



Quarterly Compliance Report

October-December 2009

January 2010

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Glossary

ACCC	Australian Competition & Consumer Commission
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
DNSP	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
Gas Regulations	The National Gas (South Australia) Regulations made under the National Gas Act
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	National Gas (South Australia) Act 2008 (South Australia)

Act	
NEM	The National Electricity Market being the electricity wholesale exchange operated and administered by NEMMCO, and the national electricity system, which covers the following regions as at 1 July 2008: Queensland, New South Wales, Victoria , South Australia, and Tasmania
NEMMCO	National Electricity Market Management Company, replaced by AEMO on 1 July 2009
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 Rules	The National Gas Rules made under Part 9 of the Gas Law
NSP	Network Service Provider
registered participants	A person who is registered by AEMO in any one or more of the categories listed in clauses 2.2 to 2.7 of the Electricity Rules (see AEMO'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

Executive Summary

This report outlines the compliance monitoring and enforcement activities of the Australian Energy Regulator (AER) in the December 2009 Quarter (1 October 2009 to 31 December 2009). 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).¹ In the December Quarter, the AER completed its review of counter-acting bids which occurred at the VicHub injection point in Victoria in July. In addition, assessment of three compliance matters is continuing, including issues related to the compliance of a metering installations connection to the principle transmission system in Victoria, a failure to inject gas by SEAGas during August 2009 and failures by Bulletin Board participants to provide forecast and actual data. The AER also conducted two targeted compliance reviews of the Gas Rules. These provisions covered participants' obligations to provide information to AEMO with respect to forecast supply and storage capabilities and potential threats to reliability and security of gas supplies respectively.

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

In the December Quarter, the AER completed its audit of Eraring Energy in respect of generator technical performance standards under (clause 4.15 of the Electricity Rules). A summary of the audit results is provided in this report. The AER intends to continue reviewing generation businesses and their compliance with clause 4.15 over the coming year.

¹ Until 30 June 2009 it also assisted the Australian Competition & Consumer Commission (ACCC) in enforcing the Victorian Gas Industry Market and System Operations Rules (MSOR). From 1 July 2009, that function was transferred to the AER under the Gas Law and Gas Rules for declared wholesale gas markets. At this time, Victoria is the only jurisdiction with a declared wholesale market under the Gas Rules.

Other electricity compliance activities in the December Quarter included:

- reviewing the quality of 30 rebid reasons; and
- monitoring jurisdictional derogations that apply to smelter traders, power traders and nominated generators in the NEM. No instances of non-compliance were reported.

Additionally, the AER conducted targeted compliance reviews of three Electricity Rules. These provisions covered network service providers' connection agreement obligations, and also the obligations of the responsible person in the context of engaging metering service providers.

1 Introduction

The AER is responsible for compliance monitoring, reporting and enforcement under certain legislation and rules governing Australia's energy industries. Section 15 of the Electricity Law and section 27 of the 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 promote high levels of compliance.

This report provides an overview of our approach to compliance monitoring and a summary of compliance outcomes and enforcement activity in the December 2009 Quarter.

We welcome any comments and feedback 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 compliance throughout the industry helps all industry participants engage confidently in commercial decisions and negotiations.

In June 2009, the AER issued a revised *Compliance and Enforcement – Statement of Approach*² covering electricity and gas, which aims to enhance transparency about our compliance monitoring and enforcement strategy.

The AER has completed a comprehensive compliance risk assessment of the Electricity Rules and Gas Rules. The risk assessment helped the AER identify:

- areas of focus
- the appropriate monitoring mechanism for each provision
- the intensity of monitoring
- the appropriate ways to encourage compliance.

Our methods of compliance monitoring include audits, targeted compliance reviews, market monitoring, and imposing reporting requirements. In carrying out our monitoring functions, we aim for:

- consistency in monitoring over time
- cost effective monitoring for energy industry participants and the AER
- transparency, with information generally published subject to any confidentiality requirements.

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

In our targeted compliance reviews, provisions are selected for review based on the following principles:

- 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 impact are addressed
- there is no unnecessary discrimination between registered participants.

The targeted compliance reviews aim to determine:

- registered participants' understanding of their obligations under the relevant 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 and Gas 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 compliance programs and processes are effective, up-to-date and tested regularly.

3 Gas

The AER is responsible for monitoring, investigating and enforcing compliance with the Gas Law and Gas Rules.

