



# **Quarterly Compliance Report**

**January – March 2011**

April 2011

© Commonwealth of Australia 2011

This work is copyright. Apart from any use permitted by the *Copyright Act 1968* (Cth), no part may be reproduced without permission of the Australian Competition and Consumer Commission. Requests and inquiries concerning reproduction and rights should be addressed to the Director Publishing, Australian Competition and Consumer Commission (ACCC), GPO Box 3131, Canberra ACT 2601.

Inquiries about this report should be addressed to:

Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

Telephone: (03) 9290 1444  
Fax: (03) 9290 1457  
Email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

Reference: 45180-D11/515552

# Contents

<b>Glossary .....</b>	<b>1</b>
<b>Executive Summary .....</b>	<b>2</b>
<b>1 Introduction .....</b>	<b>4</b>
<b>2 Gas .....</b>	<b>6</b>
2.1 Investigations, market events and compliance issues .....	6
2.1.1 Bulletin Board data provision issues.....	6
2.1.2 Victorian gas market .....	10
2.1.3 Short Term Trading Markets compliance issues .....	11
2.2 Targeted compliance reviews .....	16
2.2.1 AEMO response to a failure to conform to scheduling instructions .....	16
2.2.2 Obligation to ensure compliance by allocation agent .....	18
2.2.3 Conditions relating to MOS .....	20
<b>3 Electricity .....</b>	<b>23</b>
3.1 Investigations, market events and compliance issues .....	23
3.1.1 Rebidding .....	23
3.1.2 Spot and ancillary services high price events .....	25
3.1.3 Late settlement payment .....	26
3.2 Audits.....	27
3.2.1 Completion of Tarong Energy’s technical audit.....	28
3.3 Jurisdictional derogations .....	29
<b>Appendix A: Targeted provisions summary .....</b>	<b>30</b>

# Glossary

ACCC	<a href="#">Australian Competition &amp; Consumer Commission</a>
AEMO	<a href="#">Australian Energy Market Operator</a>
AER	Australian Energy Regulator (website at <a href="http://www.aer.gov.au">www.aer.gov.au</a> )
Bulletin Board	The <a href="#">Natural Gas Services Bulletin Board</a> established under Part 18 of the Gas Rules (also known as the National Gas Market Bulletin Board)
CRS	Customer Reporting System
EGP	Eastern Gas Pipeline
Electricity Law	National Electricity Law (a Schedule to the National Electricity Act)
Electricity Rules	The <a href="#">National Electricity Rules</a> made under Part 7 of the Electricity Law
Gas Law	National Gas Law (a Schedule to the National Gas Act)
GMS	Gas Management System
Gas Regulations	The <a href="#">National Gas (South Australia) Regulations</a> made under the National Gas Act
Gas Rules	The <a href="#">National Gas Rules</a> made under Part 9 of the Gas Law
GEIP	Good Energy Industry Practice
GJ	Gigajoule
MOS	Market Operator Service
MSP	Moomba to Sydney Pipeline
MW	Megawatt
MWh	Megawatt hour
National Electricity Act	<a href="#">National Electricity (South Australia) Act 1996 (South Australia)</a>
National Gas Act	<a href="#">National Gas (South Australia) Act 2008 (South Australia)</a>
NEM	The National Electricity Market being the electricity wholesale exchange operated and administered by AEMO, and the national electricity system, which covers the following regions: Queensland, New South Wales, Victoria , South Australia, and Tasmania
PJ	Peta Joule
RBP	Roma to Brisbane Pipeline
QCR	Quarterly Compliance Report issued by the AER
QSN	Queensland-South Australia-New South Wales
STTM	Short Term Trading Market established under Part 20 of the Gas Rules
SWN	System Wide Notice
SWQP	South West Queensland Pipeline
TGP	Tasmanian Gas Pipeline
TJ	Terajoule
Victorian gas market	The Victorian Declared Wholesale Gas Market established under Part 19 of the Gas Rules

# Executive Summary

The Australian Energy Regulator (**AER**) is responsible for monitoring compliance and enforcement under legislation and rules governing Australia's wholesale energy markets. Section 15 of the National Electricity Law<sup>1</sup> (**Electricity Law**) and section 27 of the National Gas Law<sup>2</sup> (**Gas Law**) set out the functions and powers of the AER, which include:

- monitoring compliance by energy industry participants<sup>3</sup> and other persons
- investigating breaches, or possible breaches, of provisions of the legislative instruments under the AER's jurisdiction.

This report outlines the compliance monitoring and enforcement activity of the AER over the period 1 January 2011 to 31 March 2011 (**the March 2011 quarter**).<sup>4</sup>

With respect to gas, this report provides an update on:

- data issues affecting the Natural Gas Services Bulletin Board (**Bulletin Board**) and
- recent steps taken by the AER to address data quality in the gas Short Term Trading Market (**STTM**).

The Quarterly Compliance Report (**QCR**) also summarises the results of targeted compliance reviews of the National Gas Rules (**Gas Rules**) undertaken by the AER—specifically, conformance with scheduling instructions in the Victorian Declared Wholesale Gas Market (**Victorian gas market**), and compliance with STTM obligations by allocation data agents and Market Operator Service (**MOS**) contract holders.

---

<sup>1</sup> As enacted under the *National Electricity (South Australia) Act 1996* (SA).

<sup>2</sup> As enacted under the *National Gas (South Australia) Act 2008* (SA).

<sup>3</sup> Entities registered by the Australian Energy Market Operator (**AEMO**) under Chapter 2 of the Electricity Rules or in accordance with Part 15A of the Gas Rules.

<sup>4</sup> Previous reports available from <http://www.aer.gov.au/content/index.phtml/itemId/692887>.

With respect to the electricity industry, this report provides an update on completed investigations and compliance matters relating to National Electricity Rules (**Electricity Rules**). Specifically this report covers:

- the quality of information related to rebidding by generators.
- the conclusion of a technical audit of Tarong Energy (clause 4.15)
- high price events affecting the wholesale spot price and ancillary services price
- compliance reporting from participants derogated under Chapter 9.

