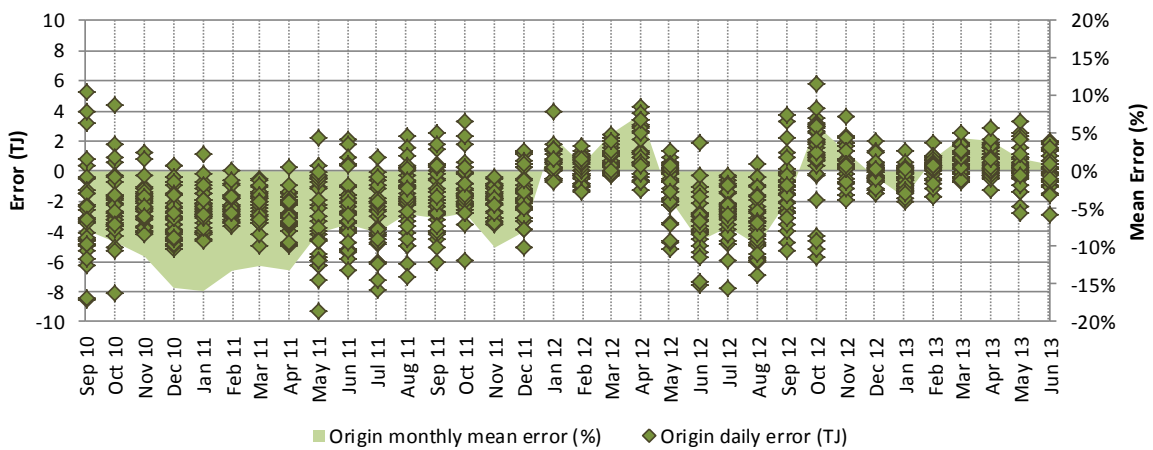
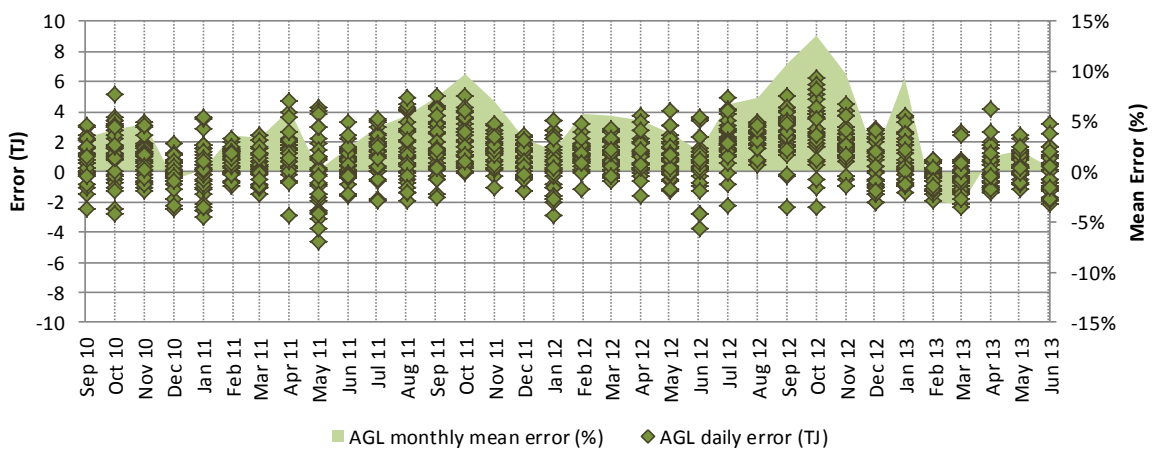


Figure 1.3 AGL demand forecasting in Adelaide hub



Victorian gas market

Part 19 of the Gas Rules sets out participants' responsibilities in the Victorian Gas Market. The rules outline how wholesale gas is traded within the market and AEMO's obligations to operate the physical system. A number of recent errors by AEMO and participants are reported below.

⁴ See the December 2012 and March 2013 QCRs on [our website](#).

1.6 AEMO daily load errors

In late March, AEMO notified us (pursuant to obligations under section 91MB of the Gas Law) that it had committed a non-material breach of the Victorian Retail Market Procedures. Due to a misinterpretation of internal correspondence, AEMO failed to upload new base load and temperature sensitivity data from November 2012 correctly.

