20 January 2017

Ms Sarah Proudfoot
General Manager, Retail Markets
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001
Sent via email: retailcompliance@aer.gov.au

Dear Ms Proudfoot,

Draft amendments to AER Compliance Procedures and Guidelines

SA Power Networks welcomes the opportunity to provide a submission in response to the Draft amendments to AER Compliance Procedures and Guidelines, initiated by the Australian Energy Regulator (**AER**) on 9 December 2016.

The AER published for consultation proposed amendments to the Guidelines on 9 December 2016. Accompanying the draft Guidelines is the Notice of Draft Instrument and the AER's Practice Guide for Compliance Audits, inviting submissions from interested stakeholders.

SA Power Networks sets out responses to selected individual consultation questions below:

1. **Are there any concerns with implementing the proposed amendments to the reporting framework by 1 July 2017?**

   SA Power Networks is not concerned with implementing the proposed amendments from 1 July 2017.

3. **Are there any risks with making the reportable obligations for retailer planned interruption rules the same as distributor planned interruption rules in the Guidelines?**

   The AER has suggested aligning the compliance reporting of retailers and distributors for planned interruption obligations, as the same obligations apply to both retailers and distributors from 1 December 2017. However, the processes used by distributors to notify customers of planned interruptions are significantly more mature than the processes used by retailers.

   Distributors' obligations to notify customers have typically been in place for decades, are subject to regular reviews and have a low incidence of non-compliance (ie where customers are not notified of a planned interruption within the required timeframe). This low non-compliance rate was highlighted in the AER's recent Annual Compliance Report on page 7 which stated "*…the percentage of customers affected by the reported breaches is extremely low.*" As such, we consider there is no justification for increasing the frequency in reporting breaches of this obligation by distributors from 12 to 6 months.

   In comparison, the planned interruption notification obligation commences for retailers on 1 December 2017. It is likely there will be non-compliances associated with this new obligation

and we would consider that more frequent monitoring of the retailers' obligation would be justified. We would recommend a 3-month reporting obligation on retailers. Further, once retailers have demonstrated good compliance with this obligation it would be appropriate to transition retailers to the same reporting frequency that applies distributors.

4. Should the new retailer notice obligations (specifically rules 59A) be made reportable under the reporting framework? If so, is the obligation to report on a six-month basis appropriate?

SA Power Networks has received customer complaints about the notices provided to them by a retailer about the roll out of smart meters and consequently we consider it appropriate for these obligations to be made reportable. A six monthly reporting frequency may be insufficient for the AER to take timely action to minimise the impacts on customers for breaches of this obligation.

Retailers are obligated by the Rules to provide customers with the option of 'opting out' of having a smart meter installed, so where retailers don't provide customers with this option a smart meter will be installed. This means that customers will have smart meters installed against their wishes. In addition, it is likely that the customers will be unable to revert the smart meter to an accumulation meter, due to the smart meter non-reversion requirement unless special approval is granted.

6. Are there any matters arising from the Energy consumption rule change that may require a reconsideration of the classification/frequency of reporting in relation to rule 28(2)?

SA Power Networks does not see any matters that require a reconsideration of the classification/frequency of reporting in relation to rule 28(2) or to 86A.

9. Are there any concerns with the proposed classification/frequency of reporting in relation to rules 116(1), 120(1) and 124A(1) of the NERR?

SA Power Networks queries why the AER is proposing to require the immediate reporting for breaches of rule 120(1)(b), (c) and (e). In its 2014[1] review of 2014, the AER decided to limit the immediate reporting requirement to rule 120(1)(a), (d). The AER's decision 'was driven by factors such as historical low numbers of reported incidents to date… the availability of alternative monitoring mechanisms… as well as reducing regulatory burden on industry.' SA Power Networks does not believe these factors have changed since the implementation of the 2014 AER Compliance Procedures and Guidelines and requests further explanation for the introduction of immediate reporting on breaches of rules 120(1)(b), (c) and (e). Also, breaches of rule 120(1)(a) and (d) justify the current immediate notification as a breach of these rules poses a higher risk of harm to customers than breaches of rule 120(1)(b), (c) and (e).

10. Are there any issues with the proposed classification/frequency of reporting in relation to the rules under Part 4, Division 6 and rules 59C(2)-(5) of the NERR?

See response to question 3.

13. Are there any reasons we should not move from two pro-forma report templates to a single template?

SA Power Networks supports moving to a single template.

[1] AER, 'AER Compliance Procedures and Guidelines: National Energy Retail Law, Retail Rules and Regulations Version 3 September 2014'.

15. Do you have any comments on the AER's proposed approach to compliance audit powers under the NERL?

As auditing can be a costly administrative burden, SA Power Networks considers that audits of regulated entities should only be taken as a last resort, and only where other monitoring activities have demonstrated a systemic failure to comply with its obligations, and only where the entity has not taken appropriate corrective actions to prevent future non-compliance with its obligations.

16. Do you have any comments on the AER's Practice Guide for Compliance Audits?

SA Power Networks proposes an amended timeframe to that provided by the AER under 4.25 of the Draft AER Compliance Procedures and Guidelines.

The AER provides the following under 4.25:

Compliance audits carried out by regulated entities

The regulated entity must submit, within 10 business days after receiving notice of the compliance audit, an Audit Proposal setting out:

(a)whether the compliance audit will be conducted by the regulated entity or a third party on behalf of the regulated entity;
(b)how the person or persons can carry out the compliance audit in accordance with clause 4.3 the Guidelines and the Terms of Reference under clause 4.5…

SA Power Networks is concerned that 10 business days is not sufficient time to review a notice of the compliance audit and submit an Audit Proposal to the AER. Specifically, (b) above requires 'sufficient detail' in relation to how the audit will be carried out against the Terms of Reference. This will require regulated entities to conduct reasonable analysis and potentially consult with and engage a third party to undertake the Audit. Ten business days is not sufficient time to conduct this process effectively and in a manner that would produce a Proposal of acceptable quality. SA Power Networks suggests 20 business days would be more appropriate.

17. Do you have any comments on the audit process and the factors the AER will apply when making a determination to use its compliance audit powers?

See response to question 15.

If you have any queries or require further information, please contact Mr Grant Cox on 08 8404 5012.

Yours sincerely

Wayne Lissner
Acting General Manager Corporate Strategy