



Quarterly Compliance Report

January – March 2009

June 2009

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Glossary

ACCC	Australian Competition & Consumer Commission
ACT	Australian Capital Territory
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator (see www.aer.gov.au)
bulletin board	The Natural Gas Services Bulletin Board established under Chapter 7 of the Gas Law, commonly known as the National Gas Market bulletin board
DNISP	Distribution Network Service Provider
Electricity Law	National Electricity Law (a Schedule to the National Electricity Act)
Electricity Regulations	The National Electricity (South Australia) Regulations made under the National Electricity Act
Electricity Rules	The National Electricity Rules made under Part 7 of the Electricity Law
Gas Law	National Gas Law (a Schedule to the National Gas Act)
Gas 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
GWh	Gigawatt Hour
LNG	Liquefied Natural Gas
MOU	Memorandum of Understanding

MCE	Ministerial Council of Energy
MSOR	The Victorian Gas Industry Market and System Operations Rules made under the <i>Gas Industry Act 1994</i> (Victoria)
MW	Megawatt
National Electricity Act	National Electricity (South Australia) Act 1996 (South Australia)
National Gas Act	National Gas (South Australia) Act 2008 (South Australia)
NEM	The National Electricity Market being the electricity wholesale exchange operated and administered by NEMMCO, and the national electricity system, which covers New South Wales, Queensland, South Australia, Victoria and Tasmania
NEMMCO	National Electricity Market Management Company
NGERAC	National Gas Emergency Response Advisory Committee - established by the MCE in May 2005, as part of the MOU on the National Gas Emergency Response Protocol for natural gas supply shortages affecting jurisdictions with interconnected gas supply networks
NSP	Network Service Provider
registered participants	A person who is registered by NEMMCO in any one or more of the categories listed in clauses 2.2 to 2.7 of the Electricity Rules (see NEMMCO's Registration and Exemption lists)
TNSP	Transmission Network Service Provider
\$5,000/MWh report	Reports issued by the AER under clause 3.13.7(d) of the Electricity Rules

Summary

This report outlines the compliance monitoring and enforcement activities of the Australian Energy Regulator (AER) from 1 January to 31 March 2009 (March 2009 quarter). The AER has compliance monitoring and enforcement roles in both gas and electricity.

In gas, the AER monitors, investigates and enforces compliance with the National Gas Law (Gas Law) and National Gas Rules (Gas Rules). It also assists the Australian Competition & Consumer Commission (ACCC) in enforcing the Victorian Gas Industry Market and System Operations Rules (MSOR). Part 3 of this report outlines the AER's activity in these areas in the March 2009 quarter. This work included a targeted review of 11 provisions in Part 18 of the Gas Rules (table 1).

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

Clause	Relevant parties (subject to current review)	Obligation	No. of targeted participants
165-166	Production facility operators	Obligation on production facility operators to provide 3 day supply outlook data and actual production flow data	4
168-169	Storage facility operators	Obligation on storage facility operators to provide 3 day supply outlook data and actual production flow data	2
170, 172	Pipeline facility operators	Obligation on pipeline facility operators to provide nameplate rating information and linepack / capacity adequacy indicator information	2
145, 181-184	Bulletin board operator	Maintenance of an emergency information page on the bulletin board	1

The review of clauses 165 and 166 will continue into the June 2009 quarter to take into account late responses from two participants.

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

Part 4 of this report outlines the AER’s activity in these areas in the March 2009 quarter. In this period, the AER:

- closed an investigation into “good faith” rebidding by AGL, but continued a “good faith” rebidding investigation regarding Stanwell’s bidding during the March 2008 quarter
- commenced a review of market events in Victoria on 29 and 30 January 2009
- published six reports on spot market prices for electricity exceeding \$5,000/MWh between 13 and 30 January and on 31 March 2009
- targeted six provisions of the Electricity Rules for compliance review (table 2). A review of clause 2.3.4 continues from last quarter.

Table 2: Electricity Rules provisions targeted for review – March 2009 quarter

Clause	Relevant parties (subject to the current review)¹	Obligation	No. of targeted participants
2.3.4	Market Customers	Market Customer obligations	5
4.8.12	Generator	System restart plan and local black system procedures	3
4.14	NEMMCO	Acceptance of Performance Standards	1
4.15	NEMMCO	Compliance with Performance Standards	1
5.3.9	Generators	Procedure to be followed by a Generator proposing to alter a generating system	0 (review postponed)
5.7.3	NEMMCO	Test to demonstrate compliance with connection requirements for generators	1

- monitored jurisdictional derogations that apply to smelter traders, power traders and nominated generators in the National Electricity Market (NEM). No instances of non-compliance were reported.

¹ The targeted clause may also apply to other parties not targeted, under its various sub-clauses.

- is reviewing the quality of reasons offered by 22 participants in their rebids and the commitment of scheduled generating units by 2 participants
- issued revised Rebidding Guidelines for consultation under clause 8.9(g) of the Electricity Rules, and expects to finalise these by around September 2009.

Finally, as is discussed in part 4.2, the AER is finalising arrangements for the auditing of two registered participants in the September 2009 quarter. The audits will focus on compliance with technical standards under the Electricity Rules and over time will also involve other generators and transmission businesses. The AER has postponed the auditing of market information on planned network outages (which would have been a component of the above technical audits) as it is considering the implications of the draft Rule change (Congestion Information Resource) arising from the congestion management review undertaken by the Australian Market Energy Commission (AEMC).

Table 3 below provides a summary of the gas and electricity matters covered in this report.

Table 3: AER compliance activity in March 2009 quarter

Enforcement / Compliance activity	Matter	Status / Outcome
GAS		
Targeted compliance reviews	Publication of information by the bulletin board operator and maintenance of the emergency information page on the bulletin board (rr. 145, 181-184)	No apparent compliance issues.
	Obligation on production facilities to provide 3 day production capacity outlook and actual production data (rr. 165,166)	Review ongoing.
	Obligation on storage providers to provide 3 day production capacity outlook and actual storage production data (rr. 168,169)	No apparent compliance issues.
	Obligation on pipeline operators to provide nameplate rating information and linepack / capacity adequacy indicator information (rr. 170, 172)	No apparent compliance issues.
ELECTRICITY		
Investigations	Market events of January and February 2008 (South Australia and Queensland)	Investigation into rebidding in “good faith” by AGL was closed on 12 May 2009.
		AER is considering issues related to rebidding in “good faith” by Stanwell; this investigation is ongoing.
	Market events of 29-30 January 2009	Review of these events is ongoing; AER to issue report at the end of the review.
\$5,000/MWh reports	Market events where the electricity spot price exceeds \$5,000/MWh	6 reports issued this quarter relating to 5 events in January and 1 in March 2009.
Audits	Market information on planned network outages	Audits in this area postponed due to congestion management review by AEMC.

