

# AEMO COMPLIANCE DECISION: GAS RETAIL MARKET PROCEDURES

PREPARED BY: Markets  
VERSION: 1.0  
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## 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 20 May 2016, AEMO sent a notification to NSW and ACT Gas Retail Market participants that Jemena Gas Networks (Jemena) and ACTEWAGL Distribution (AAD) have advised AEMO that they have identified around 3500 MIRNs for which Retailers had not advised AEMO of the new connection requests prior to the start of the new NSW and ACT market arrangement on 2 May 2016. The information provided by Jemena and AAD shows that AGL Energy had not advised AEMO of the new connection requests. This has caused a non-compliance by AGL Energy with clause 9.2 of the NSW and ACT Retail Market procedures version 14.1 (Procedures).

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

AEMO not being advised of the new connection requests means that the MIRNs were not registered in the AEMO system – the Gas Retail Market Business System (GRMBS). This may prevent other Retailers to win over the sites as the MIRNs did not exist in GRMBS. This also has an impact on market allocations. The gas could not be allocated to the correct Retailers who were financially responsible for the MIRNs because the MIRNs were not registered in GRMBS. The cost of the unallocated gas was smeared across all the market participants based on their apportionment percentages.

All the MIRNs for which Retailers had not advised AEMO of the new connection requests prior to the start of the new NSW and ACT market arrangement on 2 May 2016 have now been registered in GRMBS.

### Clause 9.2

Clause 9.2 of the Procedures states:

#### **9.2 Current user's obligations**

By the day following the day on which a *current user* is notified by the *relevant network operator* that a *delivery point* has been assigned a *delivery point identifier* in the network operators' database and available to the *current user*, the *current user* must initiate a creation of *delivery point* transaction for the relevant *delivery point* by notifying AEMO that the *network operator* has created a new *delivery point* and requires it to be included in the *delivery point registry*. The following information regarding that *delivery point* must be provided to AEMO:

- (1) *delivery point identifier*;
- (2) *delivery point identifier* checksum;
- (3) *default RoLR*;
- (4) *network* to which the *delivery point* is connected;

- (5) *network receipt point*;
- (6) *network section*;
- (7) whether the *delivery point* will be a *daily metered delivery point* or a *non-daily metered delivery point*;
- (8) the *meter reading* frequency;
- (9) *meter data agent*;
- (10) the date on which the new *delivery point* was connected to the *network*; and
- (11) estimated daily consumption (optional).

AEMO believes a breach of clause 9.2 of the Procedures by AGL Energy prior to the start of the new NSW and ACT market arrangement on 2 May 2016 over an extended period of time.

## **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 all market participants due to the followings:

- The cost of the unallocated gas was smeared across all market participants based on their apportionment percentages. Majority of the cost will be covered in a Final or Revision settlement.
- Retailers may have issues with winning over the MIRNs as the MIRNs did not exist in GRMBS. However, market participants could raise an enquiry to AEMO that they would like to win over the site and could not find the MIRN in the system. AEMO would notify the Retailer who was financially responsible for the MIRN to register the MIRN in GRMBS.

#### 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

AGL Energy's failure to comply with the clause 9.2 of the Procedures prior to the start of the new NSW and ACT market arrangement on 2 May 2016 over an extended period of time 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)).