In the previous QCR the AER introduced four “special projects” for 2011, which seek to address quite specific issues in the energy industry. The AER has been progressing all four projects. This QCR provides updates on two of the projects. The first is the project dealing with data quality in the STTM (see section 2.1.3). The second is the project looking at generator rebidding reasons (see section 3.1.1). An update on all of the projects will be provided in the next QCR.

# 1 Introduction

The AER undertakes compliance monitoring and enforcement activity pursuant to the Electricity Law and Rules and Gas Law and Rules.

Consistent with its statement of approach,<sup>5</sup> the AER aims to promote high levels of compliance, and seeks 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
- minimise penalties in the event of a breach
- ensure industry participants can engage confidently in commercial decisions and negotiations.

As part of this process, the AER undertakes a continuous compliance risk assessment of the Electricity Rules and Gas Rules to identify appropriate focus areas and monitoring mechanisms. The mechanisms include audits, targeted compliance reviews, market monitoring, and the imposition of reporting requirements.

In selecting the areas for review, the AER adopts 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 its monitoring functions, the AER aims for:

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

---

<sup>5</sup> Available from the AER website at <http://www.aer.gov.au/content/index.phtml/itemId/685897/fromItemId/656069>.

While most 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 when determining its enforcement response to breaches. In assessing a compliance culture the AER considers whether compliance programs and processes are effectively applied, up-to-date and tested regularly.

The AER welcomes comment and feedback from industry participants and other parties on matters of compliance, including the specific areas targeted, or proposed to be targeted, for review.



## **2 Gas**

The AER is responsible for monitoring, investigating and enforcing compliance with the Gas Law and Gas Rules, as they relate to the Bulletin Board, Victorian gas market and the STTM.

### **2.1 Investigations, market events and compliance issues**

This part of the report provides an update on several gas matters, including:

- reviews and completed investigations
- market events
- other compliance matters and issues.

#### **2.1.1 Bulletin Board data provision issues**

Part 18 of the Gas Rules sets out participants' responsibilities regarding the Bulletin Board. The obligations in this area aim to facilitate greater transparency in gas production and gas pipeline conditions to assist trade within and between Australian gas markets. The obligations also require participants to identify and report any potential conditions where curtailment of gas users might be required. The AER monitors the quality and timeliness of information posted on the Bulletin Board.

##### **2.1.1.1 Actual daily production and pipeline flow data**

Participants must submit daily production and pipeline flow data as required by Gas Rules 166 and 174, respectively.<sup>6</sup> There were problems submitting this information on seven days in the March 2011 quarter (table 1).

---

<sup>6</sup> Clause 169 also provides an obligation on storage providers to provide daily storage production data.

**Table 1: Bulletin Board data errors**

<b>Gas day</b>	<b>Details</b>
1 January	BHP Billiton failed to provide production data for the Minerva production plant
22 January	Santos failed to provide production data for each of its Bulletin Board production facilities
25 January	Jemena was late in providing flow data for the Eastern Gas Pipeline and Queensland Gas Pipeline
2-3 February	Tasmanian Gas Pipeline provided erroneous flow data
10 February and 17 February	Esso failed to provide production data for the Longford gas plant within the required timeframe

The AER immediately contacted each participant, seeking an explanation for the data failures and the steps taken to reduce the risk of reoccurrence, following those incidents.

#### **BHP Billiton**

BHP Billiton's failure to provide data occurred when the operator entered an incorrect date into the system. BHP Billiton has responded to AER inquiries by modifying its control room log sheet to require an extra check by operators prior to submitting data to the Bulletin Board.

#### **Santos**

Santos submitted data but failed to confirm it was accepted by AEMO's systems. This manual check is normally performed after uploading the data. Santos has committed to implementing system checks to improve the process. It is also considering developing an internal website to monitor nominations and gas flows across its production facilities.

#### **Jemena**

IT system failures meant that data could not be automatically transferred from Jemena's systems to AEMO's systems. While Jemena manually uploaded data for the Eastern Gas Pipeline later in the day, it inadvertently failed to submit data for the

Queensland Gas Pipeline. Jemena responded to the AER's inquiries by implementing an alert to notify staff of system problems, and by requesting its IT service provider to include in procedures the re-processing of Bulletin Board files in the event of system failure.

### **Tasmanian Gas Pipeline**

Lost internet connectivity at Tasmanian Gas Pipeline's (TGP) primary site occurred following an optic fibre network failure, preventing correct data from being submitted. The network failure also impacted on TGP's disaster recovery systems preventing contingency plans being implemented. TGP has since established a second backup system using wireless technologies to ensure internet connectivity is available in the event of future connectivity failures.

### **Esso**

Data input errors caused a delay in submitting production data to the Bulletin Board. Esso is reviewing its compliance processes to prevent future data failures. Esso has also implemented processes requiring senior engineering personnel and management endorsement prior to uploading data on the Bulletin Board.

### **AER assessment**

These incidents highlight a variety of issues that can affect the ability of participants in delivering accurate and timely information to the Bulletin Board. It also highlights steps that can be taken to mitigate these risks. The AER expects all participants to note these examples and remedies to ensure that such data failures are minimised.

Given the measures taken by participants to prevent future non-compliance, the AER determined that it will not further pursue these incidents at this stage. The AER will contact these participants in three months to verify all proposed remedial actions have been implemented.

The AER will continue to monitor the Bulletin Board to identify occurrences of missing or late data and other types of non-compliance. It will consider enforcement action where appropriate.

### **2.1.1.2 3 day capacity outlook and pipeline nomination data**

Under rules 165 and 171 of the Gas Rules, producers and pipeline operators respectively, are required to provide accurate 3-day capacity outlook data<sup>7</sup>. Under rule 173, pipeline operators must also provide daily nomination and forecast flow data.