3.1 Update on investigations, market events, enquiries and compliance issues

This part of the report provides an update on:

- continuing and completed investigations³
- significant price variations in the Victorian gas market
- other compliance matters, issues and enquiries made by the AER during the December Quarter.

3.1.1 Counter-acting injection and withdrawal bids at VicHub in July

The AER has examined several injection and withdrawal bids submitted in July 2009 at the VicHub bi-directional system injection/withdrawal point. The nominations involved two market participants, Santos and Victoria Electricity, submitting ‘counter-acting’ injection and withdrawal bids of equal quantities.

The AER wrote to the market participants to ascertain whether the bids complied with clause 213(2)(b) and 213(2)(c) of the Gas Rules. These obligations require injection and withdrawal bids:

- to be submitted in good faith; (‘good faith obligation’); and
- represent the participants best estimate of the quantities of gas that it expects to inject into the declared transmission system (or expects to be able to withdraw, in the case of withdrawal bids) – (‘best estimate obligation’)

³ Completed gas investigation reports issued by the AER are available from its [website](#)

To comply with rule 213(2)(b) or (c), a market participant must satisfy both these obligations. Failure to comply with the best estimate obligation may result in a breach, regardless of whether the bid satisfies the good faith obligation.

The AER notes that the provisions require a participant to represent its best estimate of the quantities of gas it expects to withdraw from the declared transmission system. To satisfy the best estimate obligation, the AER considers that this requires a market participant to base its bids on the quantity of gas the market participant expects to physically flow into or from the transmission system should AEMO schedule that gas.

In this instance, the AER felt that the participants involved had not demonstrated that requirement. While the AER has decided not to pursue the matter further, it has, written to the relevant participants emphasising that in future, the AER would expect that those participants will ensure that the obligations of rule 213 of the Gas Rules are fully adhered to. The AER will continue to closely scrutinise all bids to ensure that they are compliant with the good faith and best estimate requirements of the Gas Rules.

3.1.2 Failure to inject gas

The AER has reviewed an incident in the Victorian Gas Market on 2 August 2009, when, with little notice, gas stopped being injecting by SEAGas, a participant in the Victorian gas market. This change resulted from planned maintenance by Woodside, a third party producer, at the Otway Production Facility. This maintenance was initially scheduled for 1 hour, but lasted for several hours.

The AER was concerned that there may be issues with respect to information sharing amongst market participants, other players, and with the market operator, AEMO, regarding such maintenance.

The AER wrote to AEMO and SEAGas to better understand the information sharing arrangements and the obligations of players to notify AEMO of outages at third party production facilities. While satisfied in this instance that there were no compliance issues, the AER believes there may be gaps in the notification process, in particular with respect to players that are not captured directly by the rules but can impact on market outcomes, such as third party producers.

In this instance there was no threat to system security or significant market impacts, however, the AER will pursue the matter with AEMO, market participants and others to ensure that any shortcomings in the flow of information regarding production capability are addressed.

3.1.3 Non-compliant metering installation

In July 2009, the AER wrote to APA GasNet Australia (“APA”) to enquire about a large customer’s metering installation connected to the transmission system in Victoria that did not comply with the Gas Rules. The AER understands that the particular metering installation had been non-compliant since the introduction of the Victorian gas market in 1999, when more sophisticated measuring requirements were introduced. The main hurdle preventing the matter from being resolved earlier related to uncertainty in the Market and Systems Operations Rules (MSOR) regarding who should bear the significant cost to upgrade the metering installation.

On the introduction of the National Gas Rules, the uncertainty with respect to funding such upgrades was clarified. Part 19 Division 3, subdivision 4 requires, APA, as the responsible person with respect to this particular metering installation, to bear the costs associated with the meter upgrade.

In response to the AER’s letter and subsequent meetings, APA informed the AER on 22 December 2009, that it had enter into an agreement with its transmission customer to upgrade the metering installation. APA noted that the work for upgrading the metering installation had commenced and that the expected date for completion was October 2010.

The AER will continue to monitor progress in the upgrade of this metering installation to ensure compliance with the National Gas Rules occurs.

3.1.4 Current Bulletin Board issues

The AER monitors the quality and consistency of information posted on the gas Bulletin Board on an ongoing basis.⁴ The AER also receives regular compliance

⁴ The role of operating the National Gas Market Bulletin Board (Bulletin Board) was transferred from VENCORP to the AEMO on 1 July 2009. 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.

reports from AEMO, the Bulletin Board operator, indicating whether the data has been provided in accordance with obligations under the Gas Rules and the Bulletin Board procedures.