Based on information provided by AEMO it is unlikely that this breach resulted in an impact on the market. This is because the financial impact of any variation between estimated and actual data will be removed at the time of revision settlement when actual daily load readings replace (incorrect) estimated data.

1.7 AEMO gas scheduling procedures issue

On 29 October 2012, AEMO applied supply and demand point constraint (**SDPC**) hourly quantities incorrectly. BassGas notified a constraint to AEMO at 5:37am, less than half an hour before the end of the 28 October gas day. AEMO staff misread the SDPC request and incorrectly applied it for the 29 October day, rather than the 28 October gas day as BassGas requested.

As a result of this error, BassGas scheduled injections for the 29 October gas day were reduced from 40 000GJ to 31 242GJ and the revised 6am ex ante price increased from the initial price of \$3.50/GJ to \$4.14/GJ.

While the error did impact on market payments, AEMO determined that the estimated financial impacts of the breach do not meet the financial thresholds for an unintended scheduling result. Because of this, the breach of the Wholesale Gas Market Procedures was not considered to be material.

AEMO has since taken measures to address factors that may have contributed to the error, including providing additional operator training and liaising with BassGas to further its operators' understanding of plant constraints and AEMO requirements with respect to SDPC requests. There are practical and system restrictions which mean that a request for a constraint submitted 30 minutes before the end of the day will not always be applied by AEMO.

1.8 Origin Energy demand forecast error

In April 2013, Origin submitted incorrect Victorian gas market demand forecast data to AEMO over multiple days as a result of IT system issues. Origin has commenced a review of its Victorian gas market forecasting processes to ensure it continues to improve its system and process so it can meet its data and information obligations in all markets.

Bulletin Board

Part 18 of the Gas Rules sets out participants' responsibilities regarding the Bulletin Board. These obligations aim to facilitate greater transparency in gas production and gas pipeline flows to assist gas trading. The obligations also require participants to identify and report any potential conditions where curtailment of gas use might be necessary.

Participants submit daily pipeline nominated and forecast delivery data as required by gas rule 173. During the quarter, two facility operators failed on a total of ten occasions to submit firm nomination

Bulletin Board data to AEMO on the relevant gas day. We will continue to track non-compliance with Bulletin Board requirements and pursue any systemic breaches.

Participants submit daily production and pipeline flow data as required by gas rules 166 and 174. During the quarter, two facility operators failed on a total of three occasions to submit daily flow Bulletin Board data to AEMO. This was a slight improvement on the previous quarter in which two facilities each had two instances of missing data.

We will continue to track non-compliance with Bulletin Board requirements and pursue any systemic breaches.

2 Electricity

We are responsible for monitoring, investigating and enforcing compliance under the Electricity Law and Rules.

This part of the report provides an update on investigations, compliance matters and projects in the electricity market.