#### **Provision of notional data**

The AER understands APA Group included notional backhaul flows in its forecast pipeline flow data from 14–17 February. In response to AER inquiries, APA Group indicated that backhaul nominations are a normal part of Roma to Brisbane Pipeline (**RBP**) operations. While these flows increase the notional quantity of gas transported through the RBP, they do not translate into physical flows. The AER believes including notional backhaul flows in forecasts may confuse users of the Bulletin Board as to how much physical gas can be delivered.

APA Group has since implemented a manual process to publish daily data excluding notional backhaul flows on the RBP. Additionally, its systems will be enhanced to ensure non-physical flows are not included in future forecast pipeline flow data.

Despite the information published, APA Group noted at no time during 14–17 February did the forecast physical flow exceed the pipeline’s published capacity outlook of 187 Terajoules (**TJ**).

#### **Incorrect capacity outlook figures**

Epic Energy provided incorrect capacity outlook data for the South West Queensland Pipeline (**SWQP**) for each gas day from 26–30 March 2011.

Epic Energy has indicated that pipeline capacity data is sourced from the latest capacity figures in its Customer Reporting System (**CRS**). The daily flow capacity for the SWQP is currently 181 TJ/day. On 24 March, Epic Energy staff inadvertently created a new capacity record for the SWQP in the CRS, based on the (old) default capacity of 132 TJ/day.<sup>8</sup> This figure was incorrect.

---

<sup>7</sup> Clause 168 also obliges storage providers to provide 3 day capacity outlook data.

<sup>8</sup> This capacity figure had been used prior to the commissioning of the Queensland-South Australia-New South Wales (**QSN**) link.

Epic Energy staff were not aware this default figure would be automatically used for the Bulletin Board where a new capacity figure was not manually entered.

Epic Energy rectified the problem by 28 March and updated the default capacity of the SWQP to the correct nameplate capacity of 181 TJ/day. Epic Energy indicated it is undertaking a full review of its Bulletin Board data requirements and the associated CRS set-up, and will develop a list of actions as a result of its investigation.

### **AER assessment**

The AER has discussed Bulletin Board data systems and processes, and remedial actions taken to address recent data provision problems, with APA Group and Epic Energy. The AER has decided not pursue these incidents at this stage but will contact these participants in 3 months to verify outcomes of their system enhancements and other remedial actions are completed.

## **2.1.2 Victorian gas market**

### **2.1.2.1 Late publication of schedules**

As the market operator, AEMO is required to publish operating schedules within prescribed timeframes. On two occasions in March 2011, AEMO failed to meet timeframes specified under rule 215(3)(c) by publishing schedules shortly after the deadlines (one was 11 minutes late and the other was 24 seconds late).

AEMO informed the AER that market participants have not indicated any material impacts from these delays. It indicated the delays were caused by failures in operating systems leading to reports not being generated.

Late publication of operating schedules can potentially introduce confusion in daily gas market trading, although the short delays in these instances made this unlikely. The AER will discuss this issue further with AEMO in coming months to determine if AEMO has taken the necessary steps to minimise future occurrences.

### **2.1.2.2 Compliance bulletin update—best estimates under rule 213**

The AER has reported three instances since 2009 of non-compliance with rule 213 (best estimate obligations) of the Gas Rules. The AER advised it would issue a compliance bulletin to highlight the importance of these provisions, clarify any confusion amongst participants and to outline the AER's expectations.

Prior to publishing the bulletin, the AER indicated it would seek advice from AEMO on any limitations within AEMO procedures and bidding mechanisms concerning intra-day rebids that may have implications for how market participants can comply with the intent of these rules. AEMO is currently investigating these limitations and will advise the AER further by the end of April.

### **2.1.3 Short Term Trading Markets compliance issues**

Part 20 of the Gas Rules sets out participants' responsibilities within the STTM. Compliance issues reported on this quarter are restricted to STTM facility operator/allocation agent data provision obligations. In the previous quarter, the AER identified six such compliance matters, four of which were addressed in time for the QCR for December 2010. The remaining matters are assessed below along with four new data issues identified this quarter.

The previous QCR also highlighted that STTM data quality would be a special project for 2011. This QCR updates on steps taken as part of this project.

#### ***Industry forum with STTM pipeline facility operators***

Following events involving all four STTM pipeline facility operators in the early months of the STTM, the AER instigated a meeting with the senior regulatory managers and chief executive officers of each major pipeline to discuss the importance of STTM data obligations. At the meeting the AER outlined:

- the specific obligations on pipeline operators
- its expectations for compliance
- its views on what each business should strive for with respect to good industry practice.

Following that meeting in February, the AER is satisfied each business is committed to ensuring that data quality, and the systems and processes required to ensure data integrity, are a top priority. The AER also acknowledges the steps taken by the pipeline facility operators to date to address a number of these issues.

### *Auditing of STTM facility operators in second half of 2011*

The AER will continue to scrutinise pipeline operators' behaviour to ensure the timely submission of accurate data. This will be done through a series of compliance audits with each business, beginning from the second half of 2011. The results of these audits will be reported in future quarterly compliance reports.

### *Update on STTM facility operator/allocation agent non-compliance days*

#### **8 October 2010 – APA Group**

The AER noted in the December 2010 QCR that APA Group had submitted an incorrect allocation of 329 TJ on the Moomba to Sydney Pipeline (**MSP**) for the 8 October 2010 gas day. This caused the ex-post price to be set at \$390/GJ, close to the market price cap of \$400/Gigajoules (**GJ**).

Despite APA Group later correcting the allocation to 140 TJ, overall deviation charges (based on the \$390/GJ price) to participants exceeded \$2.5 million for this gas day. This compared to deviation charges of less than \$100,000 for other gas days that week.

#### **1 November 2010 (previous quarter) – APA Group**

On the 1 November 2010 gas day the ex-ante price at the Sydney hub reached \$150/GJ when APA Group provided erroneous capacity figures on the MSP (low capacity nominations of 69-75 TJ were provided for the MSP for the preceding three days). Because of the limited capacity on the MSP, AEMO scheduled additional gas through higher priced offers (\$150/GJ) on the Eastern Gas Pipeline (**EGP**). However overall demand (around 280 TJ) exceeded available capacity (around 275 TJ) for the Sydney hub, resulting in the ex-post price reaching \$400/GJ (the market price cap).