In July 2009, the AER began publishing a weekly gas report. The weekly reports show trends in gas production and pipeline flows into demand regions across the national gas market. The reports are available on the AER's website.⁵ The reports also highlight failures to submit information by participants.

The following participants failed to provide actual and forecast data, in accordance with the Bulletin Board provisions in the Gas Rules, during the December Quarter.

- Tas Gas Networks (BBI TGP Pty Ltd) did not provide actual daily flow data for the Tasmanian Gas Pipeline on one day during October and on 18 occasions towards the end of December. Tas Gas Networks are working towards rectified this issue.⁶
- Queensland Gas Company did not provide actual flow data for the Berwyndale South and Kenya production facilities on numerous occasions during October.
- BHP Billiton Petroleum failed to provide actual flow data for the Minerva Gas Plant on several occasions throughout the quarter.
- The APA Group failed to provide actual flow data for the Kogan North production facility on several occasions and for the Moomba to Sydney pipeline once throughout the quarter.

The obligations to provide and update information on the Bulletin Board aim to ensure accurate and transparent information is available to all interested parties and to facilitate trade in Australian gas markets. The submission of accurate data, in accordance with obligations, is vital in achieving this objective. The AER will

⁵ See: <http://www.aer.gov.au/content/index.phtml/itemId/729309>

⁶ In September 2009, TasGas informed the AER that it is investigating why the data has failed to synchronise from its Gas Control Package to the Bulletin Board in some instances. Furthermore, TasGas noted that it is reviewing and updating its systems and procedures it has in place to ensure compliance with the rules. The AER notes that during November there were no instances of missing data

continue to focus on compliance with the Bulletin Board provisions. It will continue to monitor the Bulletin Board and engage with industry players to ensure timely submission of accurate data by all participants.

3.1.5 Significant price variations

The AER became responsible for monitoring the Victorian Declared Wholesale Gas Market on 1 July 2009. As part of this monitoring role, the AER is required to identify significant price variations and publish guidelines as to what constitutes a significant price variation. Prior to 1 July 2009, VENCORP (now AEMO) undertook this role.

The AER is currently developing its own guidelines for reporting on significant price variations. The AER will consult on these guidelines during 2010.

3.2 Targeted compliance reviews

Targeted compliance reviews form an important part of the AER's ongoing compliance monitoring program. The reviews explore participants' compliance practice and aim to improve stakeholder understanding of their obligations. The AER publishes the results of the reviews in these quarterly compliance reports.

In the December 2009 Quarter, the AER targeted the following provisions of Part 19 of the Gas Rules:

Table 1: Gas Rules provisions targeted for review – December 2009 Quarter

Clause	Relevant parties (subject to current review)	Obligation	No. of targeted participants
324	Registered Participants	Participant disclosure obligations	2
333	Registered Participants	Emergency (declaration and notification by participants)	2

3.2.1 Participant disclosure obligations

During the December Quarter, the AER wrote to Origin Energy and Envestra, to review their procedures for compliance with Gas Rule 324. This Gas Rule requires disclosure of certain information to AEMO, including annual and monthly forecast data relating to available supply, storage capacities, significant gas projects being

undertaken and storage operating parameters. In addition, information regarding peak daily demands and anticipated material constraints must be provided. In the event that the information provide to AEMO materially changes, the rule requires participants to notify AEMO of the change as soon as practicable.

The provisions are fundamental to the operation of the gas market and preparation of the Victorian Annual Planning Report. The AER wrote to Origin Energy and Envestra to determine their understanding of the obligations, whether there had been any issues of non-compliance and also to review what procedures were in place to prevent non-compliance.

Response summary

Both responses detailed the types of information provided to AEMO, noting that the Victorian Annual Planning Review process is a key part of the information sharing process.

One of the participants also had monthly and daily additional reporting mechanisms that were not applicable to the other participant. Both participants noted the possibility of providing ad hoc updates in the event of significant changes to plant capabilities, such as outages of 2 to 3 days length.

Material changes, that would require notification to AEMO, were categorised differently given the participants varied roles. This categorisation reflected discussions between the participants and AEMO, although one participant noted that the responsibility for this determination would rest with the owner of the Principal Transmission System, rather than them. It was also noted that many of the material changes were already notified to AEMO through the annual planning process.

