

AEMO COMPLIANCE DECISION GAS RETAIL MARKET PROCEDURES

PREPARED BY: Markets
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Retail Market Participation

1. Summary

On 2 September 2015, Jemena raised an issue to AEMO that the user reconciliation adjustment amount (URAA) nominations in the ACT Canberra gas network were incorrect since 31 August 2015. AEMO conducted an investigation and determined that Energy Australia (EA) had not been correctly nominating the URAA (as calculated by AEMO). This appears a breach of clause 31.14(1) of AEMO's 'Retail Market Procedures (NSW and ACT)' (Procedures).

AEMO considers this a non-material breach, as EA's incorrect URAA nominations has not affected any other market participants, AEMO, AEMO stakeholders, or end use customers.

2. Introduction

This document outlines an apparent breach of clause 31.14(1) of the Procedures by EA concerning their participation in the NSW and ACT Retail Gas Market. This provision requires a participant to include in its forecast requirement the user reconciliation adjustment amount, as calculated by AEMO.

Circumstances of Apparent Breach

Background

EA is a registered Retail Market User in the NSW and ACT Retail Gas Market. As such, EA has obligations to ensure that in a balanced network section in which they operate they must include in their forecast requirement the URAA calculated by AEMO. AEMO provides a monthly report to all Gas Retail Market users that contains the URAA.

On 2 September 2015, Jemena Gas Network (Jemena) raised an issue to AEMO that the URAA nominations in the ACT Canberra gas network had been incorrect since 31 August 2015. During this period, AEMO received 'Sum to Zero PIA/URAA failed' notifications from Jemena's systems. Upon investigation, it was determined that the imbalance in Jemena's systems was due to EA having incorrect URAA nominations.

Once the cause of the issue was determined, AEMO worked closely with EA to ensure that they nominated the correct URAA. The issue was apparently resolved in early October 2015. However on 23 October 2015, between 27 October 2015 and 6 November 2015, between 16 November 2015 and 23 November 2015 and between 28 November 2015 and 30 November 2015, AEMO received 'Sum to Zero PIA/URAA failed' notifications from Jemena's systems. It was determined from further investigation that EA had not been correctly nominating the URAA. AEMO notified EA and worked closely with them to ensure that they continue to nominate the correct URAA.

Clause 31.14

Clause 31.14(1) of the Procedures states:

31.14 Users' obligations

- (1) Provided it has not received a contrary direction from AEMO each *user* in a *balanced network section* must meet its monthly RAB reduction target and include in its *forecast requirement* the *user reconciliation adjustment amount* calculated by AEMO under **clause 31.13**.

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 minimal financial impact on Jemena, AEMO and EA because of the breach. The financial impact is due to the time and resources committed to investigating and rectifying the imbalance in the URAA nominations.

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

EA's failure to comply with clause 31.14 (1) of the Procedures has had no material impact on any other market participants. If EA continue to nominate the incorrect URAAs, this may increase future adjustments and hence has the potential to amplify the URAAs in the future. However, in this case, AEMO believes that this breach has had no material impact on any market participant 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).)