

# AEMO COMPLIANCE NOTIFICATION

PREPARED BY: Gas Retail Market Performance

VERSION: 1

RELEASE DATE: 7 September 2010

## Participant Imbalance Amount (PIA) Nominations

### Introduction

This document outlines apparent breaches of **clause 28.2(1)(e)** by TRUenergy in relation to nomination of participant imbalance amounts (**PIAs**) to the network operator for the both the ACT-Canberra and NSW-Wilton network sections.

### Circumstances of Apparent Breaches

**Clause 28.2(1)(e)** outlines the requirement for users to include their respective PIAs in their nominations to the network operator for a network section. The sum of PIAs across all users for a gas day needs to sum to zero for those users' cumulative imbalances to be reduced by the value of the PIA submitted. Therefore if one user fails to include, or incorrectly includes, PIA in its nomination, the PIAs for all users on that gas day will be cancelled. For this reason, **clause 28.2(2)(b)** sets out the requirement for the network operator to notify the Rules Administrator if the sum of all PIAs from users received under **clause 28.2(1)(e)** for a network section does not equal zero for a gas day.

The Rules Administrator received notifications from the network operator on 9, 15, 24 January 2010 and 22 March 2010, advising that the PIAs did not sum to zero for gas days **10** and **25 January 2010** (for the NSW-Wilton network section) and **16 January** and **23 March 2010** (for the Act-Canberra network section) respectively. Upon investigation, TRUenergy confirmed that IT and administrative errors gave rise to these apparent breaches. Based on the information provided, it appears that TRUenergy breached **clause 28.2(1)(e)** on 10, 16, 25 January 2010 and 23 March 2010.

### AEMO Decision: Apparent Breaches are Non Material

AEMO regards the apparent breaches of **clause 28.2(1)(e)** in relation to nomination of PIAs to the network operator by TRUenergy for gas days **10, 16, 25 January 2010** and **23 March 2010** to be non material. AEMO's decision was made on the following reasons, applying the criteria outlined in the AEMO Compliance Process (see **Attachment A**):

#### Non materiality

Criterion 1: significant financial impact

The apparent breach is unlikely to cause significant financial impact on market participants as PIA applications can be made for subsequent gas days – the effect is minor in that a delay to possible reductions of cumulative imbalance amounts is likely to have occurred.

Criterion 2: significant market system impact

There were no market system impacts on either the market participants, AEMO, including the Gas Retail Market Business System; and AEMO Stakeholders that AEMO is aware of.

Criterion 3: significant operational impact

There were no operational impacts on either the market participants, AEMO, including the Gas Retail Market Business System; and AEMO Stakeholders that AEMO is aware of.

Criterion 4: Any other factors

The previous apparent breaches of the obligations relating to PIAs were assessed by the market operator for NSW and ACT at the time, Gas Market Company. AEMO's view is considering the

relatively few number of apparent breaches over the periods of time (from December 2005 – February 2009) suggest that it is unlikely that this apparent breach is systemic in nature.

## 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.

## National Gas Law

(From National Gas (South Australia) Act 2008—1.7.2009 – 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).)