

A decorative graphic consisting of a white, wavy, brush-stroke-like shape with a halftone dot pattern, set against the orange background.

Quarterly Compliance Report
January to March 2006

June 2006



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1 Introduction

On 1 July 2005, the Australian Energy Regulator (AER) assumed responsibility for compliance monitoring, reporting and enforcement in the National Electricity Market (NEM).

Section 15 of the National Electricity Law requires the AER:

- (a) to monitor compliance by Registered Participants and other persons with this Law, the Regulations and the Rules; and
- (b) to investigate breaches or possible breaches of provisions of this Law, the Regulations or the Rules that are not offence provisions.

In carrying out its monitoring functions, the AER collects and analyses information from Registered Participants and the National Electricity Market Management Company (NEMMCO). The AER ensures that, to the extent practicable, monitoring:

- (1) is consistent over time;
- (2) does not discriminate unnecessarily between Registered Participants;
- (3) is cost effective for the AER, all Registered Participants and NEMMCO; and
- (4) information is published, or otherwise made available to the market, subject to any confidentiality requirements.

This report provides a summary of the results of the AER compliance monitoring activities during the period January to March 2006.

2 Compliance monitoring strategy

The AER monitors the operation and performance of the NEM, conducts special investigations in response to market outcomes and/or specific events and aims to encourage market participants to have an ongoing compliance management focus.

The AER compliance monitoring strategy includes targeting a number of specific Rule provisions each year. These provisions relate to areas in the Rules where compliance concerns have been identified or where changes to the Rules have been introduced. The AER will target 24 Rules each year for review. The AER assesses compliance with the targeted provisions through examining all, or a sample of, relevant market participants' behaviour.

The review process encourages market participants to maintain an ongoing compliance management focus by targeting specific provisions of the Rules and reviewing compliance. The AER also conducts a rolling program of reviews of participants' compliance strategies and plans. Those reviews are conducted cooperatively and involve one-on-one discussions with participants. The reviews provide the opportunity to engage participants and to discuss compliance strategies and critical challenges faced by the participant in discharging its obligations under the Rules.

The AER's approach to monitoring compliance relies, in the first instance, on comprehensive observation and reporting, and emphasises voluntary compliance by registered participants. During the compliance review process the AER assesses the level of compliance from the information provided by the Market Participants. Further, the AER may review a Market Participants compliance with their obligations at regular intervals.

3 Compliance monitoring outcomes

3.1 Technical standards compliance

A new regime for technical standards was introduced into the National Electricity Market in 2004. This established explicit compliance obligations on market participants with respect to the technical performance of plant. This regime is intended to ensure participants contribute to satisfying the electric power system standards and the ongoing reliability of the power system.

On 24 October 2005, the AER wrote to all generators emphasising the importance of compliance with the Rules related to technical performance standards. The AER indicated that it would review generator performance compliance programs as part of its compliance monitoring strategy during 2006 to ensure the arrangements comply and operate effectively.

In November 2005, the Ministerial Council on Energy requested that the AEMC undertake a review of compliance, and enforcement, with respect to technical standards.

During the March quarter, the AER became aware of significant deficiencies in the process by which incumbent generators had established registered performance standards with NEMMCO, and subsequent compliance monitoring programs.

The AER wrote to the parties concerned to ensure that an expeditious way forward was developed and implemented. The AER is working with NEMMCO, the AEMC, and industry to ensure the necessary steps to resolve the matter of performance standards for incumbent generators are in place by June 2007.

3.2 Rebidding inquiries

Clause 3.8.22(c) of the Rules requires a scheduled generator or market participant to provide information to the AER to substantiate and verify the reason for a rebid¹.

The AER requested additional information from one market participant to clarify and understand its reasons for a number of rebids. The rebids in question related to use of zero rates of change. The AER was generally satisfied that this additional information clarified the reasons behind those rebids.

Clause 3.8.19 of the Rules provides for a scheduled generator to bid inflexible where due to abnormal plant conditions it cannot operate in accordance with dispatch instructions.

¹ A rebid is defined in chapter 10 of the Rules as a variation to a bid or offer made in accordance with clause 3.8.22.

The AER is currently examining a series of rebids, submitted by a market participant regarding plant inflexibility. The AER has sought further information from that market participant and is reviewing the response.

3.3 Jurisdictional derogations

Chapter 9 of the Rules preserves certain jurisdiction-specific arrangements. These are known as jurisdictional derogations and exempt participants from compliance with specified provisions in the Rules.

A series of chapter 9 derogations provide exemptions for Smelter Traders, Power Traders and Nominated Generators from complying with the Rules:

- to the extent that there is any inconsistency between the Rules and a contractual requirement under the relevant agreement; and
- to the extent of any other specified exemption provided in the jurisdictional derogations.

Power Traders must give notice to the AER of any act or omission which partly or wholly constitutes non-compliance with the Rules. In accordance with clauses 9.4.4, 9.12.3 and 9.34.6 of the Rules, the relevant participants have notified the AER that there were no matters of non-compliance for the March quarter.

The AER is satisfied that there were no instances where the actions of participants classified as a Smelter Trader, Power Trader and Nominated Generators materially affected the efficient operation of the market during the quarter.

4 Investigations

4.1 Investigation into the events of 31 October 2005

The market was significantly disrupted by a forced network outage on one of the major transmissions lines between Wallerawang and South Sydney on 30 October and the need for a further network outage to facilitate repairs the following day.

Spot prices in New South Wales were above \$5,000/MWh for five trading intervals on Monday 31 October, when network constraints designed to manage the outage failed to maintain power flows on the network below secure levels.

There were a number of issues arising out of this event that the AER considered as requiring further examination. The AER wrote to several Market Participants in December seeking further information. The AER also met with NEMMCO and relevant market participants throughout the March quarter to discuss the circumstances surrounding the events.

In April, NEMMCO published a report on this incident, providing further details about the events contributing to the network outages and price outcomes. The AER has held further meetings with NEMMCO to discuss its findings and is now continuing its

investigations with respect to compliance with the Rules. This investigation is examining in detail activity with respect to clauses: 3.8.22 (rebidding), 4.9.8 (obligations to comply with dispatch instructions), 3.9 (Spot price determination) and 4.11.2 (Operational control communication facilities). The results of the AER's investigations will be published in due course.

4.2 Price over \$5000/MWh reports

The AER is required to publish a report when the spot price exceeds \$5000/MWh, pursuant to clause 3.13.7 (d) of the Rules. That report should:

- describe significant factors contributing to the spot price exceeding \$5000/MWh, including withdrawal of generation capacity and network availability;
- assess whether rebidding pursuant to clause 3.8.22 contributed to the spot price exceeding \$5000/MWh;
- identify the marginal scheduled generating units; and
- identify all units with offers for the trading interval equal to or greater than \$5000/MWh and compare these dispatch offers to relevant dispatch offers in previous trading intervals.

During the March quarter the AER examined 5 such incidents. Reports covering the events of 3, 26 January, 2, 23 and 24 February and are available on the AER website (www.aer.gov.au).