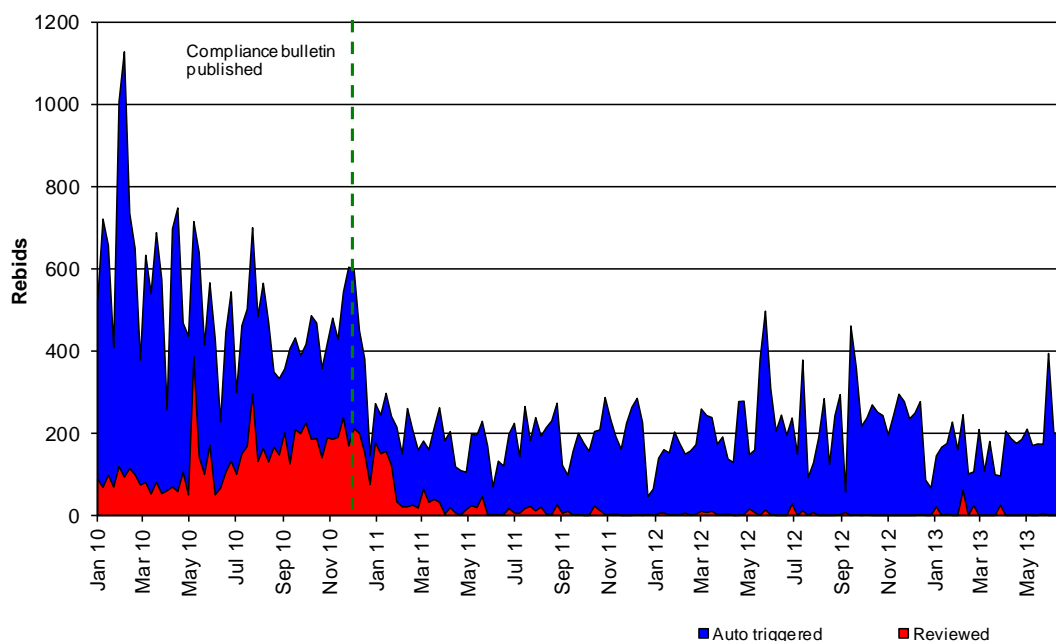
2.1 Rebidding

Scheduled generators and market participants operating in the National Electricity Market (**NEM**) submit electricity offers and bids for each half hour trading interval. The offers and bids include available capacity for up to 10 price bands, and can be varied through rebidding.⁵

We adopted a new strategy in relation to enforcing generator rebidding reason requirements in 2010.⁶ Generators that submit offer, bid and/or rebid information that does not meet the requirements of the Electricity Rules will receive two warnings. On the third warning within six months, we will consider issuing an infringement notice. A participant's warning count is set to zero after six months.

Figure 2.1 shows that since 2010 the number of rebids detected by our internal compliance system has fallen markedly. The number of rebids which required further review has also fallen significantly.

Figure 2.1 Rebids auto-triggered and reviewed per week



⁵ Market participants must provide to AEMO, at the same time as a rebid is made, a brief, verifiable and specific reason for the rebid, plus the time at which the reason for the rebid occurred. Equivalent requirements apply where AEMO is advised, under clause 3.8.19 of the Electricity Rules, that a unit, service or load is inflexible. Clause 3.8.22A of the Electricity Rules requires that dispatch offers, dispatch bids and rebids are made in 'good faith'.

⁶ In June 2012, we published an updated [Compliance Bulletin No. 3](#) to make it clear that, for the purposes of administering the three stage process and issuing warnings, we will rely on the cumulative count of non-compliant bids for all generating units under the same portfolio. In other words, where a parent company employs a common trading team for the bidding of multiple generating units in its portfolio, irrespective of whether these generators are different registered participants, we will count any non-compliant bids by that trading team together.

During the June quarter, we issued one warning. It was an initial warning with respect to a rebid which saw a generators ramp rate reduced to below the allowed minimum of 3MW/minute without a technical reason. Participants notified us that there was an error in their rebids on 31 occasions. There were also two participants who had their rebid counts reset to zero.

2.2 Origin Energy ramp rate rebidding

On 16 October 2012, the Shoalhaven Hydro Scheme, which is operated by Origin Energy, rebid its ramp rate down to zero on the basis that it would be unable to meet its dispatch target due to the unique operating limitations of the scheme. At the time, network congestion was resulting in Shoalhaven being instructed to reduce output.

The Shoalhaven scheme comprises generation and pump storage arrangements at Kangaroo Valley (160MW) and Bendeela (80MW), fed from relatively small water storages at Fitzroy Falls and Bendeela dams respectively. The configuration of the scheme means that discrete levels of output are desirable to manage storage levels and technical problems that result from not operating at full output. For the purpose of the NEM, the scheme is aggregated into one generator of 240MW.

Rebidding a ramp rate of zero is allowed only when technical limitations mean it would be unsafe to do otherwise. These requirements are spelt out in clause 3.8.3A of the Electricity Rules—a civil penalty provision. In December 2012, we wrote to Origin seeking information to better understand the circumstances that required it to rebid the zero ramp rate. It appeared that Origin had bid a zero ramp rate without the requisite technical basis and that other options may have been available to Origin to manage the limitation within the scheme.

After a follow up meeting with Origin Energy in March 2013, we wrote to Origin outlining our expectations with respect to these requirements. In particular, the AER considers that:

- zero ramp rate should be used only when all other options have been exhausted
- while acknowledging the particular characteristics of the Shoalhaven scheme, we consider that on this occasion (16 October 2012), there were other options available to Origin, albeit for a limited time, other than rebidding the ramp rate to zero
- generators should use best endeavours to follow dispatch instructions as closely as possible, particularly at times of network congestion. If there is only a limited choice between discrete generation levels at which a plant can safely operate, then the level that most accurately aligns with the dispatch instructions should be followed.

These expectations are also broadly reflected in our [Rebidding and technical parameters guideline](#).