The AER wrote to APA Group regarding the 8 October and 1 November 2010 data issues, to ascertain whether there was non-compliance with rules 369 and 414 of the Gas Rules.<sup>9</sup>

---

<sup>9</sup> Rule 414(1) of the Gas Rules require each STTM facility operator to provide the expected amount of gas it will be able to deliver to the relevant hub on the next gas day and the following two gas days. This must be done by 11am each gas day in accordance with good gas industry practice, and the quantities must not exceed the maximum capacity provided to AEMO under rule 376(1)(g).

APA indicated the data failure on the first occasion was due to its gas flow computer at Wilton providing erroneous pipeline data, while on the second occasion the available capacity at Wilton generated by the GMS was lower than the actual available capacity for the 1 November gas day.

The AER notes that APA Group has recently completed a meter upgrade at Wilton and as also completed a review of its STTM processes. The AER also understands APA Group has begun implementing several remedial actions to address these issues, including:

- daily conference calls with key staff (including General Managers) to confirm figures to be provided to the STTM
- creating spreadsheets to validate output from its Gas Management System (GMS)
- providing additional resources on weekends to ensure the accuracy of STTM data
- reviewing and updating current work procedures to capture additional tasks required for meeting STTM data obligations

APA Group also indicated it is developing changes to its GMS STTM module to correct the coding error (to be implemented by end-April 2011), and an approval process for manually inputted data.

#### **27 January and 30 January 2011 – Epic Energy**

On these gas days Epic Energy failed to provide pipeline allocation data to AEMO by the day+1 11am deadline.<sup>10</sup> For the 27 January gas day, the data failure occurred when AEMO switched from one data system to another. As a result, Epic Energy's STTM data transfer facility could not communicate with AEMO's system.

For the 30 January gas day, the failure to provide the pipeline allocation file was due to a missing MOS step allocation file. AEMO's systems reject these files if they are not submitted together. Epic Energy noted the MOS step allocation file was rejected

---

<sup>10</sup> Rule 419(1) of the Gas Rules requires agents for each STTM facility operator to provide an allocation notice for the preceding gas day by 11am each gas day<sup>10</sup>. The notice must include the STTM allocation amount for each registered facility service, which must not be less than zero.



due to invalid data from a shipper which had not been identified during manual validation checks prior to the day+1 11 am deadline. This invalid data was not captured by Epic Energy's systems.

Epic Energy responded to the AER's inquiries by taking remedial actions, including:

- a review of STTM procedures and refresher training for relevant staff, including weekend billing staff
- establishing methods for the validation testing of pipeline allocation and pipeline capacity reports in line with future changes to its Customer Reporting System (CRS)
- format changes to audit logs so rejected reports are displayed in red, and negative nominations by shippers are prevented or highlighted as invalid by CRS
- a change in timing for the submission of STTM data, which is to be brought forward from 10:30 am to 9:30 am each gas day, and email/pager alerts to be sent to appropriate personnel in Commercial and IT
- instigating a procedure to change the STTM password on the first Monday each month to prevent account lock-out problems.

Epic Energy also indicated it will enhance its systems to deal with instances when AEMO changes over data systems.

#### **15 March and 24 March 2011 – Jemena**

On 15 March, Jemena submitted erroneous allocation data for the Eastern Gas Pipeline (**EGP**), resulting in the under reporting (by 13.5 TJ) of total gas deliveries to the Sydney STTM hub. The AER understands an IT error in Jemena's systems was the cause.

On 24 March, erroneous allocation data from Jemena resulted in an 18 TJ under-reporting of gas deliveries to the Sydney STTM hub. The error occurred because of manual intervention to correct a perceived error. In adjusting its allocation figures to match its pipeline meter data, Jemena did not include backhaul allocations.

The AER have contacted Jemena regarding these data issues. In response, Jemena noted its staff were unaware that AEMO's system is configured to add backhaul gas to forward haul deliveries to the hub in their reporting structure. However, Jemena indicated it has since revised its daily allocation process to recognise the impact of backhaul allocations on total reported allocation figures.

Jemena is also implementing a data quality process improvement plan which includes:

- internal training to increase technical understanding of compliance obligations
- implementing additional data verification steps as part of daily reconciliation processes prior to submitting the data to AEMO
- incorporating lessons learnt from these incidents

Jemena also indicated it will compile allocation data in advance of the 11am market deadline to allow additional time for a review of all data prior to submission.

#### **AER assessment**

Despite these instances, there were fewer data failures from pipeline operators in the March 2011 quarter than the previous quarter. However, ongoing instances of incorrect pipeline data continue to raise concerns. Pipeline allocation and capacity data play important roles in the STTM. Failure to provide accurate and timely data can lead to inefficient pricing signals and market outcomes, resulting in inappropriate wealth transfers between STTM participants. It may also undermine the integrity and reliability of the STTM, discouraging potential entrants or even causing participants to exit the market.

The AER raised its concerns with APA Group regarding data problems on the 8 October and 1 November 2010 gas days, and continues to liaise with this participant on the status of its corrective actions to improve systems and processes. Since the AER's intervention, APA Group has been compliant with the data provision requirements of the Gas Rules as it adopts additional processes for data integrity. The AER will undertake a series of STTM compliance audits later this year, beginning with APA Group.

The AER will also continue liaising with all STTM pipeline operators, regarding any data issues which may arise, including the causes of the failures and remedial actions undertaken.

