



# **Quarterly Compliance Report**

## **July – September 2007**

November 2007

© Commonwealth of Australia 2007

This work is copyright. Apart from any use permitted by the *Copyright Act 1968*, 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, GPO Box 3131, Canberra ACT 2601.

## Contents

<b>1</b>	<b>Introduction .....</b>	<b>1</b>
<b>2</b>	<b>Compliance monitoring strategy .....</b>	<b>2</b>
<b>3</b>	<b>Targeted compliance reviews .....</b>	<b>3</b>
3.1	Targeted provisions.....	3
3.1.1	Power system security operations.....	4
3.1.2	Obligations of Registered Participants.....	5
3.1.3	B2B Procedures .....	7
3.1.4	Data validation and substitution.....	8
3.1.5	Metering register discrepancy.....	9
3.1.6	Confidential information.....	10
3.2	Jurisdictional derogations .....	12
3.3	Upcoming targeted compliance reviews.....	12
<b>4</b>	<b>Market monitoring .....</b>	<b>13</b>
4.1	Rebidding inquiries.....	13
<b>5</b>	<b>Compliance audits .....</b>	<b>15</b>
5.1	Technical standards.....	15
<b>6</b>	<b>Investigations .....</b>	<b>16</b>
6.1	Spot price events exceeding \$5000/MWh .....	16
6.2	Investigation into the events of 16 January 2007.....	16
<b>Appendix A:</b>	<b>Targeted provisions summary .....</b>	<b>19</b>
<b>Appendix B:</b>	<b>AER investigations summary.....</b>	<b>21</b>

# 1 Introduction

The Australian Energy Regulator (AER) is responsible for compliance monitoring, reporting and enforcement in the National Electricity Market (NEM).

Section 15 of the National Electricity Law (NEL) sets out the function and powers of the AER which include the requirement to:

- (a) monitor compliance by Registered Participants and other persons with the NEL, the National Electricity Rules (NER) and relevant Regulations; and
- (b) investigate breaches or possible breaches of provisions of the NEL, the NER or relevant Regulations 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:

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

The purpose of this report is to summarise the results of the AER compliance monitoring and enforcement activities during the period July – September 2007. It provides an overview of the results of investigations conducted by the AER including special reports into significant market or power system events, which have been published separately, and the results of the AER's targeted compliance program. The report also identifies areas that will be targeted for review during the next quarter.

## 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 voluntary compliance by Participants.

The AER has developed a strategy to assist it in focusing its compliance monitoring activities. The AER issued a “Compliance and Enforcement – Statement of Approach” in September 2007 which, amongst other things, provides greater transparency about the AER’s compliance monitoring strategy. A copy of this Statement is available from the AER website.<sup>1</sup>

In developing the compliance monitoring strategy, the AER undertook a comprehensive compliance risk assessment by reviewing each of the 1500 provisions in the NER. The AER will use this risk assessment to help determine which monitoring mechanism to use for each provision of the NER, the intensity of monitoring, and the enforcement response where breaches are identified.

The mechanisms available to the AER include:

- targeted compliance reviews
- market monitoring
- compliance audits.

The results of the AER’s application of these mechanisms and any others, where relevant, will be contained in this and successive Quarterly Compliance Reports.

---

<sup>1</sup> See <http://www.aer.gov.au/content/index.phtml/itemId/685897/fromItemId/656069>.

## 3 Targeted compliance reviews

The AER targets a number of specific NER provisions each year. Each quarter, the AER intends to target, on average, three provisions identified as being high priority through the risk assessment process, two medium priority provisions and one low priority provision.

The AER assesses compliance with the targeted provisions through examining all, or a sample of, relevant Participants' behaviour. Appendix A summarises the provisions targeted during the previous 12 months.

The AER's approach to monitoring compliance relies, in the first instance, on comprehensive observation and reporting. During the compliance review process, the AER assesses the adequacy of compliance from the information provided by the Registered Participants and may review compliance with these obligations at regular intervals.

The review process encourages Participants to maintain an ongoing compliance management focus. 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 Participants in discharging their obligations under the NER.

The AER is keen to hear from Participants and other interested parties on any matters of compliance, including with respect to the specific areas targeted or proposed to be targeted for review.