	Generator and TNSP technical performance compliance programs	AER finalising arrangements for audits of two registered participants.
Targeted compliance reviews	Market Customer obligations (cl. 2.3.4)	No apparent compliance issues.
	System restart plan and local black system procedures (cl. 4.8.12)	No apparent compliance issues.
	Acceptance of Performance Standards (r. 4.14)	Review ongoing.
	Compliance with Performance Standards (r. 4.15)	Review ongoing.
	Procedure to be followed by a Generator proposing to alter a generating system (cl. 5.3.9)	Review postponed.
	Test to demonstrate compliance with connection requirements for generators (cl. 5.7.3)	Review ongoing.
Jurisdictional derogations reviews	Derogations relating to Smelter Traders, Power Traders and Exempted Generator Agreements	No compliance issues reported.
Market monitoring	Rebidding inquiries (other than the “good faith” investigations identified above)	The AER is reviewing the rebid reasons submitted by 22 participants, and the commitment of scheduled units by 2 participants.
	Rebidding & Technical Parameters guideline	Issued for first round of consultation; final guideline expected by around September 2009.

1 Introduction

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

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

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

- Electricity Law, Electricity Regulations and National Electricity Rules (Electricity Rules) that apply to the electricity industry
- Gas Law, Gas Regulations and the National Gas Rules (Gas Rules) that apply to the gas industry
- Market and System Operations Rules (MSOR) that apply to the Victorian gas industry.

This report provides an overview of the AER's approach to compliance monitoring and a summary of compliance outcomes and enforcement activities undertaken by the AER in the March 2009 quarter.

The AER would like to hear from electricity and gas industry participants and other interested parties on any matters of compliance, including the specific areas targeted or proposed to be targeted for review.

2 Compliance monitoring and enforcement strategy

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

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

In August 2007, the AER issued a "Compliance and Enforcement – Statement of Approach"², which aims to provide greater transparency about the AER's compliance monitoring and enforcement strategy. In developing this strategy, the AER undertook a comprehensive compliance risk assessment by reviewing each of the 1500 provisions in the Electricity Rules.

This risk assessment helps the AER identify:

- areas of focus
- the appropriate monitoring mechanism for each provision
- the intensity of monitoring
- the appropriate enforcement response for breaches.

The gas functions and powers conferred on the AER on 1 July 2008 represent a major extension of its responsibilities. The AER is adopting an approach to gas industry compliance monitoring and enforcement that is consistent with its approach to electricity, but which is tailored to reflect differences between these industries.

The AER is updating its compliance monitoring and enforcement strategy, incorporating its new gas functions. A major element is the extension of the compliance risk assessment to cover provisions in the Gas Rules and the MSOR.

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

An updated version of the Statement of Approach will be published in 2009.

The compliance monitoring mechanisms currently used by the AER include audits, targeted compliance reviews, market monitoring, and application of routine reporting requirements. In carrying out its monitoring functions, the AER aims for:

- consistency in monitoring over time
- no unnecessary discrimination between registered participants
- cost effective monitoring for energy industry participants and the AER
- transparency, with information published or otherwise made available to the market, subject to any confidentiality requirements.

3 Gas

The AER is responsible for monitoring, investigating and enforcing compliance with the National Gas Law (Gas Law) and National Gas Rules (Gas Rules). It currently assists the ACCC in monitoring and enforcing compliance with the Victorian gas market (Victorian Market and Systems Operations Rules (MSOR)). This role will transfer to the AER on 1 July 2009.

This part of the report outlines the AER's activities in gas compliance and enforcement. **Appendix A** provides a list of investigations/enquiries over the last four quarters, including ongoing matters.

3.1 Current enquiries and investigations

The previous quarterly compliance report discussed the AER's enquiries into two events in Victoria — an outage at the Longford gas plant on 25 July 2008 and a significant price event on 22 November 2008. The AER is not making further enquiries into those matters at this time.

3.2 National Gas Market Bulletin Board

3.1.1 Background

The National Gas Market bulletin board (bulletin board) commenced on 1 July 2008. VENCORP currently operates the facility, but this role will transfer on 1 July 2009 to the Australian Energy Market Operator (AEMO). The enabling legislation for the bulletin board is found in chapter 7 of the Gas Law and part 18 of the Gas Rules. The associated bulletin board procedures can be found on the bulletin board [website](#).

3.1.2 Current bulletin board issues

The AER monitors the quality of information posted on the bulletin board on an ongoing basis. The AER also receives regular compliance reports from the bulletin board operator (operator) in relation to participants' obligations to provide data.

Participant reporting for the March 2009 quarter indicates full compliance in providing nameplate ratings for bulletin board facilities. There has also been compliance with obligations to provide operational data, including pipeline forecasts and capacity outlook. The monthly reports indicate that participant compliance with the provision of 3 day capacity outlook data, day-ahead and current day pipeline forecast data has improved on the previous quarter.

However, there are ongoing problems with the timely submission of daily actual flow data to the bulletin board, including both isolated instances and examples of recurrent missing data from pipeline, production, and storage facilities. The compliance reviews discussed in part 3.2.3 below have targeted relevant provisions of the Gas Rules.

The AER will continue to monitor the bulletin board to identify significant compliance issues, and is developing improved systems for the monitoring of bulletin board data to assist with this. These monitoring systems will be complemented by a program of targeted compliance reviews (outlined below) and a Memorandum of Understanding (MOU) between the AER and the bulletin board operator,³ providing a framework to notify breaches or potential breaches of Part 18 of the Gas Rules.

In future quarters, the AER will summarise information submitted to the bulletin board operator by participants in weekly reports to the market.

3.1.3 Targeted compliance reviews

In performing its monitoring functions in electricity, the AER conducts targeted compliance reviews of particular provisions. The reviews explore compliance practice and improve stakeholder understanding of the rules. The AER publishes the results of the targeted reviews in these quarterly compliance reports.

As foreshadowed in its last quarterly report, the AER is extending its targeted review approach from electricity to gas. Targeted compliance reviews of provisions in the Gas Rules will form an important element of the AER's ongoing compliance monitoring program for gas.

³ Clause 146 of the Gas Rules requires the bulletin board operator, in accordance with any MOU between the operator and the AER, to notify the AER of any breaches, or possible breaches, of this Part that the operator becomes aware of.

The targeted compliance reviews aim to determine:

- registered participants' understanding of their obligations under the Gas Rules
- systems and processes, including compliance programs and quality assurance procedures, that participants have in place to satisfy their obligations
- specific issues experienced by participants in complying with their obligations, including the details of any programs implemented to address these issues.

While the majority of provisions in the Gas Rules may not require registered participants to establish specific compliance programs, the AER generally takes into account a participant's overall compliance culture in determining its response to breaches. In assessing a participant's compliance culture, the AER will also have regard to whether the participant's systems and processes are effective, up-to-date, and reviewed regularly.

In the March 2009 quarter, the AER targeted 11 provisions under Part 18 of the Gas Rules for detailed review. In general, provisions with relatively high compliance risk are targeted as a matter of priority.

The AER ensures there is no unnecessary discrimination between registered participants, which are generally selected at random.

In the March 2009 quarter, the AER targeted the following provisions of the Gas Rules for review:

- publication of information and maintenance of the emergency information page by the bulletin board operator (clauses 145 and 181 to 184)
- obligation on production facilities to provide 3 day production capacity outlook and actual production data (clauses 165 and 166)
- obligation on storage providers to provide 3 day production capacity outlook and actual storage production data (clauses 168 and 169)
- obligation on pipeline operators to provide nameplate rating information and linepack/capacity adequacy indicator information (clauses 170 and 172).