Review outcomes

The AER was generally satisfied with the responses provided by both parties. The AER notes that in the area of determining materiality of changes, there was some scope for clarification over what would constitute a material change. The AER will raise this issue with AEMO.

3.2.2 Emergency (declaration and notification by participants)

Gas Rule 333 covers declared wholesale gas market emergencies, including threats to the reliability of supply, system security, or public safety. For these reasons, the AER views compliance with the requirements under this Gas Rule as fundamental to the operation of the market.

Registered participants are required to notify AEMO as soon as practicable of any such threats, as well as any actions taken by the participant under its safety plans or procedures in respect of the threat.

The AER wrote to two participants, SEAGas and TRUenergy (Gas Storage) to review their processes for compliance with this Gas Rule.

Response summary

The responses received indicated that both participants had implemented both detailed emergency response and safety plans for their facilities. One participant provided additional details of a training system designed to improve staff awareness of their role and obligations during an emergency. Such training was conducted regularly during the year with emergency drills and refresher courses.

The AER was also informed that AEMO has real-time monitoring of gas injection rates and gas quality, which gives AEMO real-time alerts as to some of the events or situations that could constitute an emergency.

Both participants stated that there had been no instances of any emergencies as defined in the Gas Rule. However, one participant noted that it still informs AEMO of all planned maintenance and unplanned outages as if they had the potential to cause an emergency.

Review outcomes

The AER considers that both participants have systems in place to allow them to determine the existence and extent of emergencies under Gas Rule 333 and procedures to allow them to notify AEMO.

However, the AER notes that the information provided by each of the participants varied in its level of detail. Whilst the AER does not consider any compliance issues

have been raised, the AER will continue to discuss this area with participants in the market to ensure that the necessary procedures are fully developed and implemented.

3.2.3 Upcoming targeted compliance reviews

The AER will target a number of provisions in Part 19 of the Gas Rules (which relate to the Victorian Wholesale Gas Market) for compliance review during the first quarter of 2010, including the following areas:

- AEMO's responsibilities to review connection applications, including the obligation to comply with certain time-frames;
- Connected parties' obligations under connection applications, including their interactions with the declared transmission service provider.

A list of gas provisions targeted over last 4 quarters is provided in **Appendix A**.

4 Electricity

The AER is responsible for monitoring, investigating and enforcing compliance in the national electricity arrangements. The AER has functions at the national level under the Electricity Law and Electricity Rules.

4.1 Update on investigations, market events, enquiries and compliance issues

This part of the report provides an update on:

- continuing and completed investigations⁷
- market events where the wholesale spot price exceeded \$5,000/MWh⁸
- other compliance matters, issues and enquiries made by the AER during the December Quarter.

4.1.1 Stanwell investigation

The AER has instituted proceedings in the Federal Court, Brisbane against Stanwell Corporation Limited for alleged contraventions of the National Electricity Rules.

The AER has alleged that Stanwell did not make several of its offers to generate electricity on 22 and 23 February 2008 in 'good faith' contrary to clause 3.8.22A of the National Electricity Rules. This matter is continuing.

4.1.2 General rebidding inquiries arising from monitoring

The AER monitors the performance of the NEM on an ongoing basis to screen for indicators of any non-compliance. This monitoring relies on publicly available data and information provided by AEMO and other entities. While 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 in relation to rebidding.

In the NEM, scheduled generators and market participants submit wholesale

⁷ Published electricity investigation reports issued by the AER are available from the AER [website](#).

⁸ These \$5000 reports are available from the [AER website](#).

electricity offers and bids for each of the 48 intervals in a trading day.⁹

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”.¹⁰

Table 2 summarises the number of compliance issues reviewed by the AER during the December Quarter relating to the quality of rebid reasons provided under clauses 3.8.19 (inflexibility) and 3.8.22 (rebidding) of the Electricity Rules. Enquiries with participants regarding these rebids are still continuing.

Table 2: Rebidding reviews in the December 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	7
3.8.22(c)(2)(i)	The rebid submitted does not provide a brief, verifiable and specific reason for the rebid	9
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	14

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

The AER is required to publish a report¹¹ covering the circumstances in which the spot price in the wholesale electricity market exceeds \$5,000/MWh in a trading

⁹ These offers and bids include available capacity (in MW) in up to 10 price bands, and can be varied through rebidding.