## 2.2 Targeted compliance reviews

Targeted compliance reviews form an important part of the AER’s compliance monitoring program. The reviews explore participants’ compliance practices and aim to improve stakeholder understanding of obligations. Table 2 lists the gas provisions targeted in the March 2011 quarter.<sup>11</sup>

Table 2: Gas Rules—provisions targeted for review

Gas Rules Rule	Relevant parties (subject to current review)	Obligation	No. of targeted participants
216	AEMO	Failure to conform to scheduling instructions	1
387	STTM Contract holders	Obligation to ensure compliance by allocation agent	3
399	STTM contract holders	Conditions relating to MOS	3

### 2.2.1 AEMO response to a failure to conform to scheduling instructions

In the previous quarter the AER wrote to Victorian gas market participants to understand the steps taken to comply with rule 216(2)(a) of the Gas Rules. Where a market participant is unable to comply in all *material respects* with a scheduling instruction issued in respect of a bid, it must notify AEMO as soon as practicable after it becomes aware of this, and give reasons for the failure. The information provided in responses by market participants indicated different views as to what constituted a material inability to comply with scheduling instructions

Related to the previous quarter’s enquiry, under rule 216(9), AEMO can declare gas injections or withdrawals non conformant if it determines in its reasonable opinion that a market participant has failed to comply in any *material respect* with a scheduling instruction issued in respect of a bid.

<sup>11</sup> Appendix A of this report lists all provisions targeted over the last four quarters.

The AER was keen to understand what AEMO considered material for the purposes of this rule to assist market participants in understanding when to notify AEMO.

The AER asked how AEMO defines ‘material’ with respect to this rule. AEMO advised that what is ‘material’ is a quantity that the Gas Operations Engineer on duty in the Operations Centre would consider is a concern with regard to the potential to impact system security. It is not a specific (TJ) threshold but is determined after considering a number of variables including system demand, the scheduling horizon, weather forecasts, linepack and ultimately the perceived level of risk to system security. AEMO did indicate a material change, for the purpose of guidance, would be a quantity in the order of 20 to 40 TJ.

The AER requested information regarding the systems and procedures AEMO has in place to ensure it complies with rule 216(9).

AEMO noted that in accordance with the Gas Rules:

- it issues individual scheduling instructions to market participants to inject/withdraw gas by facility
- market participants make nominations to facility operators
- AEMO seeks confirmation from the facility operator that its aggregate scheduling instructions (across all market participants scheduled) will be matched.

AEMO’s response highlighted problems it has identifying the cause of discrepancies between scheduled and nominated gas when multiple market participants bid at a facility. Since the facility operator is only required to confirm the aggregate gas it will put in or take out, where this amount does not match AEMO’s schedule, AEMO cannot determine whether this is an issue with one or more market participants not nominating in accordance with schedules. AEMO’s past practice has been to manage these situations through direct contact with the facility operator or market participants.

AEMO is trialing a new process to manage the lack of information transparency. Firstly, it will contact the facility to see whether the cause of non-confirmation of scheduling instructions is due to contractual obligations. If so, AEMO will issue a system wide notice (SWN) to registered participants seeking a change in nominations.

If unsuccessful by the end of the current scheduling horizon (or some lesser time if warranted) it will publish a further SWN asking market participant's to advise of their scheduled quantities, their nominations to the facility, and the reason for any discrepancy.

AEMO considers this new process will address 'material' non conformance at an injection point. AEMO advised of one instance on 16 March 2011 where it followed its new process described above and released an SWN when there was an aggregate quantity difference of 59 TJ between scheduling instructions and nominations at Longford. AEMO advised that in response to this SWN the facility operator received an amended nomination for the next scheduling horizon.

For completeness in its response, AEMO also advised it has emergency procedures in place to deal with its obligation in rule 216(9)(b) should material non-conformance continue.

#### **Review outcomes**

The AER considers that compliance with scheduling instructions from AEMO under rule 216(1) is of significant importance. Where market participants are unable to comply with a scheduling instruction in respect of a bid, it is crucial AEMO be notified as soon as practicable and kept up to date with relevant information. Compliance by market participants will mitigate the risk of a system emergency or significant price event.

The AER welcomes the additional guidance AEMO has provided to the market on what it considers 'material' under rule 216(9). The AER expects that with this guidance, market participants will better understand when to inform AEMO if they become aware of issues with their nominations not materially reflecting their scheduling instructions.

#### **2.2.2 Obligation to ensure compliance by allocation agent**

Rule 387 places an obligation on contract holders to ensure allocation agents comply with their obligations under Part 20 of the Gas Rules. To understand how this is achieved in practice, the AER requested information from STTM contract holders to explain the arrangements in place to monitor and ensure that allocation agents comply

with these requirements, which principally relate to the allocation of gas amounts on a daily basis.

### **Response summary**

The AER requested information from Simply Energy and Adelaide Brighton Cement Limited.

The review indicated these participants have put in place measures to monitor compliance with the requirements of rule 387. These include the development of overall business STTM compliance plans, the daily monitoring and review of allocation data, and contractual provisions with allocation agents.

Simply Energy's allocation agent is the related entity, Pelican Point Power Limited. It reported in detail how compliance by its allocation agent is ensured. It referred to a compliance plan developed for the STTM which applies to both Simply Energy and Pelican Point Power. The plan includes a set of daily tasks which its staff must undertake to ensure compliance with Part 20 of the Gas Rules. It also noted that it had automated systems in place to provide this allocation agent data.

Simply Energy further reported that it reviews daily data submitted by Pelican Point Power as a further monitoring mechanism. Simply Energy noted no instances of non-compliance and that it would seek to inform the AER in the event of any non-compliance.

Adelaide Brighton Cement noted that in terms of current activity as an STTM shipper, the only allocation agent it uses is Epic Energy with which it has a contract specifying an agreed allocation methodology. This participant also pointed to a set of internal procedures it has developed to ensure obligations under the Gas Rules are met. Additionally, it has established an internal committee to monitor STTM operations where non-compliance is detected.

Adelaide Brighton Cement submitted detailed information on the steps it takes to monitor allocation agent data submitted by Epic Energy. It noted that any discrepancies would be raised with Epic Energy and AEMO. Unlike Simply Energy and Pelican Point Power, Adelaide Brighton Cement was not able to provide details of processes in place within Epic Energy to ensure allocation agent obligations were

complied with. However, Adelaide Brighton Cement noted its monitoring systems had not detected any non-compliance to date.