On 10 July Origin sought further clarification of our expectations and agreed to modify its trading procedures to reflect, as best it can, our expectations with respect to the operation of the Shoalhaven hydro scheme.

We will continue to monitor that ramp rates submitted for the NEM and take this opportunity to encourage participants to review our *Rebidding and technical parameters guideline*.

2.3 Electricity transmission connections

Our electricity transmission connections strategic compliance project commenced in December 2011 in response to concerns raised by connection applicants about the Transmission Network Service

Provider (**TNSP**) connection process. It involves a survey of parties that have sought to connect to the National Electricity Market transmission network.

The survey seeks to assess compliance by TNSPs with the Electricity Rules and to determine how satisfied connecting customers were with the connection process. It focuses on the performance of network businesses in terms of timeliness, provision of information, cost, design, availability of competitive procurement and responsiveness to the connecting customer's commercial needs.

The survey, which was developed in consultation with the transmission network service providers, was finalised and sent out this quarter. To give all parties who have submitted a connection enquiry since 2007 the opportunity to respond to the survey, we sought contact details of those parties from the network businesses. These details were provided on a confidential basis to be used only for the purposes of sending out this survey and cross checking responses to ensure they relate to genuine connection enquiries.⁷ Survey responses will also be treated strictly as confidential unless the respondent elects to waive its anonymity.

Survey responses are due during the next quarter. While no information identifying individual TNSPs or connection projects will be published, after assessing the results, we may decide to publish some of the aggregated results and lessons learnt, if appropriate.⁸

2.4 Electricity metering – data quality and metering upgrades

As highlighted by the AEMC's Power of Choice review,⁹ metering arrangements play a crucial role in the current and future operation of the NEM. It is important to ensure participants comply with their metering obligations under the Electricity Rules in order to facilitate effective and efficient metering processes.

We currently have two projects focusing on this area—metering data quality and the upgrade of metering installations.

Metering data quality

In consultation with AEMO, we will continue to monitor the quality of metering data provided to AEMO's market settlement and transfer solution (**MSATS**) system. The MSATS system captures important connection point information, such as the customer's relevant distribution loss factor and retailer of last resort. It also captures actual and aggregated metering data. AEMO is currently developing new reporting metrics and seeking to improve the performance of MSATS users using targeted compliance activities and participant engagement. We will continue to assist AEMO in this process.

Figure 2.2 below shows the number of MSATS errors made by each Local Network Service Provider (**LNSP**) in the last week of each month since April 2010. We have reviewed total error levels

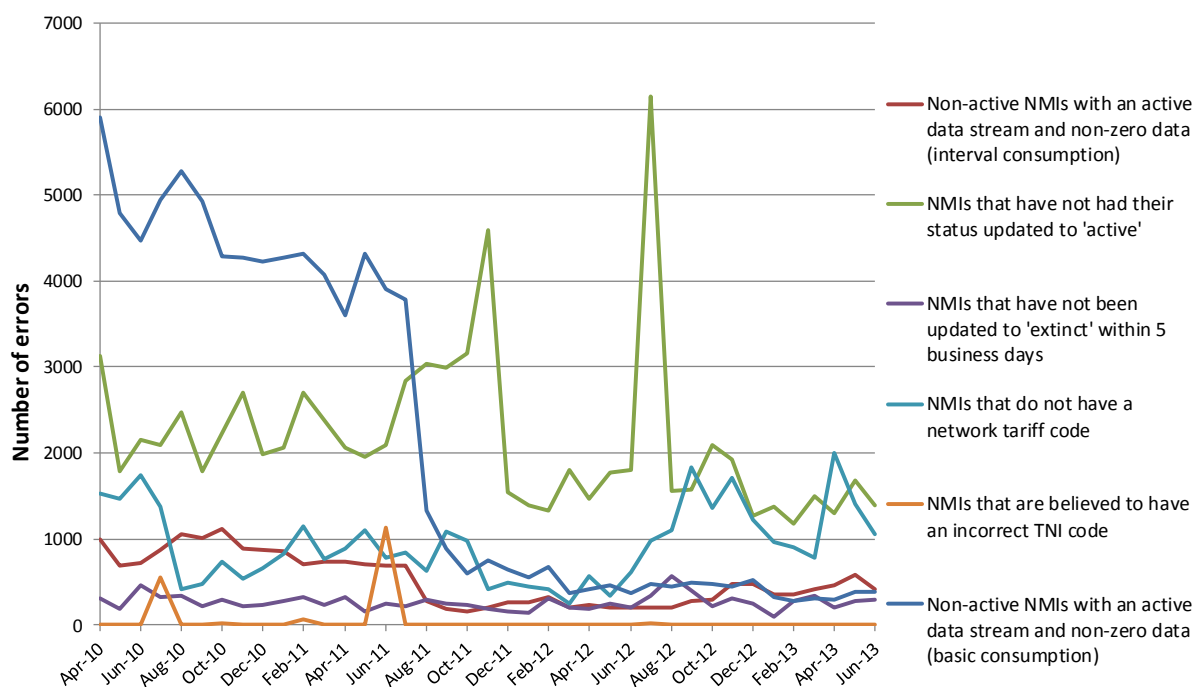
⁷ If you have submitted a connection enquiry since 2007 and did not receive an email inviting you to complete the survey, or if you would simply like to read the survey, please email AERInquiry@aer.gov.au with subject 'Transmission connection survey' and we will send you a copy.