¹⁰ Market participants must provide to AEMO, at the same time as a rebid is made a brief, verifiable and specific reason for the rebid and the time at which the reason for the rebid occurred. Equivalent requirements apply where AEMO is advised that a unit, service or load is inflexible, under clause 3.8.19 of the Electricity Rules. This information can assist in determining whether dispatch offers, dispatch bids and rebids are made in “good faith”.

¹¹ Under clause 3.13.7 (d) and (e) of the Electricity Rules.

interval or the price for ancillary services exceeds the spot price and is above \$5000 for a number of trading intervals. The reports enhance the transparent operation of the NEM and help identify instances of non-compliance.

There were multiple instances of the spot price exceeding \$5000/MWh in a trading interval during the December Quarter. They occurred as follows:

- 19 events in New South Wales;
- 5 events in Queensland; and
- 23 events in South Australia;

All \$5000 reports published by the AER are available on its website.

4.1.4 Proposed review under Rebidding and Technical Parameters Guideline

On 25 September 2009, the AER published a guideline on rebidding and technical parameters. The guideline outlines the details that must be contained in a rebid reason submitted to AEMO. It also covers related matters associated with the bidding and rebidding of technical parameters.

Among other things, the guideline, in effect from 1 December 2009, provides the detail to be included in rebids reason, pursuant to clause 3.8.22(c)(2)(i) and 3.8.19 (b)(1) of the Electricity Rules.

The AER has noted a number of rebid reasons that have been submitted since the commencement of the revised guideline that do not conform to the revised guideline. During the next quarter, the AER will be conducting a review of rebid reasons that have been submitted since 1 December 2009.

In addition to contacting participants directly regarding any compliance concerns, the results of the review will be included in the next AER Quarterly Compliance Report.

4.2 Audits

Auditing is one mechanism used by the AER to verify and assess compliance by registered participants with their obligations. The audits aim to ensure that market participants have robust and effective compliance programs in place.

There are two main types of audits:

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

A brief summary of the outcomes of a recent technical audit of Eraring Power Station is provided below. The AER will commence an audit of Transgrid's obligation in relation to protection and control systems in the coming quarter.

4.2.1 Eraring Power Station audit – Clause 4.15

Clause 4.15 is an expansive clause that covers the requirement for participants to meet specified technical performance standards and institute and maintain a compliance program in respect of those standards. The technical performance standards are designed to ensure that generators connected to the power system can at all times contribute to the safe and reliable operation of the power system.

The rules require that the compliance program ensures appropriate testing, monitoring and reporting methods are in place to provide a reasonable assurance of ongoing compliance with each of the technical performance standards.

This audit is the fifth generator audit conducted by the AER. The audit targeted the obligation on registered participants to institute and maintain a compliance program in accordance with clause 4.15 of the Electricity Rules. The purpose of the audit is to establish whether, in the AER's view, that compliance program is capable of providing a reasonable assurance of ongoing compliance in relation to the technical performance standards.

The audit covered Eraring Energy (Eraring), a major generating business in NSW and focussed specifically on its largest generator, Eraring Power Station on the central coast of NSW.

Audit process

The compliance audit of Eraring consisted of 3 major stages. The first stage was the completion of an audit questionnaire. The questionnaire comprised a series of questions of both a general and technical nature under 8 broad categories. The questionnaire sought to determine Eraring's compliance management arrangements

across the organisational and its understanding of the specific requirements of clause 4.15 of the Electricity Rules and the related technical performance standards. The questionnaire also sought responses to a series of questions related to Eraring's regime for monitoring, testing and reporting technical performance matters with respect to its generator portfolio at Eraring power station. In addition to completing the questionnaire, Eraring provided detailed answers to the technical questions in a spreadsheet, and supporting material detailing its compliance procedures, testing regime and examples of test results.

Stage 2 of the audit involved the AER conducting a detailed review of all of the material. The purpose of this stage was to check whether: Eraring's compliance program was sufficiently comprehensive; it covered all of the necessary obligations under clause 4.15; it was consistent with the template for generator compliance programs; and it provided sufficient evidence to satisfy the AER that not only was the compliance program developed, but that it was being instituted correctly. From there, the AER developed a series of follow on questions aimed at examining in more detail some of the key aspects of Eraring's compliance program.

