

AEMO COMPLIANCE NOTIFICATION

PREPARED BY: Retail Market Development

VERSION: 1.0

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DELTA ELECTRICITY

Retail Market Participation

1. Summary

On 2 June 2014, AEMO became aware that Delta Electricity (Delta), registered as a Self-Contracting User (SCU) in the NSW and ACT Retail Gas Market, had not maintained connectivity to AEMO's retail market systems since December 2013. This has led to Delta being in breach of clause 45.2 (1), of the NSW and ACT Retail Gas Market Procedures (Procedures), that require each participant to maintain connectivity to the AEMO retail market systems.

AEMO considers this as a non-material breach as Delta's non-connectivity does not affect any other market participants, AEMO, AEMO stakeholders, or end use customers.

AEMO notes that Delta is presenting a Gas Markets Issue (GMI) paper to the Gas Retail Consultative Forum (GRCF) on October 21 2014, seeking to amend the Procedures to make retail market systems connectivity optional for SCUs.

2. Introduction

This document outlines an apparent breach of the Procedures by Delta concerning their participation in the NSW Retail Gas Market. AEMO considers that Delta has committed an apparent breach of clause 45.2 of the Procedures, which requires participants to comply with the *Interface Control Document* in respect of the provision of information, giving of notice, delivery of notices or documents and making of requests, and the receipt of information, notices, documents, or requests, as contemplated by the Procedures.

Circumstances of Apparent Breach

Background

Delta operates electricity generation facilities in NSW that are large users of gas. As such, Delta has registered as a SCU for the purposes of participation in the NSW gas market. In its capacity as a SCU, Delta is a User of a Delivery Point in the NSW-Wilton network section. This network section is part of the Short-Term Trading Market (STTM). Delta receives market data from AEMO's Gas Retail Market Business System (GRMBS) to assist with its STTM operations.

Delta previously had operational infrastructure to comply with connectivity requirements under clause 45.2 of the Procedures through a connectivity solution arranged via a third-party service provider. In late 2013, Delta determined that the solution provided by the third-party provider was no longer necessary, as there was no perceived operational requirement for the interface that was offered by the provider. In early June 2014, AEMO became aware of this situation and informed Delta that under the Procedures it was required to connect to the GRMBS for the delivery of notices contemplated under the Procedures.

On June 16 2014, Delta provided a letter to AEMO seeking an exemption from maintaining connectivity with the GRMBS, as required under clause 45.2. Delta noted that they do not require the applicable market data as similar data is available from AEMO, the STTM and Jemena Gas Networks systems, and that they have no need for this GRMBS data to maintain its operations. Delta also contended that by not having GRMBS connectivity, Delta has no adverse financial or operational impact on the wider market and that they do not believe a cost benefit exists for Delta to maintain GRMBS connectivity.

Clause 45.2

The relevant Procedures for the period of Delta's breach are version 11.1, 12, 13 and 14 of the Retail Market Procedures (NSW and ACT). All these versions of the Procedures are relevant to this issue.

Procedures version number	Applicable from date	Applicable to date
Version 11.1	1 July 2013	31 Dec 2013
Version 12	1 Jan 2014	30 June 2014
Version 13	1 Jul 2014	2 Nov 2014
Version 14	3 Nov 2014	

Clause 45.2 (3) of version 11.1 and 12 of the Procedures states:

45.2 Interface Control Document

...

(3) Effect

- (a) *AEMO and each user and network operator must comply with, and is bound by, the Interface Control Document in respect of the provision of information, giving of notice, delivery of notices or documents and making of requests, and the receipt of information, notices, documents or requests, as contemplated by the Procedures.*
- (b) *In relation to the communications contemplated in clause 45.2(3)(a), subject to AEMO's discretion, a self-contracting user that is a current user for delivery points that are not located in a STTM network section or a no OBA network section or an OBA network section may communicate directly with a relevant network operator outside of the requirements of the Interface Control Document in a manner that is otherwise consistent with the Procedures.*

Clause 45.2(1)(a) of version 13 and 14 of the Procedures states:

45.2 These Procedures and Other Instruments

(1) Other Instruments

- (a) *each person required to comply with these Procedures must also comply with the Gas Interface Protocol.*
- (b) *in the event of any inconsistency between the provisions of these Procedures and either of the documents listed in clause 45.2(1), the inconsistency is to be resolved by giving precedence to the these Procedures.*
- (c) *AEMO must publish the Gas Interface Protocol, as amended from time to time.*

In both version 11.1 and version 12 of the Procedures, clause 45.2(3)(a) requires a participant to be able to connect to and to transmit data using the *Interface Control Document (ICD)*, which is the systems specifications document for the GRMBS. While version 13 and version 14 of the Procedures, amended clause 45.2(1)(a) by introducing the concept of the *Gas Interface Protocol*, which in turn contains the ICD. Since discontinuing its arrangement with its third-party provider, Delta lost connectivity with the GRMBS.

AEMO contends that Delta is in breach of clause 45.2 of versions 11.1, 12, 13 and 14 of the Procedures.

Delta is presenting a paper seeking to amend the Procedures to make GRMBS connectivity optional for SCUs for discussion at the GRCF meeting on October 21 2014. A Procedures consultation will be initiated to seek industry input to this matter. If the industry supports the Delta proposal, a Procedure change will be made and Delta will not be required to establish connectivity with the GRMBS. However, if the proposal is not supported by the GRCF, Delta will need to establish connectivity to the GRMBS to be compliant with the Procedures.

AEMO understands that during the GRCF consultation phase, Delta is going to request a letter of no-action from the AER on this matter.

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.

Clause 45.2

The GRMBS system is crucial to the operation of the STTM market that operates on the NSW-Wilton Network Section. As an SCU in an STTM network section, Delta must have access to certain GRMBS provided data to assist with its own STTM operations. However, this lack of connectivity does not have a material effect on any other participant.

Materiality

Criterion 1: Financial impact

There is no financial impact on any participant as a result of the breach.

Criterion 2 and 3: System and operational impact

The failure to communicate with the GRMBS does not have any practical operational impact as Delta does not use the STTM in a way that affects other market participants. Delta's failure to receive GRMBS notifications/data means that some communications between Delta and other market participants may have occurred outside of GRMBS. This non-prescribed format of communication has no material effect on the market.

Criterion 4: Any other factors

Once Delta were made aware of the issue they took action to seek an exemption from AEMO and are proposing a Procedure change to the GRCF to resolve the alleged breach.

Assessment:

Delta's failure to comply with clause 45.2 has had no material impact on any other market participant. The inability of Delta to receive notifications through GRMBS has had no operational impact but this has been mitigated by Delta's access to STTM and Jemena Gas Network systems and their limited need for market information. AEMO believes that this breach has no material impact on any market participant, other than Delta, or the market as a whole.

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).)