### **Review outcomes**

Accurate allocation data at a trading participant, registered facility service/contract level is crucial for the daily settlement of financial transactions in the STTM. Inaccurate allocation data could lead to incorrect allocation of deviation charges / payments to individual trading participants.

The contract holders' responses indicated that allocation agent data is monitored on a daily basis as part of gas trading activities and gas market activities. Simply Energy was able to outline specific arrangements within its allocation agent Pelican Point Power to ensure allocation agent data is submitted correctly. Adelaide Brighton Cement's responses indicated a pro-active system to address any errors its monitoring systems might pick up.

The AER considers these contract holders have put in place robust monitoring and auditing procedures to ensure allocation agent data submitted is accurate or at least that any errors are detected. The AER considers the systems outlined help ensure the data is correct. Trading participants will best ensure compliance with this rule through a mixture of monitoring systems, compliance and auditing procedures and contractual arrangements.

### **2.2.3 Conditions relating to MOS**

The AER requested information from contract holders regarding compliance with rule 399 in respect of MOS offers which support the physical balancing of gas to the STTM<sup>12</sup>. The AER requested information from AGL, Origin Energy and TRUenergy regarding systems and procedures to ensure compliance with these requirements.

---

<sup>12</sup> To ensure that the physical demand on each pipeline continues to be met, AEMO manages the balancing of what was scheduled by the pipeline operator for each pipeline at each hub on each gas day with the actual quantities of gas flowed on the gas day. This physical balancing is known as a market operator service (MOS). This balancing service is managed by AEMO through supply arrangements established with MOS providers that have the capability of increasing or decreasing the gas flow on a gas day. At regular intervals, AEMO seeks offers for the provision of MOS on each hub-connected transmission pipeline. MOS can be provided by one or more shippers that have a transportation contract on that pipeline (contract holders), or it can be provided by the pipeline operator.

Sub-rules 1, 2 and 4 require parties submitting MOS offers to be eligible contract holders and to have registered facility services to support MOS offers for the entirety of the 3 month MOS period. Subrule 5 requires eligible contract holders to immediately notify AEMO should certain conditions cease to be satisfied over the MOS period.

### **Response summary**

Origin Energy indicated it relied on automated systems to record key contract information and generate contract expiry reminders. It has developed business processes which highlight that MOS offers must be backed by sufficient contractual rights for the whole MOS period. AGL and TRUenergy indicated the use of internal business processes to ensure all relevant staff are aware of contracts in place to support MOS offers. Origin Energy also noted commercial incentives which trading participants have to ensure MOS offers can be met (are backed by requisite contracts), noting that should it be removed from MOS stacks it may be unable to hedge its deviation exposure.

Responses indicated no instances of non-compliance. However, some responses did not indicate the existence of business processes to inform AEMO should for example contracts supporting MOS offers be terminated during the MOS period (rule 399(5)).

### **Review outcomes**

The AER targeted these provisions for a number of reasons. First, they are new gas market requirements, peculiar to the STTM and not part of the Victorian gas market. Second, given MOS payments can represent a significant part of daily STTM payments, significant financial effects could arise if offers in the MOS stack are not backed by contractual capability. Third, where invalid MOS offers exist, there is the potential for administrative burden on AEMO if it is forced to reject or otherwise account for these offers.

Based on the information received, the AER is satisfied these contract holders have systems in place to ensure that when MOS offers are made that these offers can be



met over the entire MOS period in compliance with rule 399. However, the AER highlights that not all responses provided information in regard to compliance with subrule 399(5) which requires AEMO to be immediately notified should certain conditions relating to MOS offers cease to be satisfied over the MOS period. Businesses should have systems in place to ensure compliance with all aspects of the rule.

### **Upcoming targeted compliance reviews**

The AER will continue to target provisions under the Gas Rules as part of its ongoing compliance review process. The gas provisions that the AER intends targeting in the upcoming quarters include:<sup>13</sup>

- rule 172 - obligation on pipeline operators to provide linepack/capacity adequacy indicator for the Bulletin Board
- rule 378 – obligation on STTM facility operators and STTM distributors to update information provided to AEMO where information registered changes.
- Rule 435 – obligation on Trading Participants in the STTM when making contingency gas offers to provide best estimate offers of the quantity of gas that can be provided.

A list of gas provisions targeted over the past four quarters is provided in appendix A.

---

<sup>13</sup> The AER will endeavour to give, via its quarterly compliance reports, advance notice of forthcoming targeted compliance reviews. This information is indicative only and the listed provisions may not be targeted subject to prevailing operational requirements and other industry events. The AER will also target other provisions by using other compliance and enforcement mechanisms, as required.

## 3 Electricity

The AER is responsible for monitoring, investigating and enforcing compliance with the national electricity arrangements under the Electricity Law and Rules.

### 3.1 Investigations, market events and compliance issues

This part of the report provides an update on:

- reviews and investigations<sup>14</sup>
- market events
- other compliance matters and issues.

#### 3.1.1 Rebidding

Scheduled generators and market participants operating in the National Electricity Market (NEM) submit wholesale electricity offers and bids for each of the 48 trading intervals in a trading day. The offers and bids include available capacity in megawatts (MW) for up to 10 price bands, and can be varied through rebidding. The rules set out the information that must be provided when submitting rebids to AEMO.

In December 2010, the AER published *Compliance Bulletin No. 3*, highlighting a new process to deal with the high number of offers, bids and rebids that failed to meet the requirements of the Electricity Rules.<sup>15</sup> The ‘three stage process,’ which took effect from 1 March 2011, marks a firmer stance by the AER to address poor quality information.

Under the new process, after sending two warning notices to a participant for submitting offers, bids or rebids that do not meet the requirements of the Electricity Rules, the AER will consider issuing an infringement notice. This is consistent with the AER’s approach to enforcing compliance with the Electricity Rules, outlined in its

---

<sup>14</sup> Published investigation reports issued by the AER are available from its website at <http://www.aer.gov.au/content/index.phtml/itemId/656186>.