Stage 3 of the audit involved two site visits. The first visit took place at Eraring Energy's head office, meeting with senior compliance and operations staff. The purpose of the meeting was to discuss general compliance governance arrangements and responsibilities within the organisation and how reporting on technical compliance matters was integrated into that broader structure. A second visit to Eraring Power Station involved meeting with staff involved in the operational aspects of the power station. The purpose of this meeting was to review the audit documentation and address the follow-up questions prepared by the AER. It also provided the opportunity for Eraring to present practical evidence of its monitoring and testing regime and demonstrate its compliance reporting system.

Review areas

The AER sought to review the governance structures of Eraring with respect to reporting of and reacting to breaches and potential breaches of clause 4.15 and the technical performance standards. Assessment of the compliance culture of an organisation, embodied in compliance procedures and processes, is considered to be a very important aspect of the review. In addition to understanding the structure of the

organisation, the AER sought evidence of how details regarding breaches and potential breaches propagated through the organisation from the operational level to senior management.

A fundamental aspect of the audit was to determine Eraring's understanding of the technical requirements of the Electricity Rules and how it had implemented a monitoring and testing program to ensure that each of the various performance standards were complied with. Clause 4.15 of the Electricity Rules requires, amongst other things, that the compliance program be capable of providing reasonable assurance of ongoing compliance with each applicable technical performance requirement specified in schedule 5.2.5 of the Electricity Rules.

Review outcome

Following the review of Eraring Energy's compliance program, the AER was satisfied with Eraring Energy's compliance with the requirements of clause 4.15. The appropriate organisational structures were evident, ensuring any compliance issues would be identified and notified to the appropriate compliance staff. The systems allowed corrective action to be determined to ensure that compliance with the plant's technical performance standards was maintained.

Sufficient attention had been given to developing compliance documentation and procedures so that staff would be given guidance on how to perform their duties in a manner aligned with the Electricity Rules. Automated systems allowed for any risks to be identified and logged quickly, so that suitable actions could be taken to correct any breaches.

The procedures developed were closely aligned to the obligations under the Electricity Rules, and were able to be updated to reflect any changes to generator obligations. These procedures, along with the activities of the Market Compliance Engineer, internal compliance champions and the risk and compliance managers demonstrated that a compliance culture was evident throughout the Eraring Energy hierarchy.

Whilst the AER did note some minor issues in Eraring Energy's testing program overall Eraring Energy provided a satisfactory level of testing to review compliance with the relevant performance standards. The AER has discussed with Eraring

Energy its intention to review a revised copy of the procedures, developed after the current upgrade of Eraring Power Station is completed.

4.3 Targeted compliance reviews

As discussed in part 2 of this report, targeted compliance reviews are an important element of the AER’s compliance monitoring activities. The AER targets the provisions of at least 24 Electricity Rules each year for detailed review.

Appendix A lists the Electricity Rule provisions targeted over the last four quarters. Table 3 below lists the provisions targeted in the December Quarter.

Table 3: Electricity Rules provisions targeted for review – December 2009 Quarter

Clause	Relevant parties (subject to the current review)	Obligation	No. of targeted participants
5.2.3(b)	TNSPs	Obligations of network service providers (consistency between connection agreements and schedule 5.1 of the Electricity Rules)	2
7.2.5(a) and (b)	Registered participants	Role of the responsible person (relating to metering service providers)	2

4.3.1 Obligations of network service providers (consistency between connection agreements and schedule 5.1 of the Electricity Rules)

Clause 5.2.3(b) requires Network Service Providers to comply with power system performance and quality of supply standards. These standards are prescribed under the rules or may be agreed with a Registered Participant, provided the agreement does not adversely affect the quality or security of the service to other network users.

This rule is designed to ensure network security while providing flexibility for Network Service providers to meet the needs of their customers. The AER focussed on possible conflicts between connection agreements and the requirements under schedule 5.1 of the Electricity Rules

The AER wrote to two Transmission Network Service Providers, Transend and ElectraNet, to review the arrangements those participants had in place to meet their

obligations under this provision.

Response summary

Both participants confirmed that they were aware of the obligation under clause 5.2.3(b) and the requirement to comply with schedule 5.1 of the Electricity Rules. Document procedures were in place to ensure that the standards of power system performance and quality of supply were applied in determining the appropriate technical requirements for each connection enquiry.