### 3.1 Targeted provisions

In the July – September 2007 quarter, the AER targeted a range of provisions consisting of the obligations imposed on:

- Registered Participants to advise on circumstances which could be expected to adversely affect power system security (clause 4.8.1)
- Registered Participants to maintain and operate equipment in accordance with the NER, good electricity industry practice and applicable Australian Standards (clause 5.2.1)
- local retailers concerning the B2B Procedures (clause 7.2A.4)
- NEMMCO regarding metering data validation and substitution (clause 7.9.4)
- NEMMCO to advise affected Registered Participants when metering register discrepancies occur (clause 7.5.2)
- on Participants to use all reasonable endeavours to keep confidential any confidential information (clause 8.6.1).

The AER has continued its review of compliance with the metering requirements of Chapter 7 of the NER.

### **3.1.1 Power system security operations**

The AER's selection of provisions for targeted compliance reviews is underpinned by a detailed risk assessment process that, broadly speaking, considers the compliance risk associated with NER provisions. In the case of power system security operations, the events of 16 January 2007, which were the subject of an investigation report issued by the AER in September 2007, have heightened the focus on clause 4.8.1.

Under this clause, a Registered Participant must promptly advise NEMMCO or a relevant System Operator at the time that the Registered Participant becomes aware, of any circumstance that could be expected to adversely affect the secure operation of the power system or any equipment owned or under the control of the Registered Participant or a Network Service Provider.

In order to assess compliance with clause 4.8.1 of the NER, the AER requested the following information from two generators – Flinders Power and International Power:

- details of the criteria used by each Participant to determine in what circumstances NEMMCO or a relevant System Operator should be advised of any risk to the secure operation of the power system or any relevant equipment
- details of the criteria used by each Participant to determine when NEMMCO or a relevant System Operator should be advised of any of the above mentioned circumstances
- any other information that may be of assistance to the AER.

#### **Review outcome**

In response to questions posed by the AER, Flinders Power states that the responsibility to advise NEMMCO of relevant circumstances lies with the duty trader, acting on the advice of plant operators. The duty trader is also responsible for communicating with management personnel. Operating procedures are maintained on-site, including trading procedures. Flinders Power also advises that it has established a specific operating instruction sheet for plant operators to aid with the identification and communication of threats. This outlines procedures to be followed and criteria that should be applied in assessing such risks. A risk assessment is conducted according to established procedures where there has been no impact upon plant performance, but where reliability may be affected.

The response provided by International Power indicates that different procedures and instructions exist for International Power's various generating plants. Generally speaking, these procedures and instructions outline the criteria to be applied and action to be taken by appropriate site personnel when an event or circumstance occurs that could adversely affect power system security. In the case of some of International Power's generating plants (i.e. Pelican Point and the Synergen group), criteria are not prescribed in the relevant procedures. Rather, the criteria are determined when an event or circumstance that could adversely affect power system security actually arises. The assessment as to whether or not NEMMCO or the System Operator should be advised in such cases is based on an understanding of the power system at the time the event or circumstance actually occurred. International Power has indicated that it is in the process of harmonising procedures and instructions across its generating portfolio.

## **AER assessment**

Based on the information provided by the Participants, and the AER's assessment of that information against the requirements of clause 4.8.1 of the NER, the AER is satisfied that the Participants reviewed are aware of their obligations and have systems and processes in place to advise NEMMCO or a relevant System Operator, of any circumstances which could be expected to adversely affect the secure operation of the power system or any relevant equipment.

The AER notes that, given the nature of the review undertaken, it is only possible to establish whether Participants are aware of their obligations under clause 4.8.1 and to identify the systems and processes that are in place. A determination on the adequacy of such systems and processes would be only possible via the use of other compliance monitoring mechanisms (e.g. auditing), which the AER does not consider necessary at this time.

Nevertheless, in view of the importance of this provision, and the findings of the events of 16 January 2007 in Victoria, the AER will continue its review of compliance with this provision in subsequent quarters. The AER will also liaise with International Power to confirm its implementation of a uniform compliance program for its various generating plants.

### **3.1.2 Obligations of Registered Participants**

Pursuant to clause 5.2.1(a), all Registered Participants must maintain and operate (or ensure their authorised representatives maintain and operate) all equipment that is part of their facilities in accordance with relevant laws, the requirements of the NER and good electricity industry practice and applicable Australian Standards.