<sup>15</sup> AER, *Compliance Bulletin No. 3: Monitoring and enforcing compliance of electricity offer, bid and rebid information in the National Electricity Market*, 2010, available at [www.aer.gov.au](http://www.aer.gov.au)

Compliance and Enforcement - Statement of Approach (published December 2010<sup>16</sup>).

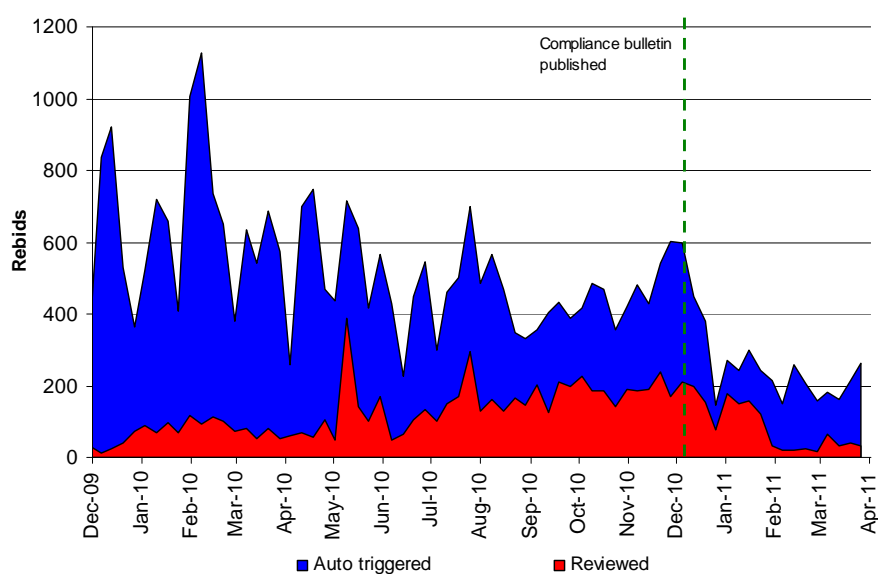
As noted in the previous QCR, generator rebidding reasons is also a special project for the AER in 2011. The AER considers that accurate and timely information is a cornerstone of the NEM design.

### Impact of new ‘three stage process’

Prior to the publication of *Compliance Bulletin No. 3* the AER’s systems automatically identified (for further examination) a significant number of offers, bids or rebids which potentially did not meet the requirements of the Electricity Rules. Staff would examine in detail around twenty percent of these instances, often by writing to the relevant participant.

Figure 1 shows that since *Compliance Bulletin Number 3* was published, the number of potentially non-compliant rebids triggered by the AER’s internal compliance system has fallen markedly. This is due to efforts made by generators to improve the quality of offers, bids and rebids they submit to AEMO. The AER acknowledges the efforts made by participants to improve the quality of market information in this regard.

**Figure 1: Rebids auto-triggered and reviewed per week**



<sup>16</sup> Available at [www.aer.gov.au](http://www.aer.gov.au)

The AER issued four initial warning notices<sup>17</sup> in the first month of operation of the new ‘three stage process’, covering:

- failure to include a reason
- failure to include a time adduced
- submitting a rebid with a reason that was not consistent with the circumstances of the rebid
- submitting an inflexibility rebid without a technical justification in the reason.

In addition, the AER issued seven requests for generators to supply further information in relation to certain offers and/or rebids.

Requests for further information relate to offers or rebids which contain a ramp rate lower than the prescribed minimum levels<sup>18</sup>, but which do not specify a technical or safety related reason or testing without a specific reason. The requirement to submit a brief, verifiable and specific reason for a low ramp rate applies to offers as well as rebids<sup>19</sup>. In this regard, the requirements relating to ramp rates are similar to those that apply when a generator submits an inflexible bid.

### **3.1.2 Spot and ancillary services high price events**

The AER is required to publish a report<sup>20</sup> covering the circumstances in which the spot price in the wholesale electricity market exceeds \$5,000 per megawatt hour (MWh) in a trading interval or where the price for ancillary services exceeds the spot price and is above \$5000 per MW for a number of trading intervals. These reports help identify instances of non-compliance and enhance the transparent operation of the NEM.

The AER published four such reports following high spot prices on the mainland on 31 January and the first two days of February. In all, there were 32 trading intervals

---

<sup>17</sup> A warning notice may include more than one non-compliant rebid.

<sup>18</sup> These thresholds are described in clause 3.8.3A of the Electricity Rules.

<sup>19</sup> 3.8.3A(e) of the Electricity Rules.

<sup>20</sup> Pursuant to clause 3.13.7 (d) and (e) of the Electricity Rules. The reports are available on the AER website at <http://www.aer.gov.au/content/index.phtml/itemId/714860>.

where spot prices exceeded \$5000/MWh—twelve in New South Wales, three in Victoria, eight in Queensland and nine in South Australia. The reports outlining the circumstances leading to the high prices concluded that a period of record demand driven by high temperatures, and generators pricing significant amounts of capacity at or near the price cap were contributing factors.

### **3.1.3 Late settlement payment**

The settlement of market transactions is critical to the operation of the NEM and an important AEMO responsibility. To facilitate smooth financial transactions, clause 3.15.16 of the Electricity Rules requires market participants to pay AEMO, in cleared funds and within the specified period, the amount payable on their relevant final statement. The spot market operations timetable requires this final payment to be made at 10:30am (Sydney time), 20 business days following the end of the billing period.

On 11 January 2011, AEMO notified the AER that Starfish Hill Wind Farm Pty Ltd made a late payment on 5 January 2011 with respect to settlement week 49 2010.

The AER wrote to Transfield Services Infrastructure Fund (owner of Starfish Hill Wind Farm) regarding its settlement payment process. It requested information on:

- processes for ensuring compliance with the obligations of clause 3.15.16
- how it identifies and responds to late or inaccurate settlement payments
- the circumstances that led to the late settlement payment identified
- steps taken following this event to minimise the risk of a reoccurrence.

