

# AEMO COMPLIANCE DECISION: GAS RETAIL MARKET PROCEDURES

PREPARED BY: Markets

VERSION: 1.0

RELEASE DATE: 29 April 2016

## Introduction

### Role of AEMO

Section 91MB(3) of the National Gas Law requires that, if AEMO has reasonable grounds to suspect a breach of the Retail Market Procedures, it must, after making such inquiries and investigations as it considers appropriate, make a decision as to whether the breach is a material breach. AEMO must publish that decision and its reasons.

### Summary

On 6 April 2016, the Short Term Trading Market (STTM) distribution system allocations (DSA) for the QLD Gas Retail Market was not determined in a timely manner due to the STTM multi distribution system capacity, contracts and trading rights for GoEnergy Pty Ltd (GoEnergy) were incorrectly end-dated following its suspension from STTM. The issue was resolved and the process of determining the STTM DSA completed successfully for gas day 05 April 2016 on 07 April 2016 at 12.37pm. This has caused a non-compliance with the QLD Retail Market Procedures (Procedures) relating to the timely determination of STTM DSA.

In accordance with section 91MB(3) of the National Gas Law, AEMO has investigated the matter and reached a decision that the breach is not material, as the incident has not affected any other market participants, the market as a whole, or end use customers.

This decision is published in accordance with section 91MB(8)(a) of the National Gas Law.

## Circumstances of Apparent Breach

### Background

STTM DSA is not determined in a timely manner may result in not using the most recent actual data for the calculations of the STTM daily prudential run. Where data is missing at the time of running daily prudential tasks AEMO will use default allocations or the position from the previous day. In cases where a participant is close to its trading limit, this may result in issuing warning notices and/or margin calls based on estimated data rather than actual data.

The STTM system used default allocations for calculating the daily prudential settlement amounts for gas day 05 April 2016 for the Brisbane Hub. The Prudentials team checked the daily prudential settlement amounts and confirmed that there were no issues. AEMO has reviewed the matter and taken necessary actions to prevent future occurrence of these issues.

### Clause 6.10.2

Clause 6.10.2 of the Procedures states:

#### **6.10.2 Determination of STTM distribution system allocations**

- (a) By no later than 4.5 hours after the beginning of each gas day, AEMO must determine the *STTM distribution system allocations* for each *User* for each *STTM withdrawal zone* and *distribution region* for the previous gas day.**
- (b) By no later than 5.00pm on each settlement business day, AEMO must determine updated *STTM distribution system allocations* for each *User* for each *STTM withdrawal zone* and *distribution region* for each gas day up to the previous**

AEMO believes a breach of clause 6.10.2(a) and 6.10.2(b) of the Procedures occurred on 6 April 2016.

## **AEMO Decision: Apparent Breach is Not Material**

AEMO is required to assess the materiality of breaches of the Procedures and if it determines that the breach is material may direct a person suspected of a breach to take remedial action. AEMO is not required to undertake this assessment for breaches of the NGL and NGR.

### Materiality

Criterion 1: Financial impact

There is no financial impact on any market participant because of the breach.

Criterion 2 and 3: System and operational impact

There is no system and operational impact as a result of the breach.

Criterion 4: Any other factors

There are no other factors impacted as a result of the breach.

### Decision

AEMO's failure to comply with the clause 6.10.2(a) and 6.10.2(b) of the Procedures on 6 April 2016 has had no material impact on any other market participants, the market as a whole, or end use customers.

## **ATTACHMENT A: AEMO COMPLIANCE PROCESS**

### **Criteria AEMO will use in considering whether**

- i. An incident is material; and**
- ii. If the incident is material, whether it should be referred to AER.**

### Criteria to consider in assessing materiality of apparent breach

The following criteria will be used by AEMO in determining whether an apparent breach is material in nature:

1. Whether or not the apparent breach is likely to cause significant financial impact on either of the following:
  - a. Market Participants;
  - b. AEMO, including the Gas Retail Market Business System;
  - c. End use customers;
  - d. AEMO stakeholders.
  
2. Whether or not the apparent breach is likely to cause significant market system impact on either of the following:
  - a. Market Participants;
  - b. AEMO; including the Gas Retail Market Business System;
  - c. AEMO stakeholders.
  
3. Whether or not the apparent breach is likely to use significant operational impact on either of the following:
  - a. Market Participants;
  - b. AEMO; including the Gas Retail Market Business System;
  - c. End use customers;
  - d. AEMO stakeholders.
  
4. Any other factors considered relevant by AEMO.

### Criteria to consider in referring a material apparent breach to AER

The checklist is the process AEMO will use to determine whether an apparent breach, if considered material, should be referred to the AER.

In determining whether or not a material apparent breach warrants referral to the AER, AEMO may have regard to the following matters:

1. Whether the complaint is frivolous or vexatious.
2. Whether the apparent breach has resulted in any costs being borne by AEMO (and therefore the market as a whole).
3. Whether or not the apparent breach appears to have arisen as a result of problems with the design/operation of the Procedures.
4. Whether the apparent breach by a Market Participant was caused by the conduct of AEMO.
5. Whether the apparent breach is an isolated event, or indicates a systemic problem with compliance.
6. Whether the apparent breach appears to have been made intentionally or maliciously.
7. Whether remedial action was taken by the Market Participant following discovery of the breach.
8. Whether the apparent breach has a potential anti-competitive effect.
9. Any other matters considered relevant by the AEMO.

## ATTACHMENT B: National Gas Law

(From *National Gas (South Australia) Act 2008* – note individuals are responsible for using the latest version of the Procedures/legislation)

### 91MB—Compliance with Retail Market Procedures

- (1) AEMO and each person to whom the Retail Market Procedures are applicable must comply with the Procedures.
- (2) However, if there is an inconsistency between an applicable access arrangement and the Retail Market Procedures, a person is, to the extent of the inconsistency, not required to comply with the Procedures.
- (3) If AEMO has reasonable grounds to suspect a breach of the Retail Market Procedures, it must, after making such inquiries and investigation as it considers appropriate, make a decision as to whether the breach is a material breach.
- (4) If AEMO decides the breach is material, AEMO—
  - (a) must publish the decision and the reasons for it on its website; and
  - (b) may direct the person suspected of the breach to rectify it or to take specified measures to ensure future compliance (or both); and
  - (c) may refer the breach to the AER.
- (5) A direction by AEMO under subsection (4)(b) must—
  - (a) specify the breach; and
  - (b) specify the date by which the direction is to be complied with; and
  - (c) be addressed to, and given to, the person suspected of the breach.
- (6) A person to whom a direction is given under subsection (4)(b) must comply with the direction.
- (7) AEMO must give a copy of its decision under subsection (3), its reasons for the decision and (if relevant) any direction under subsection (4)(b) to the AER.
- (8) If AEMO decides the breach is not material, AEMO must—
  - (a) publish the decision and the reasons for it on its website; and
  - (b) give a copy of the decision and the reasons for it to the AER.

#### Note—

AEMO may provide the AER with relevant information (including protected information) related to a suspected breach of the Procedures. (For disclosure of protected information, see section 91GC(2)(b)).