Under clause 5.2.1(b), all Registered Participants must ensure that the connection agreements to which they are a party require the provision and maintenance of all required facilities consistent with good electricity industry practice. Furthermore, they must operate their equipment in a manner:

- to assist in preventing or controlling instability within the power system
- comply with the minimum standards published pursuant to clause 3.11.4(c)
- to assist in the maintenance of, or restoration to, a satisfactory operating state of the power system
- to prevent uncontrolled separation of the power system into isolated regions or partly combined regions, intra-regional transmission break-up, or cascading outages, following any power system incident.

In order to assess compliance with clause 5.2.1 of the NER, the AER requested the following information from Aurora Energy and CitiPower in their capacity as Distribution Network Service Providers:

- details of any procedures or programs developed by each Participant aimed at ensuring that all equipment at its facilities is operated and maintained in accordance with relevant laws, the NER and good electricity industry practice



- details regarding the manner in which any relevant procedures developed by each Participant are applied in practice
- confirmation of how each Participant ensures that all its facilities, where applicable, are operated consistent with clause 5.2.1(b) and good electricity industry practice
- any other information that may be of assistance to the AER.

### **Review outcome**

Aurora Energy states that the operation and maintenance of equipment and facilities is performed in accordance with asset management plans and subsidiary procedures, which in turn are based upon electricity industry guidelines and the Australian Standards. In addition, all operators and external agents are required to be accredited under the Power System Safety Rules developed jointly by Aurora Energy, Transend Networks and Hydro Tasmania. Connection Agreements reflect the management plans described above and are consistent with the schedules to Chapter 5 of the NER.

The development and maintenance of Aurora Energy's management plans is a condition of this Participant's licence issued by the Office of the Tasmanian Energy Regulator (OTTER), which regularly reviews these plans. Aurora Energy monitors the performance of its asset management plans directly, through the engineering staff responsible for its network, and indirectly through the corporate compliance monitoring system and quarterly network performance reports to the OTTER. Engineering consultants are engaged biennially for the conduct of thorough reviews of asset management framework and practices. To ensure that operations are "at, or near, best practice", the results of the above reviews are incorporated into Aurora Energy's work practices, which are developed from asset management plans.

CitiPower refers to its Regulatory Group's activities and centralised compliance database, which generates compliance questionnaires that are assigned to responsible staff for self-assessment and identification of non-compliance. Outcomes from this process are reported quarterly to a Risk Management and Compliance Committee. In addition, CitiPower relies on an annual internal audit process, based on cyclical audit reviews and risk-based assessments, as well as an external audits mandated by the terms of its Victorian electricity licence. CitiPower also relies on a suite of processes which include technical standards, work procedures and work instructions. These processes incorporate the safe and effective construction, maintenance and operation of network assets and systems in accordance with applicable statutory and "good industry practice".

CitiPower has regular review and internal audit programs to maintain and ensure the relevance of its processes, combined with management reporting and reviews on asset management and network performance indicators. Network contingency plans are reviewed and updated at least annually, and are also used for training purposes. CitiPower's connection agreements are made in accordance with the procedures and requirements of Technical Standards which refer to relevant statutory instruments and the Australian Standards. To prevent cascading outages, CitiPower also relies on protection co-ordination arrangements and regularly reviews secondary protection and control systems, to ensure they perform adequately and in accordance with relevant statutory instruments.

## **AER assessment**

On the basis of responses provided by both Aurora Energy and CitiPower, the AER is satisfied that they have measures in place to ensure that all equipment that is part of their facilities is maintained and operated in accordance with the relevant legislative instruments (including the NER and State regulation and licensing obligations), good electricity practice and the relevant Australian Standards. Aurora Energy and CitiPower have also confirmed that their compliance with clause 5.2.1(b), which requires that they ensure that their connection agreements require the provision and maintenance of all required facilities consistent with good electricity industry practice is fulfilled by these arrangements.

The AER notes that the nature of the review undertaken was such that the adequacy of each of the relevant Participants' measures relating to clause 5.2.1(b) could not be ascertained. In the case of Aurora Energy, however, the AER also notes that, given the relevant state statutory framework applicable to Aurora Energy, OTTER regularly reviews mechanisms aimed at ensuring compliance with aspects of clause 5.2.1(b) by Participants that have been licensed by OTTER.