Processes are designed to ensure any inconsistency between a proposed connection enquiry and schedule 5.1 would be identified and avoided.

In addition, engagement with AEMO throughout the connection application process introduced another level of review in relation to connection applications. AEMO may also identify areas where inconsistencies may occur.

The participants noted that inconsistencies identified so far were through differences arising in the new version of schedule 5.1 and pre-existing connection agreements based on previous versions of the Electricity Rules or the National Electricity Code. Further changes to schedule 5.1 have the potential to create inconsistencies in the future.

Participants noted that improvements are possible through streamlining of the confidentiality provisions of the Electricity Rules contained in clause 5.3.8, which would assist the connection and technical process. Such a rule change was proposed by Grid Australia to the AEMC and came into effect in November 2009. The rule change allows Network Service Providers to disclose information in certain circumstances to Registered Participants and other persons to facilitate coordinated connection applications and enquiries.

Review outcome

The AER considers that complying with the obligations imposed by 5.2.3(b) and the relevant Schedule 5.1 is a fundamental requirement on network service providers. Through this review, the AER is satisfied that the relevant participants were aware of the obligations under clause 5.2.3(b) and the issues that could arise through inconsistencies between the requirements of schedule 5.1 and connection agreements.

The participants demonstrated that they had appropriate systems in place to reduce the likelihood of any inconsistencies occurring, and would liaise closely with AEMO in preparing connection agreements.

4.3.2 Role of the responsible person (relating to metering service providers)

Clauses 7.2.5(a) and (b) of the Electricity Rules require a responsible person to engage or allow engagement of a metering provider for each metering installation. These rules require the responsible person to enter into agreements with metering providers for the provision, installation and maintenance of the metering facilities. The responsible person must also provide relevant details of the metering installation as set out in schedule 7.5 of the Electricity Rules to AEMO within 10 business days.

The AER wrote to Country Energy and Aurora Energy, to review the arrangements in place for engaging metering providers and ensuring that relevant details were passed to AEMO within the specified timeframe.

Response summary

The responses highlighted some fundamental differences in participants' ability to comply with the relevant clauses. One of the two participants was involved at all levels of the metering provision process, as the relevant local network service provider, responsible person and meter provider for each site within its distribution area. This was in contrast to the second participant which was more heavily reliant upon third party metering service providers.

The response from the fully integrated participant showed no compliance issues, with a fully automated process capturing all new connections, updating all alterations to metering installations and notifying AEMO of any changes. There were no instances reported of non-compliance with the timeframes set under the relevant clauses.

The response from the participant utilising third party metering service providers highlighted some compliance issues. Despite procedures being in place to enable the participant to meet its obligations under clause 7.2.5, delays caused by the interaction with the external metering service providers meant that timeframes were not always complied with. In some cases, the cause was attributable to delays by the third party provider in forwarding the appropriate notification to AEMO within 10 business days.

Further issues with third party providers being responsible for updating and forwarding data were also identified.

Review outcome

The AER considers that the provision of timely and accurate metering data into the settlement systems, particularly in relation to metering services, is a key element of an effective market. However, the AER also notes that the Electricity Rules provide for the use of third party providers to enable participants to reduce costs and utilise these third parties' developed metering data systems.

AEMO has a key role in the oversight of metering installations and currently monitors and audits these arrangements. The AER has recently established a new reporting regime with AEMO where the results of its monitoring activities will be provided to the AER on a monthly basis. The AER will use the material to assist it to identify problem areas and to ensure that the relevant clauses are being effectively complied with. This will become particularly important when the AER is given additional functions under the new National Energy Customer Framework.

The AER will work closely with AEMO over the coming quarters to determine how best to ensure compliance with metering services obligations, and address systemic problems with the arrangements or persistent breaches.

4.3.3 Upcoming targeted compliance reviews

To promote greater awareness and transparency with its targeted compliance review process, the AER provides some indications of which provisions it is likely to target in future quarters. Table 4 below highlights the provisions that the AER intends targeting during the first two quarters of 2010.¹²

¹² The AER will endeavour to publish in its quarterly compliance reports an advance schedule of targeted provisions covering two quarters. The table is indicative only and each provision will be targeted subject to prevailing operational requirements and industry events. The AER will also target other provisions by using other compliance and enforcement mechanisms, as required.

