

# ➤ Allens: AER 2021-22 compliance and enforcement priorities

## FINANCIAL HARDSHIP



The AER will continue to ensure residential consumers in financial difficulty are given the full suite of protections in the Retail Law and Retail Rules.

The AER will focus on ensuring:

- retailers effectively identify consumers in financial difficulty;
- payment plans are established having regard to the consumer's capacity to pay; and
- retailers apply their hardship policies.

The AER has been monitoring debt levels of consumers and the number of consumers on hardship programs and payment plans throughout the COVID-19 pandemic. The AER is concerned that debt levels have increased significantly, but the number of consumers on payment plans has not.

### RECENT DEVELOPMENTS

- The AER is **monitoring energy business' compliance with hardship obligations**.
- The Federal Court found Energy Australia **breached retailer energy laws and was ordered by consent to pay a \$1.5 million fine**. The breaches included: wrongfully disconnecting eight customers, failing to maintain its hardship policy and failing to provide an opportunity to enter into appropriate payment plans.

## EMBEDDED NETWORKS



The AER will focus on ensuring embedded network compliance with exemption conditions, including consumer access to Ombudsman services.

The AER has identified a number of concerns in relation to embedded networks including:

- embedded network operators have limited reporting requirements;
- some embedded network operators have a limited understanding of their obligations;
- embedded network consumers are vulnerable due to limited competition; and
- a number of embedded networks have not yet obtained Ombudsman scheme membership, where required to do so.

### RECENT DEVELOPMENTS

- A number of stakeholders (including Ombudsman schemes and consumer groups) **identified embedded networks as a key area for attention** to ensure consumers are protected.
- The AER **received reports** that a number of exempt sellers and operators of embedded networks have **not yet obtained Ombudsman scheme membership**.

## GENERATOR COMPLIANCE



The AER will focus on registered generators' compliance with AEMO dispatch instructions and generators' ability to comply with their latest offers at all times.

The AER will focus on generator businesses to ensure they:

- are able to provide the services they offer to the electricity market (eg the frequency control ancillary services (FCAS)); and
- comply with dispatch instructions issued by AEMO.

The AER will also ensure renewable generators understand and comply with the tightened energy dispatch targets.

### RECENT DEVELOPMENTS

- CS Energy was fined \$200,000 for allegedly **failing to ensure it could provide FCAS offered to the market**. CS Energy was required to repay the \$1.13 million it received from AEMO to provide the service.
- Rules governing **compliance with energy dispatch targets** have tightened for renewable energy providers.

## GAS PROVIDER DISCLOSURE OBLIGATIONS



The AER will focus on ensuring service providers meet information disclosure obligations and other Part 23 National Gas Rules obligations.

Failing to provide information can be detrimental to users in the market. Failure to provide information negatively impacts the efficient investment in and use of pipelines.

The AER will monitor the market to ensure gas providers comply with the disclosure of financial information and other terms, as required under the Gas Rules.

### RECENT DEVELOPMENTS

- The **ACCC Gas Inquiry** identified a range of conduct that undermines Part 23 of the Gas Rules, including:
  - non-compliance regarding access requests and negotiation requirements under the Gas Rules; and
  - publishing inadequate pricing methodologies or incomplete standing prices for services offered.

## GAS AUCTION REPORTING



The AER will focus on ensuring timely and accurate gas auction reporting by registered participants.

The Day Ahead Auction (DAA) was introduced to enhance access to pipeline capacity on a more flexible basis and can be used to transport gas between northern and southern markets more efficiently.

The AER has observed a number of issues that can reduce transparency and integrity of the auction service. These issues include:

- Auction Quantity Limit errors;
- errors in pipeline nominations; and
- failure to keep complete renomination records.

### RECENT DEVELOPMENTS

- Lochard Energy was fined \$20,000 for allegedly **failing to provide key information** (auction quantity limits) for the east coast gas DAA.
- The AER will continue to **monitor compliance in relation to the DAA** as the flow of information is critical to the effectiveness of the DAA and helps to ensure transparency in the market and the integrity of the DAA.

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