### **3.1.3 B2B Procedures**

Under clause 7.2A.4(i) of the NER, local retailers must comply with the business-to-business (B2B) Procedures which prescribe the content of, the process for, and the information to be provided to support, B2B Communications. B2B Communications are defined in the NER to mean communications between Local Retailers, Market Customers and Distribution Network Service Providers relating to an end-user or supply to an end-user provided for in the B2B Procedures.

In order to assess compliance with clause 7.2A.4(i) of the NER, the AER requested the following information from AGL and Origin Energy in their capacity as local retailers:

- details of any programs that each Participant has in place to ensure compliance with the B2B Procedures
- details concerning how these programs are being applied by each Participant in practice
- details of any audits undertaken by each Participant that have detected any failures to comply with the B2B Procedures, including a summary of audit results
- any other information that may be of assistance to the AER.

### **Review outcome**

The advice from AGL is that it has implemented a market interface and systems that allow transactions with Participants to be carried out in accordance with the B2B Procedures. Customer data and information is stored and updated as required, with a data repository system used to store and maintain data for validation purposes. AGL asserts appropriate industry testing and certification were completed for B2B commencement in 2005. Contingency plans are in place along with escalation and dispute resolution processes with service providers.

Origin Energy has similar systems and processes in place to meet its B2B obligations. Bilateral agreements are set up between Participants to undertake testing and make changes to systems, as required. Validation processes are in place and supported by routine reconciliations and revenue assurance programs to ensure all transactions are processed appropriately. Origin Energy relies on work instructions that are reviewed annually, as well as staff training and management reporting. A Business Continuity Plan is referred to in the context of critical events, with a B2B notification system in the event of outages.

#### **AER assessment**

AGL and Origin Energy both have an obligation to comply with B2B Procedures, as part of their local retailer status under the NER. On the basis of the responses provided by these Participants, it appears that they both currently have systems and processes to ensure compliance with clause 7.2A.4(i) of the NER.

#### **3.1.4 Data validation and substitution**

Clause 7.9.4 contains obligations relating to the validation and substitution of metering data. Under this clause, NEMMCO is responsible for the validation and substitution of metering data, which must be undertaken in accordance with procedures developed by NEMMCO under clause 7.9.4(b).

Clause 7.9.4 also requires that NEMMCO use check metering data, where available, to validate metering data, provided that the check metering data has been appropriately adjusted for differences in metering installation accuracy. If check metering data is not available or metering data cannot be recovered from the check metering installation within the time required for settlements, then a substitute value is to be prepared by NEMMCO. This substitute value is to be prepared using a method agreed with the Market Participant and the Local Network Service Provider.

Furthermore, if NEMMCO detects a loss of metering data or incorrect metering data, it must notify the Market Participant and Local Network Service Provider within 24 hours of detection in accordance with clause 7.9.4(e).

In order to assess compliance with clause 7.9.4 of the NER, the AER requested the following information from NEMMCO:

- details on how the procedures developed by NEMMCO under clause 7.9.4(b) are being applied in practice
- confirmation that NEMMCO uses check metering data, where available, to validate metering data
- confirmation that NEMMCO has prepared substitute values for unavailable or incorrect check metering data using a method agreed with any relevant Market Participant and the Local Network Service Provider
- details of any relevant performance monitoring and benchmarking or auditing adopted by NEMMCO to detect issues with metering data validation and substitution
- any other information that may be of assistance to the AER.

## **Review outcome**

Clause 7.9.4 imposes obligations only on NEMMCO, as the body responsible for the validation and substitution of metering data. In response to the questions posed by the AER, NEMMCO refers to its NEM Metering Data Substitution, Estimation and Validation (SEV) Procedure. Ongoing compliance with this procedure by Metering Data Providers (MDP) is part of NEMMCO's audit process for this area of operation.

Under the said procedure, MDPs are required to compare revenue and check metering data to ensure the quality and completeness of metering data for wholesale settlements. Where the check metering does not fully duplicate the revenue metering, the validation check may involve nodal validation by comparing energy fed into a bus against energy fed from the bus (nodal balancing). Where no check metering data is available, SCADA data is provided by NEMMCO to all relevant MDPs to be used as a check metering data source. In addition, MDPs are also responsible for identifying data errors resulting from data collection and processing operations using data validation processes specified under the SEV Procedure.