Table 4: Targeted compliance reviews in 2010

Electricity Rules Clause	Compliance issue	Quarter
3.8.2	Participation in central dispatch by registered participants (including exempted participants)	March 2010
4.6.1	Determination of power system fault levels by AEMO	
7.3.1	Requirements of metering installation components	
5.2.4	Obligations on customers regarding planning and designing facilities	
2.2.2	Registration of scheduled generators	June 2010
2.3.4	Registration of scheduled generators	
3.7.3	Participant availability (including PASA availability)	
4.9.4	Dispatch related limitation on schedules and semi-scheduled generators	
7.5.2	Metering register discrepancies	

4.4 Jurisdictional derogations

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
- 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.¹³

The participants advised the AER that, for the purpose of clauses 9.4.4, 9.12.3 and 9.34.6 of the Electricity Rules, there were no instances of non-compliance which materially affected the efficient operation of the market during the quarter.

¹³ Refer to clauses 9.4.3 (Smelter Trader – Vicpower Trading), 9.12.3 (Power Traders – Delta Electricity and Macquarie Generation) and 9.34.6 (nominated generators – CS Energy and Stanwell Corporation) of the Electricity Rules.

Appendix A: Targeted rule provisions summary

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

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted
March 2009	Gas	Gas Rules 145	Publication of information by Bulletin Board operator	1
		Gas Rules 165	Obligation on production facility operators to provide 3-day production capacity outlook	4
		Gas Rules 166	Obligation on production facility operators to provide actual production data	4
		Gas Rules 168	Obligation on Bulletin Board storage providers to provide 3-day production capacity outlook	2
		Gas Rules 169	Obligation on Bulletin Board storage providers to provide actual storage production data	2
		Gas Rules 170	Obligation on pipeline operators to provide nameplate rating information	2
		Gas Rules 172	Obligation on pipeline operators to provide linepack/capacity adequacy indicator	2

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted
		Gas Rules 181	Emergency information	1
		Gas Rules 182	NGERAC or a Jurisdiction may request activation or deactivation of emergency information page	1
		Gas Rules 183	Bulletin Board emergency use indicator	1
		Gas Rules 184	Jurisdiction may make public statements on an emergency	1
	Electricity	Electricity Rules 2.3.4	Market Customer obligations	5
		Electricity Rules 4.8.12	System restart plan and local black system procedures	3
		Electricity Rules 4.14	Acceptance of Performance Standards	1
		Electricity Rules 4.15	Compliance with Performance Standards	1
		Electricity Rules 5.3.9	Procedure to be followed by a Generator proposing to alter a generating system	n/a
		Electricity Rules 5.7.3	Test to demonstrate compliance with connection requirements for generators	1
June 2009	Gas	Gas Rules 148 and 154	Maintenance of up-to-date registers of Bulletin Board participants and facilities, including facilities declared exempt.	1

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted
		Gas Rules 152 and 164	Obligation to advise the Bulletin Board operator of any changes to exemption status, and to provide nameplate rating information.	3
		Gas Rules 165 and 166	Obligation to provide 3 day capacity outlook data and actual production flow data to the Bulletin Board.	4
		Gas Rules 145, 181-184	Obligation to provide nominated and forecast delivery data and actual pipeline gas delivery data to the Bulletin Board	2
	Electricity	Electricity Rules 5.3.2	Connection inquiry	17
		Electricity Rules 5.3.3	Response to connection inquiry	17
		Electricity Rules 5.3.6	Offer to connect	17
September 2009	Gas	Gas Rule 211	Timing of submissions and demand forecasting	4
		Gas Rule 229	Appointment of a single allocation agent or a single sub-allocation agent	4
	Electricity	Electricity Rules 1.11	AEMO rule funds	1
		Electricity Rules 3.3.7	Drawing on credit support	1

Quarter ending	Industry	Rules & Clause	Description	No. of Participants targeted
		Electricity Rules 3.3.8	Maximum credit limit and prudential margin	1
		Electricity Rules 5.7.6	Tests of generating units requiring changes to normal operation	1
		Electricity Rules 8.6	Confidentiality	3
December 2009	Gas	Gas Rule 324	Participant disclosure obligations	2
		Gas Rule 333	Emergency (declaration and notification by participants)	2
	Electricity	Electricity Rule 5.2.3	Obligations of network service providers (consistency between connection agreements and schedule 5.1 of the Electricity Rules)	2
		Electricity Rule 7.2.5	Role of the responsible person (relating to metering service providers)	2