The reviews also covered the associated provisions in the bulletin board procedures.

3.1.4 Publication of information by the bulletin board operator and maintenance of the emergency information page

Clauses 181 to 184 of the Gas Rules require the bulletin board operator to maintain a section of the bulletin board for the publication of emergency information. Clause 145 relates to the obligation of the bulletin board operator to publish the data provided by participants, including emergency information.

The operator may be required to update the emergency page at the request of the Chair of the National Gas Emergency Response Advisory Committee (NGERAC) or a jurisdiction's authorised representative. The operator must also indicate on the bulletin board that the emergency page has been activated or deactivated if this occurs.

The AER sought information from VENCORP — the current bulletin board operator — in relation to its compliance with clauses 145 and 181 to 184. In particular, it asked the operator to provide details of:

- systems and procedures to ensure compliance with clause 145 as it relates to clauses 181 to 184
- persons authorised to request changes to the status of the emergency page
- any instances where the emergency page had been activated
- instances when the bulletin board operator was requested to publish information under Division 7 of the Gas Rules
- emergency procedures established and documented to facilitate the use of the bulletin board emergency information page.

Summary of responses

To date, the emergency information page has never been activated, and no requests to activate it have been received.

VENCORP provided information relating to the requirements for the activation of the emergency page, and its procedures to meet those requirements.

In 2008, VENCORP developed and documented processes covering the operation of the bulletin board and its compliance with Part 18 of the Gas Rules. These include a mapped internal process for activation, use and deactivation of the emergency information page. This process identifies staff responsibilities, levels of approval for activation of the page, communication during an event, and record keeping. VENCORP has delegated specific staff to update the emergency information page on request by a delegate. These personnel have access to a confidential register of authorised persons responsible for emergency page activation, and work to documented procedures set out in the NGERAC emergency manual.

VENCORP has developed a template for a request to activate the emergency information page, which is available on the bulletin board website. The bulletin board procedures (chapter 9 and related addendums) provide information to participants on the activation and use of the emergency information page. In addition, a reports list and participant's build pack (both available on the website) detail the protocols, information structures and transfer mechanisms.

Review Outcomes

VENCORP's response indicates it has developed and implemented systems and procedures to comply with its obligations under clauses 145 and 181–184. The effectiveness of these procedures is untested, but the information provides some comfort that steps have been taken to ensure readiness for an emergency.

The AER's primary focus at this time relates to the timeliness with which a request for activation of the emergency information page will be actioned.

VENCORP's role as bulletin board operator is only one of its functions. When this role transfers to AEMO, it will be one of a greater number again. This raises an issue of adequate resourcing of time critical bulletin board functions, with implications for operator and participant compliance.

The declaration of an emergency must be directed to the appropriate bulletin board personnel through the VENCORP helpdesk, who then contact the responsible duty manager. An authorised delegate must then provide this request, accompanied by an authorised email or fax to confirm the request. This suggests some potential for

problems if a request cannot be forwarded, and confirmation cannot be transferred, in a timely manner.

A number of participants raised concerns with response times for queries directed to bulletin board staff through the VENCORP helpdesk. They suggested that responses could be handled in a more efficient and timely manner through the establishment of a dedicated bulletin board helpdesk or a direct contact number. The AER will raise these and other participant concerns with the operator and provide an update on these issues in its next report.

The operator has advised that NGERAC is considering incorporating use of the emergency information page in an emergency exercise later this year. This would provide a useful opportunity for the operator to test its processes and procedures.

The AER will revisit its review of these provisions following the testing of the emergency information page.

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

On each gas day, clause 165 of the Gas Rules requires participants to provide a production capacity outlook for each of production plant for the current day, and for the next two gas days. Clause 5.4 of the bulletin board procedures sets out the requirements in more detail. Clause 166 requires production facility operators to provide daily production data for each facility. This must be in accord with bulletin board procedure 5.5, which states:

With the exception of the pipeline operator of the Victorian transmission system, each pipeline operator, production facility operator or bulletin board storage provider must provide the information for each bulletin board facility that it operates as specified in rule [166], [169], or [174] in respect of each completed gas day.

- (i) by 12 pm local time on the day following the day on which each *gas day* ends; and
- (ii) in the manner specified in the Participant Build-Pack.

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

- systems and processes in place to comply with obligations under clauses 165 and 166 (including related bulletin board procedures)
- any instances of missing or late data and systems put in place to rectify these issues
- any quality assurance processes in place to ensure the accuracy of data provided to the bulletin board operator.

Only two participants responded to these enquiries in time for this report. Responses from the remaining participants will be considered in the June 2009 report.

Summary of responses

The two participants which responded — Origin Energy CSG and BHP Billiton — have developed internal systems and procedures to assist with the provision of data for the bulletin board. The initiatives include development of electronic upload tools, documented internal procedures and staff training. Participants reported that the data was first compiled by plant staff, and then transferred to operations staff for checking and confirmation before uploading on the bulletin board.

Origin Energy CSG advised that it had developed a dedicated IT system for performing high level validations, presenting data for review, converting plant data into bulletin board format, and enabling the transfer of the data to the bulletin board via a file transfer protocol. Origin Energy has also developed back-up procedures to allow manual upload of data in the event that its IT system is unavailable.

BHP Billiton advised that responsibility for the provision of actual production data at its Minerva gas plant had recently been transferred to plant personnel. A training and registration program has been introduced for approximately 15 plant staff, who will perform back-up and weekend data entry.

At the AER's request, participants identified various instances where they had not provided actual production data required under clause 165, or had provided it late, on consecutive days. These incidents were variously attributed to operations staff being unavailable on weekends, and IT system upgrades causing issues with the data upload process. In each case participants have implemented measures to rectify these issues.

Origin Energy has developed IT systems to accept flow data from its Queensland facilities, and to produce error notifications for unsuccessful uploads. BHP Billiton has initiated training for operations staff in Melbourne to provide back-up support to plant staff in providing bulletin board data.

Participants have raised concerns in relation to their obligations under the bulletin board provisions, along with general usability issues. Origin Energy noted that enquiries to the bulletin board operator result in long lead times for resolving data issues, and recommends the establishment of a dedicated bulletin board helpdesk contact number to resolve data issues in a timely manner. BHP Billiton stated that its training processes could be streamlined if the bulletin board registration process was amended to allow trainees to use a common logon ID.

Review outcomes

Those responses received indicate that participants have been able to develop and implement appropriate systems and procedures to ensure satisfactory levels of compliance with clauses 165 and 166 of the Gas Rules. Nothing in the information provided suggests significant compliance issues in the provision of 3 day outlook and actual production data. It is also encouraging to note that issues with non-provision or late provision of data have been rectified with changes to IT systems and the training of back-up personnel.

Given the importance of these obligations, the AER will continue its review in the June 2009 quarterly report, including responses from participants which are yet to respond to enquiries.

At the same time, the AER will discuss with the bulletin board operator the concerns raised by participants as to difficulties in contacting bulletin board staff and in accessing the bulletin board for training purposes. It will publish the outcomes of the discussions in the June report.