NEMMCO confirms that it undertakes performance monitoring and benchmarking of MDPs in conjunction with service provider and responsible person audits. Moreover, MDPs are required to undertake audits, which complement a similar review process conducted by an independent auditor on behalf of NEMMCO.

## **AER assessment**

In its response to the AER's questions, NEMMCO outlined its detailed procedure to meet the metering data substitution, estimation and validation requirements under clause 7.9.4 of the NER. This Procedure is supported by a formal process of performance monitoring and benchmarking by NEMMCO and auditing by MDPs.

On the basis of this information and arrangements, the AER is satisfied that there is reasonable assurance of ongoing compliance with clause 7.9.4 by all relevant Participants.

### **3.1.5 Metering register discrepancy**

Under clause 7.5.2(a), if the information in a metering register<sup>2</sup> indicates that the revenue metering installation or the check metering installation<sup>3</sup> does not comply with the requirements of the NER, NEMMCO must advise affected Registered Participants of the discrepancy.

In order to assess compliance with clause 7.5.2 of the NER, the AER requested the following information from NEMMCO:

---

<sup>2</sup> Defined in Chapter 10 of the NER as "A register of information associated with a metering installation as required by schedule 7.5".

<sup>3</sup> The revenue metering installation and check metering installation are defined in Chapter 10 of the NER as being metering installations used as "the primary source" and "a source" of metering data for the settlements process, respectively. In turn, the settlements process is "the activity of producing bills and credits notes for Market Participants".

- systems and processes established by NEMMCO to determine whether there are discrepancies between metering registers and revenue metering installations or the check metering installations
- details of the process established by NEMMCO to advise affected Registered Participants of any discrepancy when such discrepancies are found to exist
- details of any other action NEMMCO has taken when discrepancies between metering register and revenue metering installations or the check metering installations have been identified
- any other information that may be of assistance to the AER.

#### **Review outcome**

Clause 7.5.2(a) imposes obligations only on NEMMCO. In response to the questions posed by the AER, NEMMCO refers to Consumer Administration and Transfer Solution (CATS), which forms part of NEMMCO's Market Settlement and Transfer Solution (MSATS) software system. MSATS is one of the systems used by NEMMCO to fulfil its obligations under the NER.

The CATS Procedure contains the principles that govern customer transfers, registration of metering installations and the management of standing data. Under these procedures, Participants and service providers are required to ensure that relevant site details and parameters for each specified metering installation are correctly entered into the MSATS system. All details relating to the metering register under this provision must be maintained by the service providers for the connection point under the applicable Service Level Requirements.

NEMMCO undertakes a number of validations on metering installation standing data within MSATS, which provide exception reporting on the quality of the data in question. In addition, in accordance with its obligations under the NER, NEMMCO also conducts random audits of metering installations. Where inconsistencies are discovered, the responsible Participant is required to take corrective action and correct data and is notified by NEMMCO via the audit process as well as the change control process within MSATS.

#### **AER assessment**

NEMMCO has outlined its systems and processes for ensuring that compliance with clause 7.5.2(a) is met. This entails notifying Registered Participants in the event of non-compliance arising from a discrepancy in the metering register as required under schedule 7.5 of the NER. The AER is satisfied that these systems and processes provide reasonable assurance of ongoing compliance with the NER provision in question.

### **3.1.6 Confidential information**

Under clause 8.6.1, Participants must use all reasonable endeavours to keep confidential any confidential information which comes into their possession or control or of which the Participant becomes aware.

Confidential information is defined in the NER as information which is or has been provided to a Registered Participant or NEMMCO under or in connection with the

NER and which is stated under the NER, or by NEMMCO, the AER or the AEMC, to be confidential information or is otherwise confidential or commercially sensitive. It also includes any information which is derived from such information<sup>4</sup>.

In order to assess compliance with clause 8.6.1 of the NER, the AER requested the following information from Stanwell Corporation, Tarong Energy and CS Energy, all of which are generators based in Queensland:

- details of any procedures and/or programs developed by each Participant aimed at ensuring that any confidential information which comes into the possession or control of the Participant or of which the Participant becomes aware is kept confidential
- details of how such procedures and/or programs are applied in practice
- details of any audits undertaken by each Participant to detect misuse of confidential information, including unauthorised disclosure and access
- details of the outcomes of such audits and any follow-up actions taken by each Participant
- any other information that may be of assistance to the AER.