⁸ A respondent waiving confidentiality allows us to discuss the connection project with the relevant TNSP. We would still not publish information relating to the individual TNSP or project.

⁹ Available on the [AEMC website](#).

across the six errors and will be contacting LNSPs who have shown a consistently high number of errors over that period.

Figure 2.2 Total MSATS errors across all LNSPs



Upgrade of metering installations

We have been working with AEMO to ensure customers have appropriate metering installations. As identified by the Power of Choice review, interval meters play an important role in facilitating demand side participation. The metering rules and metrology procedures establish a series of volume limits and accuracy thresholds for various types of meters.¹⁰ When the amount of energy through the meter exceeds that threshold, the meter should be upgraded. While the Responsible Person (RP) for the metering installation (which may be the Financially Responsible Market Participant (FRMP) or the LNSP) is responsible for the performing the upgrade, the cost of replacing the meter and the arrangements to replace the meter need to be negotiated with the customer.

During the quarter, AEMO advised us that there were at least 275 metering installations that exceeded the volume threshold. In response, we wrote to the 20 retailers and distributors who have responsibility for these meters to seek resolution of the matter. We will report on the progress of this project in the next QCR.

2.5 Customer access to metering data

Under the National Electricity Rules, the FRMP is required to provide its customers with access to metering data on request.¹¹

¹⁰ Clauses 7.2.1, 7.3.4 and schedule 7.2 of the Electricity Rules.

¹¹ Clause 7.7(a)(7) of the Electricity Rules.

In March 2013, we received a complaint alleging EnergyAustralia had failed to provide a number of customers with access to metering data. In response to our inquiries, EnergyAustralia acknowledged that its customer service staff had inappropriately told approximately 200 customers to seek meter data from their metering data provider (**MDP**). EnergyAustralia explained it was unable to provide this data for large customers due to a system malfunction between September 2012 and April 2013. However, the retailer acknowledged its staff had misled customers by stating they could no longer receive metering data from EnergyAustralia.

In May 2013, EnergyAustralia provided an undertaking to review the circumstances that led to the breach and to implement remedial actions as a priority. Its remediation activity report identified the root cause and impact of not providing customers with access to metering data and outlined immediate and long term actions it will take to prevent a similar breach from occurring.

As part of its commitment, EnergyAustralia agreed to write to the affected customers and offer them access to the metering data from the impacted period, free of charge. We were provided with a copy of the letter which EnergyAustralia sent to customers in June 2013.

Participants should review their obligations regarding the provision of metering data to customers and ensure that the processes that are in place can satisfy such requests.

2.6 Instrument transformer testing update

We released [Compliance Bulletin No. 6](#) on instrument transformer testing in December 2011. The bulletin sets out our expectations for instrument transformer testing as required by the Electricity Rules and sought for industry to demonstrate a willingness to comply with these requirements by testing a sample of their instrument transformers.

We proposed that each year an RP should test either 10 per cent of its metering installation population, or a sample of its meters in accordance with an alternative sampling method approved by AEMO. RPs were required to submit testing strategies and plans to AEMO by 1 July 2012, with the required level of testing to be completed by 30 June 2013.

In September 2012 we wrote to 18 RPs who had not submitted their instrument testing strategies and plans to AEMO within the required timeframe. The responses to these letters were generally positive, with RPs either providing the testing strategy and plan to AEMO immediately, or committing to provide these documents to AEMO by (or prior to) the end of November 2012.¹²

Earlier this year, RPs provided an update on their testing programs to AEMO. The responses demonstrated various levels of progress, however, RPs were working towards completing testing by the 30 June deadline. We will liaise with AEMO to assess whether each RP has achieved the required level of testing in August 2013.