3.1.6 Obligation on storage facilities to provide capacity outlook and production data

Clause 168 of the Gas Rules requires storage providers to provide the production capacity outlook for the current gas day and the next 2 gas days for each storage facility that they operate. Storage providers are also required to provide actual flow data to the bulletin board operator under clause 169. Further detail is set out in clauses 5.4 and 5.5 of the bulletin board procedures.

The AER sought information from the APA Group and TRUenergy — operators of the Liquefied Natural Gas (LNG) Dandenong and Iona Western Underground Storage (WUGS) facilities— on these provisions. In particular, it sought details on:

- procedures and systems in place to ensure compliance with clauses 168 and 169 and the bulletin board procedures
- instances where the required data was not provided on the bulletin board, and the systems and programs put in place to rectify these issues
- any quality assurance processes in place to ensure accuracy of data provided to the bulletin board operator.

Summary of responses

The APA Group has entered into an agreement for VENCORP to prepare and upload the data required under clauses 167–169, using information provided by APA for the operation of Victoria’s gas wholesale market. This information is generated by APA’s existing LNG service provider system.

TRUenergy provided the AER with copies of internal procedures to ensure compliance with clauses 168 and 169. These provide information on generation of actual flow rate, standing capacity and 3 day capacity outlook data. Work instructions have been developed for updating the bulletin board data, including instructions on how to create and send the necessary data files.

An automated update process has been developed by TRUenergy to save on personnel time and to reduce the likelihood of error. Procedures include ‘troubleshooting’

sections to assist staff in resolving common issues. Designated staff have bulletin board logon user names allowing them to upload information.

Both respondents advised that there are quality assurance processes in place to ensure data accuracy. APA GasNet and TRUenergy advised that internal processes are in place for senior personnel to check all data output and reports, while LNG data provided to VENCORP is also subject to annual external market audits.

TRUenergy indicated that there were some instances where it had not provided daily capacity data to the operator. In one instance, data was uploaded late due to uncertainty as to reporting requirements. The data was provided promptly once VENCORP clarified the requirements.

TRUenergy noted instances of uploaded files containing data errors due to its automated update system uploading incorrect data while it was still being reconfigured. In these instances, correct data was manually uploaded when the errors were identified through quality assurance processes.

Other instances of late provision of data occurred during unplanned plant shutdowns, during which authorised persons were unable to access internet-connected PCs with the “.csv file format” required for the bulletin board. TRUenergy has since developed new systems allowing authorised personnel to access “.csv files” in such circumstances. Automated systems have reduced the number of late submissions due to limited availability of authorised staff outside normal business hours.

TRUenergy took the opportunity to highlight difficulties associated with the creation and upload of data. One difficulty was that files may need to be uploaded outside of business hours, when authorised personnel do not always have access to an internet-connected computer with the correct “.csv file” formats. Another difficulty is that the majority of those plant operators who are present 24 hours a day, 7 days a week (and would have the required access to the correct formats) do not have, or otherwise require, the necessary IT skills to create, edit and upload “.csv files”. TRUenergy internet policies prevent employees from using file transfer protocols to upload files to external servers for security reasons, so that manual uploading of files is required. TRUenergy considers that a much more convenient and less error-prone method

would be to have functionality within the bulletin board that allows authorised users to enter data directly into the website.

TRUenergy also highlighted areas in which information for the bulletin board could be obtained from pre existing systems maintained by pipeline operators. It suggests that this would not only minimise the risk of inconsistencies, but also ensure that bulletin board updates are not overlooked during plant emergencies when resources are directed elsewhere.

Actual production information, plant availability data and actual flow data have all been identified as areas in which data could be provided by pipeline operators that already have the required IT infrastructure in place, thereby reducing unnecessary duplication and associated compliance costs, and improving reliability and accuracy.

TRUenergy Gas Storage considers that the verification of data after uploading onto the bulletin board is difficult due to the infrequent generation of reports. By way of example, it points to a lags of up to six hours between uploading a file and generation of the next ‘annual flow seven days’ report.

TRUenergy also queried the value added by the historical flow data on the bulletin board, when much of this information is available from VENCORP’s Market Information Bulletin Board reports. On this basis it suggests a review of the timeframes for provision of actual flow data, especially around weekends and public holidays.

Review outcomes

While the approaches to compliance differ, participant responses indicate that appropriate systems and procedures have been implemented to ensure satisfactory compliance with clauses 168 and 169 of the Rules. Nothing in the information provided suggests significant participant compliance issues.

TRUenergy acknowledges that it experienced some initial problems in complying with its obligations, but is addressing issues as they become apparent. This refinement of processes over time is an appropriate recognition of the teething problems that can be encountered in establishing systems for compliance with new obligations.

The AER will continue to monitor developments in this area, and takes comfort from this example of participant responsiveness.

The agreement between the APA Group and VENCORP to make use of existing systems and data to meet the bulletin board requirements is a positive step in avoiding unnecessary duplication in reporting.

The transfer of the role of bulletin board operator to AEMO (scheduled for July 2009) will require AEMO to make available information it acquires in its capacity as gas market operator for the operation of the bulletin board. The AER will explore the extent to which this provision may allow for a reduction in compliance costs for participants in relation to the issues identified by TRUenergy, and the practical implications of such an approach.

This and the other concerns raised by TRUenergy in relation to the bulletin board requirements will be considered further in the June 2009 report.

3.1.7 Obligation on pipeline operators to provide nameplate rating information and linepack / capacity adequacy indicator

Clauses 170 and 172 of the Gas Rules require pipeline operators to provide up-to-date linepack/capacity adequacy (LCA) information and the nameplate capacity ratings for pipelines listed on the bulletin board.

As part of its review of these provisions, the AER requested information from a sample of pipeline operators including details of:

- systems and procedures in place to ensure compliance with clauses 170 and 172
- instances where linepack/capacity adequacy flags have been raised
- any issues with the timely provision of LCA data and nameplate rating information, and systems put in place to rectify these issues.

Summary of responses

Jemena (Eastern Gas Pipeline, Queensland Gas Pipeline) and Epic Energy (Moomba to Adelaide Pipeline and South West Queensland Pipeline) provided the AER with details of their software systems for bulletin board updates. Automated systems are

used to upload nameplate capacities and LCA data to the bulletin board if official approvals are not required. The systems include error validation checks to ensure data quality.

Designated personnel are responsible for keeping bulletin board information up-to-date, including outside normal business hours. Participants also indicated that they have implemented procedures and instructions for manual data upload by staff if the automated system fails. Additional staff are trained as a second contingency measure, and can be called upon in the event of system failure, or in the absence of regular personnel. Training in the use of these procedures has also been provided to staff at pipeline facilities.

While some issues have been experienced since the establishment of the bulletin board, participants have tried to address any problems to minimise the risk of a reoccurrence. Weaknesses in internal procedures and systems have been rectified through the implementation of additional training and documented procedures to enable the manual uploading of data. Information sessions have been held for upper management to increase awareness of their obligations in this area.

The participants raised concerns in relation to response times for calls directed to bulletin board staff through the VENC Corp helpdesk.