#### **Review outcome**

All Participants have provided detailed information about the systems and processes in place at various organisation levels to meet their obligations with respect to the protection of confidential information for the purposes of complying with clause 8.6.1 of the NER.

Common tools used by the various Participants targeted to ensure compliance with applicable confidentiality requirements include:

- codes of conduct
- appropriate contractual obligations binding on all employees and third parties
- staff training.

In addition, management reporting is also relied upon by these Participants to review and monitor internal activities and adherence with relevant policies and procedures. In all instances, the Participants undertake regular audits and reviews of key areas of the business to verify internal compliance levels and, where appropriate, implement recommendations to improve systems and processes associated with confidentiality and other operational issues.

#### **AER assessment**

The AER is satisfied that the array of systems and processes put in place by the Participants questioned are suitable for ensuring ongoing compliance with clause 8.6.1 of the NER.

---

<sup>4</sup> Examples of confidential information under the NER include: pre-dispatch outputs (clause 3.8.20); metering data and password (clause 7.10); information for distribution service pricing (clause 8.6).

## 3.2 Jurisdictional derogations

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

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

- to the extent that there is any inconsistency between the NER and a contractual requirement under the relevant agreement
- any other specified exemption 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 NER, within the terms of clauses 9.4.4, 9.12.3 and 9.34.6 of the NER. During the September quarter, no matters of non-compliance were notified to the AER by the Participants in question.

Enertrade advised the AER that, due to changes to its portfolio, the Exempted Generator Agreements referred to in clause 9.34.6 of the NER no longer cover the Oakey Power Station, as the registration of Oakey was transferred to AGL Hydro Partnership on 31 August 2007. In addition, the Exempted Generator Agreements that cover the Collinsville Power Station and the Gladstone Power Station were transferred to CS Energy Ltd on 18 August 2007 and Stanwell Corporation Ltd on 1 September 2007, respectively.

### AER assessment

Based on the responses received, the AER is satisfied that there were no instances where the actions of a Participant classified as a Smelter Trader, Power Trader or Nominated Generator materially affected the efficient operation of the market during the quarter, in so far as clauses 9.4.4, 9.12.3 and 9.34.6 of the NER are concerned.

## 3.3 Upcoming targeted compliance reviews

In the next quarter, the AER proposes to continue its review of power system security requirements of Chapter 4 of the NER. The AER will review Registered Participants' procedures in relation to protection and control system abnormalities as well as NEMMCO and System Operators' records of power system operational communications. The AER will also review Registered Participants' compliance with dispatch instructions and Scheduled Generators' compliance with dispatch related limitations.

The AER also proposes to review compliance with the network connection requirements of Chapter 5 of the NER. In particular, the AER will be looking at the testing of equipment related to a connection point, responses to connection enquiries and the preparation of offers to connect by Network Service Providers. Furthermore, the AER will be reviewing compliance in relation to non-market ancillary services.

## 4 Market monitoring

The AER monitors the performance of the wholesale electricity market on an ongoing basis. The purpose of this monitoring as a compliance mechanism is to screen for indicators of any non-compliance with obligations under the NEL, the NER or relevant Regulations using publicly available data and information provided to the AER by Participants and NEMMCO.

The AER's role and responsibilities therefore extend to the verification and substantiation of market information provided by Participants and/or available to the AER. This compliance mechanism is most relevant in cases where non-compliance with a particular obligation is readily apparent from data to which the AER has access, such as the rebidding and the obligations to provide information contained in Chapter 3 of the NER.

### 4.1 Rebidding inquiries

Under clause 3.8.22 of the NER, 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 inflexible, pursuant to clause 3.8.19 of the NER.

These requirements are outlined in the "Rebidding Guidelines" available from the AER website.<sup>5</sup>

During the quarter ending 30 September 2007, the AER identified a number of compliance issues relating to the quality of the rebid reasons provided in accordance with clauses 3.8.19 (inflexibility) and 3.8.22 (rebidding) of the NER.

NER 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	4
3.8.22(c)(2)(i)	The rebid submitted does not provide a brief, verifiable and specific reason for the rebid	6
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

<sup>5</sup> See <http://www.aer.gov.au/content/index.phtml/itemId/659216>.