The obligation to test instrument transformers is not new, having been in place since the commencement of the NEM. Those responsible for this testing have been given significant notice of the requirements and were provided various opportunities to contribute to the process of designing an alternative testing strategy with AEMO. If, following an assessment of the testing results, we consider participants have not responded appropriately, we will consider all of the enforcement options available to us to ensure that non-compliance is addressed.

¹² A summary of this review is in the [September 2012 QCR](#).

2.7 Ergon Energy's regulatory test for Stanthorpe augmentation

In December 2012, we received a complaint about Ergon Energy's (**Ergon**) application of the regulatory test with respect to a proposed network augmentation around Stanthorpe in Queensland. The regulatory test is based on a cost-benefit analysis and has regard to the principles of economic efficiency and competitive neutrality. Applying the regulatory test for this project, Ergon concluded that an additional 110kV line from Warwick to Stanthorpe was the preferred option.

At the time the regulatory test was conducted, clause 5.6.2 of the Electricity Rules required a DNSP who identified a network limitation in a distribution network to undertake joint planning with the relevant transmission business to identify all likely network and non-network alternative options to overcome this limitation. This clause also required the DNSP to conduct an economic cost benefit analysis to identify the preferred development option. Where the recommended network augmentation option was not a new small network distribution network asset, the DNSP was required to consult with registered participants, AEMO and interested parties.

Clause 5.6.2 and the regulatory test were designed to promote transparency in the way that a network service provider addresses limitations identified on its network. The intention of these arrangements is to ensure that all credible investment options, including both network and non-network alternatives, are considered equally by the network service provider.

Following the complaint, we undertook a review of Ergon's regulatory test for the Stanthorpe augmentation and its compliance with clause 5.6.2 of the Electricity Rules.

The review identified several compliance issues:

- Ergon placed strict eligibility criteria on non-network options. In the request for information document, Ergon required that all non-network options be committed projects.¹³ This would require a non-network option to have a firm commencement date, a planning approval, ownership of the necessary easements and have all required contracts and financing arrangements in place. This is a high threshold to meet at an early stage of the planning process and may unnecessarily preclude viable non-network options from being considered. Therefore, while it is appropriate for the timeframes for non-network options to be outlined during a regulatory test consultation, it is inappropriate to require these options to be committed. The regulatory test does not require non-network options to be committed but rather to be 'a practical alternative to the option being assessed'.
- Ergon applied the wrong version of the regulatory test. It applied the then out-dated version two of the regulatory test, rather than version three.

The regulatory test was also conducted close to the time the augmentation was required, with Ergon noting that it was to be completed by the end of 2012. This restricted the options that could be considered. Subsequently, Ergon has noted that the project will now not be required until 2016 or beyond.

¹³ As defined in paragraph 20 of the regulatory test.

We sought an undertaking from, Ergon to:

- conduct a new regulatory test (or regulatory investment test for distribution (**RIT-D**)¹⁴ if it is in force) for the project closer to the time that the augmentation need is forecast to arise
- carry out a review of its treatment of non-network options in regulatory tests and report its findings to us.

Ergon Energy has committed to both of our requirements

2.8 Technical audits

Auditing is one mechanism we use to verify and assess compliance by registered participants with their obligations. The audits aim to ensure participants have robust and effective compliance programs in place that are consistent with Good Energy Industry Practice.

We conduct regular technical compliance audits in the electricity sector of generators and network service providers. These audits generally focus on the Electricity Rules clauses 4.15 and 5.7.4, particularly the requirement on electricity generators and network service providers to institute and maintain a compliance program in accordance with prescribed requirements.

In particular, the mandated Compliance Program must:

- include procedures to monitor the performance of the plant in a manner that is consistent with good electricity industry practice
- provide reasonable assurance of ongoing compliance with applicable performance standards registered with AEMO.

During the quarter, we concluded the technical audit of Bayswater Power Station. This plant is situated in the Hunter Valley (New South Wales) and is operated by Macquarie Generation, a state-owned entity.