Review Outcomes

The responses suggest that participants have implemented systems and procedures for satisfactory compliance with clauses 170 and 172. The AER is encouraged by participant responsiveness to identified issues, the continued refinement of procedures, and the use of training provided for effective implementation.

The AER is satisfied that participants' obligations have to date been met. It will continue to monitor the bulletin board to ensure the accurate and timely submission of data.

As noted, the AER will discuss the concerns raised by participants in relation to difficulties in contacting bulletin board staff and in getting timely responses to queries. The AER will report on outcomes in the June 2009 report.

3.1.8 Upcoming targeted compliance reviews

The AER will target a number of provisions of the Gas Rules for compliance review in the June 2009 quarter, including:

- clauses 148(8) and 154, relating to obligations on the bulletin board operator to maintain an up-to-date register of all bulletin board participants and facilities in the form specified in the bulletin board procedures.
- clause 152(4), relating to obligations on participants that are currently exempt from providing bulletin board data, to advise the operator if they may no longer meet the exemption criteria
- clause 164, relating to obligations on production facility operators to provide facility nameplate rating information, and to advise the operator on changes to the nameplate rating of its facility.
- clauses 173 and 174, relating to obligations on pipeline operators to provide nominated and forecast delivery information, and actual pipeline gas delivery information.

As noted, the AER will continue its review of clauses 165 and 166, relating to the obligation on production facility operators to provide 3-day production capacity outlook information and actual flow data to the bulletin board operator.

The full list of provisions to be targeted in the June 2009 quarter are listed in Appendix B of this report.

4 Electricity

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

4.1 Investigations and \$5,000/MWh reports

This part of the report provides an update on:

- outcomes during the March 2009 quarter arising from past investigations⁴
- any market events which occurred during the March 2009 quarter
- reports issued by the AER regarding market events where the spot price exceeded \$5,000/MWh⁵.

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

4.1.1 Investigations into rebidding in “good faith”⁶

The AER has closed its investigation into the compliance of AGL Energy on 19 February 2008 with the “good faith” rebidding provision (clause 3.8.22A of the Electricity Rules). The AER has concluded that the information gathered during the course of this complex investigation did not support a breach of the “good faith” rebidding provision on the relevant day. An investigation report into this matter is available from the [AER website](#). As a matter of practice, the AER may reopen the investigation if additional information comes to light or any of the information received during the investigation is found to be inaccurate or misleading.

⁴ Public electricity investigation reports issued by the AER are available from its [website](#).

⁵ These reports are available from the [AER website](#).

⁶ Erratum: the December 2008 quarterly compliance report referred to the wrong dates for the AGL and Stanwell “good faith” investigations.

An investigation into Stanwell Corporation's compliance with the "good faith" rebidding clause on 22 and 23 January 2008 is still continuing. Updates will be provided in future quarterly compliance reports.

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

The AER is required to publish a report⁷ covering the circumstances in which the spot price⁸ in the electricity wholesale market or the electricity ancillary services market⁹ exceeds \$5000/MWh in a trading interval¹⁰. The reports enhance the transparent operation of the NEM and help identify instances of non-compliance.

During the March 2009 quarter, the AER released six \$5000/MWh reports relating to the following events:

- South Australia on 13 January - high temperatures led to high electricity demand. AGL bid large amounts of high-priced capacity through its initial day-ahead offers; lower than forecast import capability resulted in some prices being significantly higher than forecast
- New South Wales on 15 January - new summer record demand, significant unplanned generation outages and unplanned network outages led to a tight supply-demand balance; in addition, there was rebidding by generators
- South Australia on 19 January - incorrect pricing resulting from an error in the dispatch process; in addition, high demand caused by extreme temperatures led to high priced capacity being dispatched; rebidding by AGL shifted capacity from low prices to the price cap, with the dispatch of this capacity setting the price for the majority of the time

⁷ Under clause 3.13.7 (d) and (e) of the Electricity Rules.

⁸ The price for electricity in a trading interval at a regional reference node or a connection point as determined in accordance with clause 3.9.2 of the Electricity Rules.

⁹ Market ancillary services are required to maintain the power system frequency within the standard. These services are offered into the market systems by registered providers (usually generators) along with energy market offers from the same provider and dispatched by NEMMCO in each 5-minute dispatch interval.

¹⁰ A trading interval is a 30-minute period ending on the hour (Australian Eastern Standard Time) or on the half hour and, where identified by a time, means the 30 minute period ending at that time.

- South Australia and Victoria on 28 and 29 January - extreme weather in both regions resulted in record demand; in addition, there were unplanned outages of generation and transmission equipment; administered pricing was invoked
- Tasmania on 29 and 30 January - rebidding by Hydro Tasmania and tight supplies in southern Australia caused by extreme heat conditions
- South Australia on 31 March - unplanned outage of the largest generator in the region.

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

4.2 Audits

Auditing is one mechanism used by the AER to verify and assess compliance by registered participants with their obligations. There are two main types of audits:

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

As noted in the December 2008 report, the AER intended to include TNSPs' arrangements for compliance with clause 3.7A in the next round of technical audits. Clause 3.7A relates to the provision of market information on planned network outages. The AER has decided to postpone the audits relating to clause 3.7A in light of the draft Rule changes arising from the AEMC's Congestion Management Review.

Technical audits on compliance with technical standards by generators and TNSPs will, however, continue¹¹. During the March 2009 quarter, the AER was finalising its audit arrangements for Eraring Energy and Transgrid, as the next targeted participants for audit.

¹¹ For further details on the origins of these audits, refer to the quarterly compliance report for the quarter ending 31 December 2007.

4.3 Targeted compliance reviews

Targeted compliance reviews are an important element of the AER's compliance monitoring activities. The AER targets at least 24 Electricity Rules provisions each year for detailed review.

The provisions are selected on the basis of the AER's compliance risk assessment noted in part 2 of this report. **Appendix B** lists the Electricity Rules provisions targeted over the last four quarters.

Electricity Rules provisions are selected for review in accordance with principles set out in **Appendix C**.

In the March 2009 quarter, the following Electricity Rules provisions were targeted for review:

- market customer obligations (clause 2.3.4)
- system restart plan and local black system procedures (clause 4.8.12)
- acceptance of, and compliance with, performance standards, including testing to demonstrate compliance with connection requirements for generators (clauses 4.14, 4.15 and 5.7.3)
- procedure to be followed by a generator proposing to alter a generating system (clause 5.3.9).

4.3.1 Market Customer obligations

The December 2008 report referred to a review of clause 2.3.4 of the Electricity Rules. This provision relates to market customers who are persons (typically retailers, including local retailers¹²) registered by NEMMCO that purchase electricity supplied (through a transmission or distribution system) to a connection point.

¹² A Local Retailer is a Customer who is either: (1) a business unit or related body corporate of the relevant local NSP; (2) responsible under relevant jurisdictional legislation for the supply of electricity to franchise customers in that local area; or (3) if neither of the above, such Customer as NEMMCO may determine.

The review focussed on clauses 2.3.4(c) and (h). These provisions require that:

- market customers must purchase all electricity supplied at a relevant connection point from the spot market and make payments to NEMMCO for that electricity
- local retailers must classify any connection point which connects its local area to another part of the power system as a market load.