The AER is seeking additional information pursuant to clauses 3.8.19(b)(2) and 3.8.22(c)(3) from the Registered Participants on the issues identified.

## **5 Compliance audits**

The AER may undertake specific compliance audits to assess compliance by relevant Participants with their obligations under the NEL, the Regulations and the NER, from time to time. There are two main types of audits:

- audits of Participants' systems and processes
- technical audits focusing on compliance with technical standards under the NER.

### **5.1 Technical standards**

On 7 December 2006, the AEMC approved a Rule change to establish arrangements for resolving the performance standards for Generators that were connected, or in the process of connecting, at the date the current performance standards regime came into force in their region of the NEM. The National Generators Forum (NGF) and NEMMCO, in conjunction with the AER and AEMC, jointly determined a transition process to register the actual capability of all incumbent Generators and to ensure all compliance programs were in place for those Generators. That process was completed in June 2007.

In the previous Quarterly Compliance Report, it was noted that the AER would begin to audit generators' performance standards and compliance programs required under Chapter 4 of the NER now that the transitional phase has ended. In its investigation report into the events of 16 January 2007, the AER stated that it would commence auditing generators that were explicitly referred to in that report.

In addition, the AER indicated in its investigation report that it intended to target SP AusNet's protection and control systems and load shedding facilities as part of the upcoming round of compliance audits.

The process of auditing generators' performance standard obligations and SP AusNet's protection and control system obligations has now commenced. The results of those audits will be reported on in future editions of the Quarterly Compliance Report.

## 6 Investigations

The purpose of the AER's compliance monitoring regime is to identify instances of non-compliance with the NEL, NER or associated Regulations. Where the AER's compliance monitoring identifies potential breaches, an investigation is warranted to establish the existence, nature and extent of any breach.

Appendix A summarises the investigations instigated by the AER during the previous 12 months.

### 6.1 Spot price events exceeding \$5000/MWh

During the September 2007 quarter, there were no instances where the spot price exceeded \$5000/MWh. Consequently, there were no \$5000MWh reports published by the AER under clause 3.13.7(d) of the NER during this quarter.

### 6.2 Investigation into the events of 16 January 2007

In September 2007, the AER issued a report on its investigation into the events of 16 January when around 2200MW of load in Victoria was shed after transmission lines between Victoria and New South Wales failed because of bushfires.

The report focused on Participants' compliance with the NER. The table below (reproduced from the report) summarises the AER's main findings and outcomes of the investigation.

The AER is in the course of taking the proposed enforcement/other action indicated below to address all instances of non-compliance, and promote improvements to Participants' operating practices and processes.

A copy of the AER Investigation Report and correspondence with NEMMCO addressing a number of the above issues is available on the AER website<sup>6</sup>.

Compliance issue	Finding(s)	Proposed action	Participant(s) directly affected	Status
Reclassification of non-credible contingency events	NEMMCO's reclassification process on 16 January was non-transparent and unduly relied upon the advice of SP AusNet, which was contradictory at times  NEMMCO's approach towards reclassification of the risk of a transmission failure	AER to propose NER change to clause 4.2.3(f) of the NER	NEMMCO	AER developing Rule change proposal

<sup>6</sup> See <http://www.aer.gov.au/content/index.phtml/itemId/714828/fromItemId/656186>.

<b>Compliance issue</b>	<b>Finding(s)</b>	<b>Proposed action</b>	<b>Participant(s) directly affected</b>	<b>Status</b>
	appears to have been inconsistent with its approach on 11 and 14 December			
Load shedding	SP AusNet may have failed to adequately communicate the unavailability of the relevant load blocks to NEMMCO and the Jurisdictional System Security Coordinator (JSSC)	AER recommends formalising communication obligation in arrangements between NEMMCO, JSSCs and NSPs regarding load shedding	NEMMCO, JSSCs, Network Service Providers (NSPs)	NEMMCO, JSSCs, NSPs currently formalising arrangements
	SP AusNet did not breach the performance standards relevant to the operation of its load shedding facilities	AER to undertake compliance auditing of SP AusNet's protection and control systems	SP AusNet	AER audit underway
Load restoration	NEMMCO's failure to use effective systems and operational tools during the load restoration process compromised its ability to satisfy its system security obligations	NEMMCO to report to the market by end 2007 on improved load restoration procedures and training	NEMMCO	Report by NEMMCO pending
Setting dispatch price to Value of Lost Load (VoLL)	NEMMCO breached the relevant provisions of the NER by setting the dispatch price to VoLL before the NER requirements had been satisfied	No enforcement action AER to propose NER change to clause 3.9.2	NEMMCO	AER developing Rule change proposal
Intervention pricing	NEMMCO breached its obligation to apply intervention pricing after it issued directions	NEMMCO to provide an undertaking regarding compliance with clause 3.9.3	NEMMCO	Undertaking from NEMMCO received
Compliance with technical performance standards	Derogations in Chapter 9 of the NER apply less exacting technical standards than are otherwise applicable, including in cases when	AER will recommend to the Victorian and Queensland	Victorian and Queensland Generators	AER has written to both the Victorian and Queensland governments