Macquarie Generation was able to demonstrate that it has in place an evolving program that should provide a reasonable assurance of ongoing compliance with its registered performance standards. There is also a high level of expertise and experience at Macquarie Generation amongst key staff responsible for the technical and operational aspect of the plant. Notwithstanding that, we made a number of recommendations to improve the implementation, operation and maintenance of Bayswater Power Station's performance standards compliance program and related arrangements. The recommendations were:

- document control practices including greater consistency between compliance documents and clearer cross referencing of interrelated documents
- supplementing testing procedures and processes with relevant material, for example by using more accessible electronic file structures

¹⁴ The RIT-D was introduced as part of the AEMC's distribution network planning and expansion rule change. The RIT-D replaces the regulatory test as the framework for distribution businesses to identify which investment option is the most economical to address the investment needs of their distribution network. We are responsible for drafting the RIT-D and RIT-D application guidelines and are currently consulting on draft versions of these documents (see [our website](#)). The RIT-D will apply from 1 January 2014.

- formalisation of various performance standards procedures and processes.

While these changes are incremental and will not have an immediate or drastic impact on the implementation of Macquarie Generation's compliance program, they are likely to assist the program to operate more effectively. Macquarie Generation has agreed to implement these changes, which we will monitor until completion.

Next we will audit AGL's 420MW Macarthur wind farm Victoria, the first wind farm to be examined under our compliance audit program. Later in the year we will audit South Australia's transmission company, ElectraNet, under clause 5.7.4 of the Electricity Rules.

2.9 Targeted compliance review

Targeted compliance reviews form an important part of our monitoring program. The reviews explore participants' compliance practices and aim to improve stakeholder understanding of obligations. A list of the provisions targeted under this process since the June 2011 quarter is provided in appendix B of this report.

This quarter we reviewed Electricity Rules clause 8.6.6 which outlines AEMO's responsibilities for the handling of confidential information. We previously targeted this clause in September 2008 and considered that the policies and practices AEMO (then NEMMCO) had in place were likely to adequately protect confidential data.¹⁵

In 2011 and 2012, AEMO reported confidentiality breaches under the Gas Law and the Retail Market Procedures (South Australia).¹⁶ The causes of these specific breaches and proposed remedies were reviewed by AER and AEMO senior staff in September 2012.

Although AEMO has not reported confidentiality breaches in electricity, given the work AEMO has done to address these compliance issues for its gas operations, we thought it timely to ask AEMO to also review its processes under clause 8.6.6 of the Electricity Rules.

AEMO stated that the protection of confidential and protected information is a priority. In its response, it summarised a range of policies, procedures and training it has established to assist it to meet its obligations under clause 8.6.6 and its obligations in relation to the management of confidentiality generally.

In 2011 both internal and external reviews were conducted of AEMO's arrangements for the management of confidential information. The internal review comprised discussions with members of the Executive Leadership Team, while the external review included a survey of all AEMO employees to assess their understanding and awareness of AEMO's obligations in relation to confidential information. AEMO outlined that the survey revealed a high level of awareness of the types of confidential information that AEMO manages, as well as of the importance of managing this information appropriately.

The review recommended that a confidential information policy and supporting guidelines be established. The Confidential information policy sets out AEMO's approach to the management and protection of confidential information and notes that confidential information will only be disclosed in

¹⁵ Our findings for the previous review are contained in the [September 2008 QCR](#).

¹⁶ See the September 2011, March 2012, June 2012 and September QCRs on [our website](#).

accordance with AEMO's rights and obligations. It also sets out the responsibilities of management and employees in relation to the protection of confidential information.

The confidential information policy and guidelines were reviewed and updated in August 2011. AEMO intends to review these documents again in the second half of 2013.

The following measures were also implemented following recent reviews:

- Development and delivery of a training program on the management of confidential information to all employees. This training is undertaken biennially, with the next session in quarter four 2013.
- Completion of confidentiality agreements for all existing staff and a requirement for all new employees, including contractors, to sign a confidentiality agreement.
- Establishment of minimum standards of security to be applied for securing electronic documents during transmission and securing information stored on portable communication devices.

In 2011 AEMO also developed an information security management system. This defines the framework used to protect and control access to AEMO's infrastructure, systems and data. This is supported by an information security policy that describes AEMO's approach to key areas of information security, including information classification, acceptable usage and deletion of sensitive data.

AEMO's compliance with confidentiality requirements is reviewed by its external gas and electricity market auditors, with findings identified during this process rectified via actions agreed between AEMO management and the auditors. The management of confidential information is also considered as part of AEMO's strategic internal audit program.