### **Response summary**

Transfield Services Infrastructure Fund stated its payment was late for settlement week 49 due to staff failing to transfer funds to its settlement bank account after it was overdrawn.<sup>21</sup> Transfield Services noted this was due to staffing issues during the holiday period.

---

<sup>21</sup> There were no funds in the settlement account as funds in all TSI accounts are automatically collected (swept) and allocated to the TSI account daily (at midnight).

Follow the AER inquiry, Transfield Services has developed a new settlement payment procedures policy that schedules payments in advance of the settlement payment date to ensure payments occur on time.

### **Review outcomes**

Based on the information provided, and the steps taken by Transfield Services to minimise the reoccurrence of a late settlement payment, the AER has decided not to take any further action at this time. The AER will continue to monitor Transfield Services' performance against the financial settlement obligations under the Electricity Rules.

## **3.2 Audits**

Auditing is one mechanism used by the AER 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 industry practice.

'Good Electricity Industry Practice' is a defined term under the Electricity Rules, as is 'Good Gas Industry Practice' under the Gas Rules. The AER uses the acronym, GEIP, standing for 'Good Energy Industry Practice' to cover both. As part of its ongoing audit activities, the AER will assess energy participants' compliance against GEIP. The AER considers the key components of GEIP include:

- **Governance**—participants' internal arrangements encompassing reporting lines and supporting systems, as well as the overall compliance culture including the level of involvement and commitment of senior management and committees
- **Expertise**—the human resources dedicated to technical compliance including the allocation of responsibilities, as well as the underlying knowledge systems and the nature and extent of the technical understanding of applicable obligations
- **Implementation**—the means by which, at a practical level, participants drive and promote compliance through internal procedures and processes, encompassing staff training, technical testing and reporting of compliance matters

- **Performance**—the overall compliance status of each participant with reference to how effectively compliance programs and arrangements operate, including the ongoing evaluation and updating of such programs and arrangements to reflect lessons learnt.

### **3.2.1 Completion of Tarong Energy’s technical audit**

During the March 2011 quarter, the AER concluded its technical audit of Tarong Energy’s Tarong Power Station. The audit focussed on clause 4.15 of the Electricity Rules, which, among other things, requires electricity generators to institute and maintain a Compliance Program in accordance with prescribed requirements.

In particular, the Compliance Program must:

- be consistent with the template for generator compliance programs
- include procedures and processes 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 the AEMO.

The audit focussed on Tarong Power Station and commenced in October 2010 with the issue of an extensive AER audit questionnaire. This was followed by site visits in December 2010.

Tarong Energy assisted by providing a comprehensive response to the questionnaire and relevant supporting material. Tarong Energy also provided timely clarifications as required throughout this process.

This generator was able to demonstrate that it has a well-developed compliance culture at all levels of the business, supported by compliance monitoring procedures and programs and testing arrangements with respect to Tarong Power Station. Tarong Energy also confirmed it was establishing a holistic compliance management framework to cover all its other generating plants.

The AER identified two minor issues:

- The first related to the way in which Tarong Energy classified an external risk associated with a market event that occurred in 2009.

- The second related to the manner in which the process of altering a generating system in accordance with clause 5.3.9 of the Electricity Rules—with effect on existing performance standards—was not referred to in the mandated Compliance Program

Despite these minor issues, the AER is satisfied that Tarong Energy has instituted and maintains a compliance program in accordance with clauses 4.15(b) and (c) of the Electricity Rules.

### **3.3 Jurisdictional derogations**

Chapter 9 derogations<sup>22</sup> 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.

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

In the March 2011 quarter, there were no instances of non-compliance reported.

---

<sup>22</sup> 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: Targeted provisions summary

This is a summary of the provisions under the Electricity Rules and Gas Rules targeted for compliance reviews over the last four quarters. The same provision may be targeted over a number of quarters.

Quarter ending	Industry	Rules & Clauses	Description	No. of Participants
March 2010	Gas	Rule 270	Obligation of connected parties	2
		Rule 272	AEMO to approve application for connection to the declared transmission system	1
		Rule 275	Approval of connection agreements by AEMO	1
	Electricity	Clause 3.8.2	Participation in central dispatch	1
		Clause 4.6.1	Power system fault levels	1
		Clause 5.2.4	Obligation of customers	3
		Clause 5.2.4	Obligation of customers	3
		Clause 7.3.1	Metering installation requirements	2
June 2010	Gas	Rule 270	Obligation of connected parties	1
		Rule 289	Off-specification gas	2

Quarter ending	Industry	Rules & Clauses	Description	No. of Participants
		Rule 263	Margin calls	1
	Electricity	Clause 2.2.2	Registration of Scheduled Generators	3
		Clause 3.8.2	Participation in central dispatch	1
		Clause 7.3.1	Metering installation requirements	2
September 2010	Gas	273	Offer to connect	1
		326	Maintenance planning	1
		414-419	Capacity information & facility allocations	4
	Electricity	3.7.3	Short term projected assessment of system availability	3
		4.9.4	Dispatch related limitations on generators	2
		7.5.2	Metering register discrepancies	2
December 2010	Gas	213	Scheduling submission requirements (demand forecast)	4
		216	Participants' failure to conform to scheduling instructions	3
		380	Information requirements on contract holders	3

Quarter ending	Industry	Rules & Clauses	Description	No. of Participants
		381		
		382	Confirmation, registration or rejection of STTM service contracts' information	1
		383		
	Electricity	7.5.2	Metering register discrepancies	2
		7.6.2	Non-compliant metering installations	3
		9.44, 9.12.3, 9.34.6	Jurisdictional derogations relating to: Smelter Trader; Power Traders; Nominated Generators	5
March 2011	Gas	216	Failure to conform to scheduling instructions	1
		387	Compliance with respect to registration of services and trading rights	3
		399	Conditions relating to MOS	3