<b>Compliance issue</b>	<b>Finding(s)</b>	<b>Proposed action</b>	<b>Participant(s) directly affected</b>	<b>Status</b>
	<p>a power system disturbance has occurred.</p> <p>Chapter 9 derogations are redundant following registration of generators' actual technical capability with NEMMCO</p>	governments that technical standards derogations be removed from the NER		
	It appears that at least one breach of generators' technical standards occurred on 16 January	<p>No enforcement action</p> <p>AER to undertake auditing of technical performance compliance programs</p>	Generators	AER audit underway
Provision of Frequency control ancillary service (FCAS)	Vicpower Trading probably breached its obligation to rebid its FCAS offer	AER to follow-up with Participant	Vicpower Trading	Infringement Notice issued on 29 October 2007. The \$60,000 penalty has been paid.
	Further clarification of circumstances surrounding failure to comply with FCAS specifications by generators is needed	AER to undertake auditing of generators' FCAS performance	Generators and other providers of FCAS	AER audit to be scheduled

## Appendix A: Targeted provisions summary

Quarter ending	NER clause	Description	No. of Participants targeted	Status
September 2006	3.8.7A(k)	Market ancillary services offers	3	Review ongoing
	4.9.9B	Ancillary service plant changes	3	Review ongoing
	3.15.16	Settlements payment by Market Participants	14	Review completed
	4.8.12	System restart plan and local black system procedures	6	Review completed
	5.2.1	Obligations of Registered Participants – following events of 25 May 2006	1	Review completed
December 2006	3.8.7A(k)	Market ancillary services offers	3	Review completed
	4.9.9B	Ancillary service plant changes	3	Review completed
	5.2.3	Obligations of NSPs	2	Review completed
	5.7.4	Routine testing of equipment by NSPs	1	Review ongoing
March 2007	3.8.19	Dispatch inflexibilities	3	Review completed
	3.15.16	Settlements payment by Market Participants	2	Review completed
	5.7.4	Routine testing of equipment by NSPs	1	Review ongoing
June 2007	3.6.3	Distribution loss factors – calculation and alignment of connection points	1	Review completed
	4.3.5	Market Customer obligations – provision of interruptible load	2	Review completed

<b>Quarter ending</b>	<b>NER clause</b>	<b>Description</b>	<b>No. of Participants targeted</b>	<b>Status</b>
	5.7.4	Routine testing of protection equipment	1	Review completed
	7.6.1	Responsibility for testing – metering installations	1	Review completed
	8.2.3	Dispute management systems of Registered Participants and NEMMCO	6	Review completed
September 2007	4.8.1	Power system security operations – Registered Participants’ advice	2	Review ongoing
	5.2.1	Obligations of Registered Participants – network connections	2	Review completed
	7.2A.4	Local retailers’ compliance with B2B Procedures	2	Review completed
	7.5.2	Metering register discrepancy	1	Review completed
	7.9.4	Metering data validation and substitution	1	Review completed
	8.6.1	Confidentiality of information	3	Review completed

## Appendix B: AER investigations summary

Date of event	Description	Status
20 July 2006	\$5,000/MWh report – no further action	Review complete
11 January 2007	\$5,000/MWh report – no further action	Review complete
16 January 2007	\$5,000/MWh report – no further action	Review complete
	Investigation into power system incident (Victoria) – various actions taken	Review complete
23 January 2007	\$5,000/MWh report – no further action	Review complete
24 January 2007	\$5,000/MWh report – no further action	Review complete
12-28 June 2007	\$5,000/MWh report – no further action	Review complete