With respect to the confidential breaches for gas, AEMO has implemented a number of process improvements to minimise the risk of recurrence of similar breaches. Some of those improvements were also implemented for electricity, such as:

- a peer review process, whereby emails being sent to an external recipient are drafted by one AEMO staff member and reviewed by another before they are sent
- the increased use of an application 'Settlements Direct' which distributes settlements information via automated emails in an encrypted format
- a centralised review function to ensure that the account mappings for participant access are correct, ensuring that data is sent to the correct participant.

The Gas and Electricity Rules place confidentiality obligations on AEMO and all registered participants. A breach of these requirements can at the very least significantly hamper participants' confidence in providing information to the market institutions and other participants. We consider that through this review, AEMO has demonstrated that it has effective processes in place for the handling of confidential information. The process and remedial actions undertaken by AEMO provide guidance to industry more generally on the steps businesses should consider to fulfil these requirements.

2.10 Jurisdictional derogations

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

- any inconsistency between the Rules and a contractual requirement under the relevant agreement between the government and other entities
- any other specified exemption in the jurisdictional derogations.¹⁷

The relevant participants must give us notice of any act or omission which partly or wholly constitutes non-compliance with the Electricity Rules. No instances of non-compliance were reported in this quarter.

Following the transition of Gladstone Power Station to CS Energy and our inquiries regarding clause 4.15 of the Electricity Rules for the [March 2013 QCR](#), we discovered that there is no performance standards compliance program in place for Gladstone. While this power station is covered by a Chapter 9 derogation under an exempted generation agreements in Queensland, CS Energy is responsible for its compliance with performance standards.

CS Energy is currently developing a performance standards compliance program for Gladstone. We will liaise with CS Energy to ensure the matter is resolved as quickly as possible.

¹⁷ Refer to Electricity Rules 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).

Appendix A: Shortened forms

Shortened form	Full title
ACCC	Australian Competition & Consumer Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AMI	Advanced Metering Infrastructure
CATS	Consumer Administration and Transfer Solution
Electricity Law	National Electricity Law (Schedule to the National Electricity Act)
Electricity Rules	The National Electricity Rules made under Part 7 of the Electricity Law
FCAS	Frequency Control Ancillary Service
Gas Law	National Gas Law (Schedule to the National Gas Act)
Gas Regulations	The National Gas (South Australia) Regulations made under the National Gas Act
Gas Rules	The National Gas Rules made under Part 9 of the Gas Law
GEIP	Good Energy Industry Practice
GJ	Gigajoule
LCA	Linepack capacity adequacy
MAP	Moomba to Adelaide pipeline
MOS	Market Operator Service
MSATS	Market Settlement and Transfer Solution
MT PASA	Medium Term Projected Assessment of System Adequacy
MW	Megawatt
MWh	Megawatt hour
National Electricity Act	National Electricity (South Australia) Act 1996 (South Australia)
National Gas Act	National Gas (South Australia) Act 2008 (South Australia)
NEM	National Electricity Market
NMI	National Meter Identifier
QCR	The AER's quarterly compliance report
RIT-T	Regulatory investment test for transmission
RP	Responsible Person
STTM	Short Term Trading Market
SWN	System Wide Notice
TJ	Terajoule

Appendix B: Previous targeted compliance reviews

Below is a summary of the Electricity Rules and Gas Rules provisions we have targeted most recently

Quarter ending	Industry	Rule	Description
June 2011	Gas	172	Provision of linepack capacity adequacy indicators for the Bulletin Board
		378	Obligation to update information registered with AEMO
		435	Requirement to provide good faith, best estimate contingency gas offers
September 2011	Gas	300	Obligation to protect metering installations from unauthorised interference
		403	Obligation to investigate the circumstances of a MOS shortfall
		410	Obligation to make good faith, best estimate price taker bids (demand forecasts)
December 2011	Gas	180	Obligation to publish peak demand day information
		219	Obligation to notify AEMO of injection and withdrawal quantities
		254	Obligation to provide and maintain security (prudential requirements)
March 2012	Gas	336	Emergency procedures awareness
September 2012	Gas	213(2)(b) and (c)	Injection and withdrawal bids in the Victorian gas market
March 2013	Electricity	4.15	Compliance with performance standards
June 2013	Electricity	8.6.6	AEMO requirements for confidential information