The AER sought information from ActewAGL, AGL Energy, Aurora Energy, Country Energy, EnergyAustralia, Ergon Energy, Integral Energy, Origin Energy and TRUenergy. As listed in the December 2008 report, these participants are local retailers in at least one NEM jurisdiction.¹³

The earlier review of this provision was postponed pending more complete responses from AGL Energy (which also replied on behalf of ActewAGL¹⁴), Integral Energy and Origin Energy.

Response summary

In all cases, the targeted local retailers confirmed compliance with clause 2.3.4(c). Ergon Energy specified that it complies by means of a connection and access agreement with the Queensland Distribution Network Service Provider (DNSP), Powerlink.

The only incidents of non-compliance relate to two late settlement payments to NEMMCO by a registered participant in 2006 (reported to the AER and rectified at the time), as well as issues arising in relation to cross-boundary mismatches of connection points relative to geographical areas. The latter issue involves AGL and Origin Energy in Victoria, which have alternative settlement arrangements to deal with this anomaly. EnergyAustralia was similarly affected in the past until a major boundary metering project was completed in 2006.

Regarding the classification of market loads under clause 2.3.4 (h), the retailers indicated that they adhere to this requirement.

¹³ Erratum: the December 2008 quarterly compliance report incorrectly listed TRUenergy as a Local Retailer in Queensland, instead of Victoria only.

¹⁴ The retailer in the Australian Capital Territory (ACT).

Review outcomes

The review prompted AGL to formalise its arrangements in the ACT, which saw the local retailer, ActewAGL, not being classified as the market customer for that region. On 22 April 2009, NEMMCO determined that AGL Hydro Partnership is now the local retailer in the ACT.

4.3.2 System restart plan and local black system procedures

The review of clause 4.8.12 of the Electricity Rules continues from the September 2008 quarter. The provision relates to the development, approval, review and amendment of local black system procedures¹⁵. Sub-clause (d) and (f) cover development, (g) covers approval, (d) covers review, and (h) and (i) cover amendments.

In the March 2009 quarter, CS Energy, Hydro Tasmania and International Power were asked to provide information including confirmation that:

- they have developed and submitted to NEMMCO local black system procedures in accordance with the guidelines published by NEMMCO and the requirements of clause 4.8.12(f)
- their local black system procedures are consistent with any ancillary services agreement to provide system restart ancillary services to which they are a party
- they follow all instructions from NEMMCO regarding reviewing and amending the procedures, in compliance with sub-clauses 4.8.12(d), (h) and (i).

¹⁵ Local black system procedures enable NEMMCO to understand the likely condition and capabilities of plant following any major supply disruption. This enables NEMMCO to effectively co-ordinate the safe implementation of the system restart plan.

Response summary

CS Energy

CS Energy is a Queensland government-owned electricity generator with a claimed total production of over 2500 MW registered within the NEM. It confirmed that it has NEMMCO-approved local black system procedures for all its power stations. In addition, it advised that its Callide B generating units currently provide a system restart service under agreement with NEMMCO. The local black system procedure of this plant is said to be consistent with processes that occur in accordance with the restart agreement between Callide B and NEMMCO.

CS Energy added that it aims to follow all instructions issued to it from NEMMCO regarding the review and amendment to the procedures.

Hydro Tasmania

Hydro Tasmania is a Tasmanian government-owned electricity generator with a predominantly renewable energy portfolio and over 2100 MW of registered capacity. It confirmed that it has NEMMCO-approved local black system procedures for all power stations under its control.

Hydro Tasmania also referred to annual black start tests approved by NEMMCO that are applied to all power stations. The timing of the tests is negotiated with NEMMCO. Prior to such tests, Hydro Tasmania reviews its procedures and resubmits them for approval.

International Power

This registered participant is part of International Power Australia (IPA), a privately-owned group with an extensive electricity generation portfolio that includes 3200 MW of registered capacity in the NEM.

IPA has NEMMCO-approved procedures for all its power stations. It also advised that it has a system restart ancillary service agreement with NEMMCO involving its Dry Creek power station in South Australia. This station's local black system procedures are consistent with its ancillary services agreement.

According to IPA, system black start processes are reviewed periodically, with procedures being updated and submitted for approval independently of formal requests by NEMMCO. This approach is complemented by other initiatives which see IPA's spot market operations desk (which is based in Melbourne) briefed on the processes. IPA stated that its traders attend workshops and participate in regional system restart simulations run by NEMMCO from time to time.

Finally, following an AER compliance review in 2007, IPA also confirmed that it has now established a compliance program across its generation portfolio, based on a consistent set of compliance plans that will continue to be reviewed and amended over time. IPA updates its documentation with each release of the Electricity Rules.

Review outcomes

The registered participants targeted in the March 2009 quarter all confirmed that they have NEMMCO-approved procedures for their power stations. Where they offer system restart ancillary services, both CS Energy and IPA confirmed that their stations' local black system procedures are consistent with the ancillary services agreement. Given this information, there appears to be no compliance issue in this area.

It should be noted that clause 4.8.12(d)—which deals with observing NEMMCO's instructions to review and amend procedures—is a civil penalty provision.¹⁶ As such, registered participants who, among other things, do not develop and review, and amend as required, their local black system procedures expose themselves to infringement notices or other statutory enforcement action by the AER.

The conduct of regular tests and reviews of local black system procedures, regardless of formal requests from NEMMCO, would appear to be good practice to ensure compliance with obligations and the maintenance of effective procedures.

¹⁶ A breach of which would enable the AER to issue an Infringement Notice under s.74 of the Electricity Law.

4.3.3 Acceptance of, and compliance with, performance standards, including testing to demonstrate compliance with connection requirements for generators

In 2008, the AEMC published a Rule change affecting the framework for generator compliance with performance standards.¹⁷ The standards define the level of performance required of equipment connected to the national power system. The power system is operated to these standards so that NEMMCO can effectively manage power system security.

The key elements of the AEMC determination, now embodied in clause 4.15 of the Electricity Rules, include:

- a mechanism by which registered participants can seek a review from the AER on the time allowed by NEMMCO for participants to rectify breaches of performance standards
- a requirement on NEMMCO to advise the AER of any breach with performance standards, including situations where NEMMCO reasonably believes the registered participant may have breached performance standards but NEMMCO has not been notified
- the requirement for the consent of the relevant participant, Network Service Provider and NEMMCO, for any changes to that participant's registered performance standards.

The purpose of the review undertaken by the AER in the March 2008 quarter was aimed at understanding and developing the processes required to give effect to the interrelated clauses 4.14, 4.15 and 5.7.3 of the Electricity Rules. In short:

- clause 4.14 establishes a framework to accept and amend registered performance standards

¹⁷ For further information on this Rule change on this topic, refer to the [AEMC website](#).

- clause 4.15 deals with compliance by registered participants with their registered performance standards, including breach reporting and rectification arrangements involving NEMMCO and AER
- clause 5.7.3 relates to tests to demonstrate compliance with connection requirements for generators and arrangements relating to any non-compliance.

