

AEMO COMPLIANCE DECISION: GAS RETAIL MARKET PROCEDURES

PREPARED BY: Markets
VERSION: 1.0
RELEASE DATE: 7 March 2016

Introduction

Role of AEMO

Section 91MB 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

AEMO published a Compliance Decision on 26 November 2015 relating to a material breach of clauses 21.1(5) and 21.1 (7) of the NSW and ACT Retail Market Procedures (“Procedures”) between January 2015 and July 2015 by Jemena Gas Networks (NSW) Ltd (Jemena) (“Previous Decision”)¹.

Since the Previous Decision, AEMO has continued to monitor Jemena’s performance in relation to clauses 21.1(5) and 21.1 (7) of the Procedures.

Based on AEMO’s analysis of the meter data submissions by Jemena to AEMO, AEMO considers that Jemena, as the meter data agent in the NSW and ACT Retail Gas Market, has not met the “quarterly gas meter reading” delivery obligations as prescribed in the NSW and ACT Retail Gas Market Procedures (Procedures) between September 2015 and January 2016. This is an apparent breach of clause 21.1 (7) of the Procedures, which relate to the timely provision of quarterly gas meter read data to AEMO. Jemena has met the requirements of clause 21.1(5) since the Previous Decision.

AEMO has assessed this as a material breach of the Procedures, based on a number of factors including the previous breach specified in the Previous Decision, the number of instances of the breaches and the financial and operational impacts for market participants and end use customers.

The late delivery of the reads materially affected market participants due to the impact to their operations, particularly their billing processes. Retailers estimated a large number of reads in lieu of the data from Jemena to meet their customer-billing schedules. Retailers have advised that this has imposed additional material operational costs in the form of out-of-cycle billing, processing, special read requests and customer support. The billing cycle changes and the use of estimates by retailers also affected end use customers as evidenced through the reported increases in customer complaints and support calls to the retailers attributable to the late delivery of meter data.

This document outlines details of AEMO’s investigation of the apparent breach by Jemena and the reasons for its decision.

Circumstances of Apparent Breach

Background

Jemena is the meter data agent in the NSW and ACT Retail Gas Market. In November 2015, AEMO issued the Previous Decision that Jemena had not met the non-daily gas meter reading delivery requirements under clauses 21.1(5) and 21.1 (7) of the Procedures between January 2015 and July 2015.

¹ AEMO Compliance Decision – Jemena November 2015: http://www.aemo.com.au/Gas/Policies-and-Procedures/Retail-Gas-Market-Procedures/~/_media/Files/Gas/Policies%20and%20procedures/Retail%20gas%20compliance/2015/AEMO%20Compliance%20Decision%20%20Jemena%20November%202015.ashx

Jemena has advised AEMO that, in the time following the Previous Decision, Jemena has worked towards rectifying the breach. In particular, Jemena advised that it has:

- implemented increased focus on clearing aged unbilled/exceptions to improve compliance and in line with retailer requests;
- increased its processing resources in December 2015 focusing on clearing exception errors in a timely manner; and
- worked towards implementing a reading route optimisation program to improve their ability to take reads from the field and load into the collection system with greater efficiency.

However, in monitoring Jemena's performance in the months following the Previous Decision, AEMO's analysis of the meter data submissions by Jemena to AEMO's systems shows that Jemena has not met the quarterly gas meter reading delivery requirements under clause 21.1 (7) of the Procedures between September 2015 and January 2016. AEMO notes Jemena's comment that January 2016 results have been impacted by storms in early January 2016 and short term MVRS (meter reading dispatch and collection system outages) resulting in a loss of 2 days meter reading output.

From AEMO's discussions with two key impacted participants, they noted that there has been numerous conversations with Jemena over the course of this issue and that retailers have been working collaboratively with Jemena towards a solution for the meter read issues. Retailers have reported that due to their operational requirements they found it necessary to generate a large number of estimated reads in lieu of the delayed meter reads from Jemena and that this had resulted in significant operational impacts.