In this quarter, the AER concentrated only on those obligations under clauses 4.14, 4.15 and 5.7.3 as they relate to NEMMCO and the AER. As part of this initial review, the AER requested NEMMCO to provide further information on:

- the assessment process it uses to process requests to amend performance standards
- the assessment process it uses to determine the period in which registered participants must rectify a breach of any technical standard
- any operational or other arrangements put in place by NEMMCO to ensure that registered participants take appropriate action within the period of rectification determined by NEMMCO.

The AER requested other information such as on reported breaches and requests for amendments to existing performance standards.

Response summary

The assessment process, timeframes and criteria applied by NEMMCO for the purposes of clause 4.14 are based on associated requirements of clause 5.3.4A, which deals with negotiated access standards.

NEMMCO submitted that it attempts to process all requests within 20 business days, provided the required information is available. The nature and extent of the investigation carried out by NEMMCO depends on the amendment sought by participants and the extent of the change from existing standards. NEMMCO indicated that its focus will be on ensuring that amendments satisfy sub-clause 4.14(p) and do not adversely affect power system security.

In terms of the compliance review of clauses 4.15 and 5.7.3, NEMMCO submitted that the relevant procedure is described in an internal document on the management of compliance with performance standards. This document specifically deals with

situations envisaged under sub-clauses 4.15(i) and 5.7.3(f) relating to:

- breaches of performance standards and NEMMCO's determination and notification of periods within which such breaches must be rectified (resulting in the possibility of registered participants requesting the AER to review NEMMCO's rectification periods if believed to be unreasonable)
- non-compliance by a generating system with one or more applicable performance standards, resulting in directions by NEMMCO to ensure power system security.

NEMMCO advised that it tracks non-compliance and follows-up to ensure rectifications are completed in time. This is evident from the information and updates that NEMMCO has been providing to the AER to give effect to the framework relating to compliance with performance standards.

Review outcomes

The arrangements under clause 4.15 relating to generators' performance standard compliance are relatively new, having come into effect on 23 October 2008. The AER will review and further develop its processes over time, in so far as its role on reviewing NEMMCO's determination of rectification periods is concerned (sub-clauses 4.15(n)-(p)).

NEMMCO stated that it will similarly develop and review its processes with respect to amendments to performance standards, based on the experience that will be obtained over time through the processing of more requests under sub-clause 4.14(p).

The AER intends to further review compliance with performance standards once the template for generator compliance programs (envisaged under clauses 4.15) is implemented. The AEMC Reliability Panel¹⁸ is conducting a review¹⁹ of this area and issued a draft recommendation for an integrated package of measures to ensure that performance standards for existing generators are properly documented and to improve procedures for ensuring compliance with those standards.

¹⁸ For further information on this body, refer to the [AEMC webpage](#).

¹⁹ For a copy of this report or information on this review, refer to the [AEMC webpage](#).

4.3.4 Procedure to be followed by a Generator proposing to alter a generating system

Clause 5.3.9 of the Electricity Rules applies to a generator proposing to alter a connected generating system or a generating system for which performance standards have previously been accepted by NEMMCO. Among other things, this provision establishes a procedure requiring generators to submit specific information to the relevant network service provider,²⁰ specific information including:

- a description of the nature of the proposed alteration and related timetable
- in respect of a proposed alteration to a generating system, details of the generating unit design and setting data in accordance with relevant requirements
- where a proposed alteration to equipment will affect the performance of a generating system, the proposed amendments to the applicable automatic access standard²¹ or proposed negotiated access standard.²²

The AER had intended to conduct targeted compliance review of this provision to ensure that generators have appropriate procedures to ensure they are aware of their obligations when dealing with alterations to their generating system.

As a result of developments in the area of compliance with technical standards, particularly the work of the Reliability Panel referred to in part 4.3.4 of this report, the AER has decided to postpone its review of clause 5.3.9.

4.3.5 Upcoming targeted compliance reviews

As part of the AER's on-going compliance program in electricity, specific provisions under the Electricity Rules are targeted for review each quarter.

²⁰ A copy must also be provided to NEMMCO.

²¹ Defined under the Electricity Rules as “a standard of performance, identified in a schedule of Chapter 5 as an automatic access standard for that technical requirement, such that a plant that meets that standard would not be denied access because of that technical requirement”.

²² Defined under the Electricity Rules as “an agreed standard of performance determined in accordance with clause 5.3.4A and identified as a negotiated access standard for that technical requirement in a connection agreement”.

In the March 2009 quarter, the AER will be targeting compliance with rule 5.3 of the Electricity Rules, which relates to establishing or modifying connections to the network. This is currently of particular importance following the commitment by the Council of Australian Governments to implement an expanded national Renewable Energy Target²³. The expanded target of 45,000GWh per annum will result in an increase in the number of connection enquiries and applications. A critical aspect of any generation development is its proper and timely connection to the distribution and transmission networks, so compliance with rule 5.3 by network businesses is particularly important.

In subsequent quarters, the AER also intends extending its review of NEMMCO's obligations under clauses 4.14, 4.15 and 5.7.3 of the Electricity Rules to obligations on registered participants. The AER will utilise targeted compliance reviews as well as audits. The review of arrangements in this area has been prompted by an increasing number of breach notifications by generators since the requirement on them to register performance standards by 30 June 2007. Furthermore, the importance of compliance in this area has been highlighted by the AEMC. The AEMC stated in its final report on the review of enforcement and compliance with technical standards that:

"[e]nsuring high levels of compliance with effective standards is fundamental to the safe and reliable operation of the power system within the power system's technical envelope. If this were not the case, the risk of a major power system incident would materially increase".

As mentioned in part 4.3.3 of this report, the AER also intends reviewing compliance with clause 5.3.9 in future, as part of the implementation of a template for generator compliance programs within the NEM.

The AER is considering whether it will start providing more advanced notice on which provisions it is targeting in future quarters.

²³ This will incorporate the existing Mandatory Renewable Energy Target (MRET) scheme and similar State-based scheme.

4.4 Jurisdictional derogations

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

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

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

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

These participants must give notice to the AER of any act or omission which partly or wholly constitutes non-compliance with the Electricity Rules.²⁴

The participants advised the AER that there were no instances of non-compliance during the quarter.

²⁴ 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.

4.5 Market monitoring

The AER monitors the performance of the NEM on an ongoing basis to screen for indicators of any non-compliance with obligations under the Electricity Law, the Electricity Regulations or Electricity Rules. This monitoring relies on publicly available data and information provided by NEMMCO and other entities. Although market monitoring is used to screen for non-compliance with a wide range of provisions, this part of the report focuses on queries made by the AER that have arisen from screening of rebid data and information.

4.5.1 Rebidding inquiries

Scheduled generators and market participants submit offers and bids for each of the 48 intervals in the trading day. These offers and bids cover prices and volumes in up to 10 price bands, and can be varied through rebidding.

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

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

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

Equivalent requirements apply where a market participant advises NEMMCO that a scheduled generating unit, scheduled network service or scheduled load is inflexible²⁵, under clause 3.8.19 of the Electricity Rules.

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

²⁵ The situation where, in accordance with the Electricity Rules, a scheduled generating unit, scheduled load or scheduled network service is only able to be dispatched in the trading interval at a fixed loading level specified in accordance with clause 3.8.19(a) of the Electricity Rules.

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

Table 3: Rebidding reviews in the March 2009 quarter

Electricity Rules Clause	Compliance issue	No. of participants under review
3.8.19(b)(1)	The rebid submitted does not provide a brief, verifiable and specific reason why the scheduled generating unit, scheduled network service or scheduled load is inflexible	3
3.8.22(c)(2)(i)	The rebid submitted does not provide a brief, verifiable and specific reason for the rebid	3
3.8.22(c)(2)(ii)	The rebid submitted does not include the time at which the event(s) or other occurrence(s) adduced by the scheduled generator or market participant as the reason for the rebid occurred	16

In addition to the above, and the “good faith” investigation referred to in part 4.1.1 of this report, the AER is also reviewing the commitment of scheduled generating units by 2 participants, and further information will be sought as required.

4.5.2 Consultation on revised Rebidding and Technical Parameters Guideline

As foreshadowed in the December 2008 report, the AER issued a draft rebidding and technical parameter guideline for consultation²⁶ on 7 April 2009. The initial consultation ended on 15 May 2009.

Following this first round, the AER intends publishing a draft report for consultation in July 2009, with a final guideline due around September 2009.

²⁶ Consultation undertaken in accordance with clause 8.9(g) of the Electricity Rules. For more information on this guideline, refer to <http://www.aer.gov.au/content/index.phtml?itemId=727855>.

Appendix A: AER investigations and reporting summary

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

Industry	Date of event	Description	Status
Electricity	4 and 10 January, 18 and 19 February 2008	Investigation into rebidding (South Australia – AGL)	Review ongoing
Electricity	22-23 February 2008	Investigation into rebidding (Queensland - Stanwell)	Review ongoing
Electricity	23 July 2008	\$5,000/MWh Report	Issued
Electricity	31 October 2008	\$5,000/MWh Report	Issued
Electricity	20 November 2008	\$5,000/MWh Report	Issued
Electricity	13 January 2009	\$5,000/MWh Report	Issued
Electricity	15 January 2009	\$5,000/MWh Report	Issued
Electricity	19 January 2009	\$5,000/MWh Report	Issued
Electricity	28-29 January 2009	\$5,000/MWh Report	Issued

Industry	Date of event	Description	Status
Electricity	29-30 January 2009	\$5,000/MWh Report	Issued
Electricity	31 March 2009	\$5,000/MWh Report	Issued

Appendix B: Targeted rule provisions summary

This is a summary table of the provisions under the National Electricity Rules (Electricity Rules), National Gas Rules (Gas Rules) and Victorian Gas Industry Market and System Operations Rules (MSOR) targeted for compliance reviews, which have been completed by the AER over the last four quarters. It also lists ongoing reviews.

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted ²⁷	Status ²⁸
June 2008	Electricity	Electricity Rules 2.2.6	Ancillary services generating unit	3	Review completed
		Electricity Rules 4.4.3	Generator protection requirements	2	Review completed
		Electricity Rules	Determination of the latest time for intervention by direction or	2	Review completed

²⁷ In some cases, the same participant may be the subject of more than one compliance review in the same quarter; “n/a” refers to desktop reviews by the AER involving no enquiries to participants.

²⁸ “Review ongoing” refers to a targeted provision’s review conducted over more than one quarter and involving different registered participants in each of the quarters.

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted ²⁷	Status ²⁸
		4.8.5A	dispatch of reserve contract		
		Electricity Rules 4.8.9	Power to issue directions and clause 4.8.9 instructions	1	Review ongoing
		Electricity Rules 4.9.2	Dispatch instructions to scheduled generators	2	Review completed
		Electricity Rules 5.3.2	Connection enquiry	2	Review completed
		Electricity Rules 5.3.6	Offer to connect	3	Review completed
September 2008	Electricity	Electricity Rules 2.2.3	Classification of non-scheduled generators	3	Review ongoing
		Electricity Rules 3.7A	Market information on planned network outages	5	Review ongoing
		Electricity Rules	Power to issue directions and clause 4.8.9 instructions	1	Review completed

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted ²⁷	Status ²⁸
		4.8.9			
		Electricity Rules 4.8.12	System restart plan and local black system procedures	1	Review ongoing
		Electricity Rules 7.4.2	Qualifications and registration of Metering Providers	2	Review ongoing
		Electricity Rules 7.8.4	Changes to metering data	2	Review completed
		Electricity Rules 8.6.6	Confidentiality policy	1	Review completed
December 2008	Electricity	Electricity Rules 2.2.3	Classification of non-scheduled generators	3	Review completed
		Electricity Rules 2.3.4	Market Customer obligations	9	Review ongoing
		Electricity Rules	Market information on planned network outages	5	Review ongoing

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted ²⁷	Status ²⁸
		3.7A			
		Electricity Rules 4.8.12	System restart plan and local black system procedures	1	Review ongoing
		Electricity Rules 4.9.2A	Dispatch instructions to Scheduled NSPs	1	Review completed
		Electricity Rules 7.4.2	Qualifications and registration of Metering Providers	2	Review completed
March 2009	Gas	Gas Rules 145	Publication of information by bulletin board operator	1	Review completed
		Gas Rules 165	Obligation on production facility operators to provide 3-day production capacity outlook	4	Review ongoing
		Gas Rules 166	Obligation on production facility operators to provide actual production data	4	Review ongoing
		Gas Rules 168	Obligation on bulletin board storage providers to provide 3-day production capacity outlook	2	Review completed

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted ²⁷	Status ²⁸
		Gas Rules 169	Obligation on bulletin board storage providers to provide actual storage production data	2	Review completed
		Gas Rules 170	Obligation on pipeline operators to provide nameplate rating information	2	Review completed
		Gas Rules 172	Obligation on pipeline operators to provide linepack/capacity adequacy indicator	2	Review completed
		Gas Rules 181	Emergency information	1	Review completed
		Gas Rules 182	NGERAC or a Jurisdiction may request activation or deactivation of emergency information page	1	Review completed
		Gas Rules 183	bulletin board emergency use indicator	1	Review completed
		Gas Rules 184	Jurisdiction may make public statements on an emergency	1	Review completed
	Electricity	Electricity Rules 2.3.4	Market Customer obligations	5	Review completed

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted²⁷	Status²⁸
		Electricity Rules 4.8.12	System restart plan and local black system procedures	3	Review completed
		Electricity Rules 4.14	Acceptance of Performance Standards	1	Review ongoing
		Electricity Rules 4.15	Compliance with Performance Standards	1	Review ongoing
		Electricity Rules 5.3.9	Procedure to be followed by a Generator proposing to alter a generating system	n/a	Review postponed
		Electricity Rules 5.7.3	Test to demonstrate compliance with connection requirements for generators	1	Review ongoing

Appendix C: Principles for reviewing Electricity Rules provisions

The AER follows the following principles in selecting provisions for targeted review:

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

The targeted compliance reviews aim to determine:

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

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

The AER is adopting a similar process for reviewing compliance with gas rule obligations by relevant participants.