AEMO's analysis of the meter data submissions by Jemena to AEMO shows that, whilst there has been improvement in December 2015 and January 2016, their quarterly gas meter reading delivery performance has not met the requirement in clause 21.1(7) in the Procedures on multiple occasions over the reviewed period (September 2015 – January 2016).

Clause 21.1

The relevant Procedures for the period of Jemena's apparent breaches are those set out in version 14 of the Retail Market Procedures (NSW and ACT). This version of the Procedures are relevant to this issue as they are applicable from 3 November 2014.

Clauses 21.1 (7) of the Procedures states:

21.1 Provision of data to AEMO

...

(7) In respect of *basic metering equipment* read quarterly the *meter data agent* must provide:

- a) at least 90% of the data specified in clause 21.1(2) that it collects from that type of equipment in any month within 5 business days of the meter read;
- b) at least 98% of the data specified in clause 21.1(2) that it collects from that type of equipment in any month within 20 business days of the meter read.

For each monthly period from September 2015 to January 2016 Jemena did not comply with clauses:

- 21.1 (7) (a) for every month between September 2015 and January 2016 (inclusive); and
- 21.1 (7) (b) for September 2015.

AEMO Decision: Apparent Breach is Material

AEMO is required to assess the materiality of breaches of the Procedures and if it determines that the breach or breaches are material, AEMO may direct a person suspected of the breaches to take remedial action.

AEMO has undertaken the impact assessment of the delayed provision of quarterly metering data by Jemena to market participants in the NSW and ACT Gas Market. The assessment concludes that the delay in providing timely quarterly metering data has had a material impact on NSW and ACT gas market participants.

Specific information provided to AEMO by retail market participants detailing financial and operational impacts has not been provided to Jemena for confidentiality reasons. Accordingly, Jemena has not had an opportunity to assess and respond to these matters in terms of their materiality, or AEMO's assessment that these impacts resulted primarily from the breach.

Materiality

Criterion 1: Financial impact

There has been a financial impact to market participants because of this breach. Market participants have reported that the additional costs they have incurred due to the delay in the provision of non-daily meter reads by Jemena includes those arising from:

1. increased back office processing for exception handling and estimation process;
2. additional billing to remediate bills when Jemena meter reads are received;
3. significant additional time spent on customer complaints and customer support due to the estimated reads based billing; and
4. additional costs in requesting special reads from Jemena.

Criterion 2 and 3: System and operational impact

The failure to provide quarterly metering data within the specified timeframes has a practical operational impact for other market participants. Impacted participants have noted that they have incurred a significant operational burden on their systems to undertake metering data estimations, reissue bills once the quarterly meter reads are provided by Jemena and request special reads from Jemena.

Market participants have reported that the delay in quarterly meter reads provided by Jemena and the consequent estimations have resulted in a negative experience for their customers. They have reported a significant increase in customer complaints and support. The complaints and enquiries are mainly in reference to bill estimations, delayed bills and amended bills.

Criterion 4: Any other factors

AEMO notes that this is the same type of breach as the breach that was included in the Previous Decision. Taking into account the breach of clause 21.1(7) included in the Previous Decision, the number of months where a breach has been observed in this case is also relevant. A breach of the requirements under clause 21.1 (7) was observed in 11 of the 12 months in the 2015 calendar year.

Decision

Based on the reports and evidence made available to AEMO, Jemena's failure to comply with the requirements under clause 21.1 (7) of the Procedures over multiple months has had a material

impact on other market participants. Jemena's inability to provide quarterly metering data within the specified time frames (as outlined in the Procedures) has caused financial and operational impact to market participants. AEMO believes that this breach has had a material impact on multiple market participants and the NSW/ACT Retail Gas Market as a whole.

Due to the ongoing nature of this breach AEMO has referred this matter to the Australian Energy Regulator (AER) pursuant to section 91MB(4)(c) of the National Gas Law. In conjunction with the AER, AEMO will continue to monitor Jemena's quarterly gas meter reading delivery performance to assess if Jemena has met the requirements under clause 21.1 (7) of the Procedures for the month of February 2016 and into the future.

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)).