

Subject **Analysis of Submissions and Responses –
Guideline note for rules 65 to 75 and 80: the commissioning and
carrying out of performance audits and event audits**

Date **6 June 2014**

Introduction and summary

On 28 July 2010, Gas Industry Co released for consultation a revised draft version of “Guideline note for rules 65 to 75 and 80: the commissioning and carrying out of performance audits and event audits”. Three weeks were allowed for responses, and three submissions were received from industry participants. This paper summarises the points raised in the submissions and provides Gas Industry Co’s responses to them.

In general, submitters were supportive of the content of the draft guideline note. Contact Energy suggested shorter timeframes for audits than outlined in the draft guideline note, but Gas Industry Co does not consider that such changes are necessary, as two yearly performance audits, along with the ability to commission follow-up audits and event audits as necessary, should ensure adequate monitoring of compliance with the Gas (Downstream Reconciliation) Rules 2008 (Rules). Contact Energy also suggested that new retailers and meter owners should be subject to performance audits within six months of commencing operations, and this provision seems a sensible addition to the guideline note.

Genesis Energy raised concerns regarding the definition of confidential information. Gas Industry Co notes that allocation participants, the allocation agent, and the industry body are required by the Rules to comply with auditors’ requests for information, regardless of whether the holder of that information considers it to be confidential. There is therefore no ability to withhold information from auditors on the basis of confidentiality.

Vector suggested adding a provision stipulating that auditors will be commissioned expeditiously. Gas Industry Co does not consider that such a provision is necessary. The purpose of the guideline note is to clarify procedures. Gas Industry Co will endeavour to carry out all audit-related tasks in an efficient and effective way, subject to logistical, resource, and other constraints. An explicit provision in the guidelines is therefore not necessary.

Summary of comments received and Gas Industry Co responses

Submitter Comment	Gas Industry Co response
Contact Energy	
<p>Participants whose audits have identified material or intentional noncompliance should be audited again in 3 months' time to ensure issues have been adequately resolved.</p>	<p>The draft guideline note states that performance audits will be carried out at about two-yearly intervals, unless compliance issues are raised in respect of a particular participant, in which case Gas Industry Co may choose to increase the frequency of subsequent audits for that participant.</p> <p>It seems reasonable that some noncompliance issues could be resolved within 3 months, but it also seems possible that some issues of noncompliance, such as issues with a participant's computer system, may take longer to resolve. Further, instances of noncompliance identified in the course of performance or event audits will be alleged as rule breaches and follow the usual compliance process, which may include further investigation or specific actions to remedy the noncompliance.</p> <p>Gas Industry Co would prefer to let the circumstances dictate the timing of any follow-up audits and will consider the advice of the auditor and/or the outcome of the compliance process in determining a follow-up schedule.</p>
<p>Baseline audits should be completed by 31 December 2010.</p>	<p>June 2011 was chosen as a pragmatic timetable that allows participants flexibility in choosing the timing of their performance audits.</p>
<p>Meter owners should be included in the baseline audits.</p>	<p>Meter owners are to follow the same timetable as retailers; that is, to have a performance audit completed by June 2011.</p>
<p>New retailers should be subject to a performance audit within six months of becoming a participant.</p>	<p>As new retailers enter the market, they will be added to the schedule of regular audits. Six months seems a reasonable timeframe for the first such audit, and the guideline note has been amended to include this provision.</p>

Submitter Comment	Gas Industry Co response
<p>Participants should be subject to a performance audit when a participant makes a material change to its systems or processes.</p>	<p>Gas Industry Co notes that the reason for conducting regular performance audits is to ensure the ongoing compliance of participants with the Rules, and this schedule ensures that new systems and processes are examined in due course.</p> <p>Gas Industry Co notes that performance audits impose time and resource costs on the industry, and it does not want to impose these costs without adequate justification. Further, such costs may be construed as a disincentive to implement such process improvements.</p> <p>Gas Industry Co is able to commission event audits at any time if it considers that a compliance issue has arisen. This provision, together with the schedule of regular performance audits, should be sufficient to ensure compliance with the Rules.</p>
Genesis Energy	
<p>Provide guidance on what is acceptable in terms of “commercially sensitive” information, as some interpretations would lead to information being withheld from auditors.</p>	<p>The provisions of rule 69 require the allocation agent, the industry body, and every allocation participant to comply with an auditor’s request for information. A participant may indicate, in providing the information, whether the information is confidential (i.e., commercially sensitive) and, under rule 72, such information may, at the discretion of the auditor, be excluded from the final published version of the audit report. A complete version of the report, including confidential information, must be provided to Gas Industry Co.</p> <p>Therefore, the confidential information provision is not able to be used as a reason to withhold information from the auditor.</p>
<p>Clarify which participants should be sent a draft version of performance and event audit reports.</p>	<p>Rule 70 provides that the auditor must give a copy of the draft audit report to “any other allocation participant which the auditor considers has an interest in the report”. As the rule drafting indicates, it is up to the auditor to determine who the interested parties are in each case. It would therefore not be appropriate to attempt to limit the auditors’ discretion in this matter.</p> <p>Further, one of the reasons to send the draft report to other parties is to ensure that the final report has the benefit of the most complete information possible. It may be that an audit raises particular issues that are of interest to specific participants, who would in turn be able to provide further information on those issues. In such cases, it would be counterproductive to attempt to limit the parties to which the auditor could send the draft report.</p>

Submitter Comment	Gas Industry Co response
Vector	
<p>Insert provision after section 4.5 that states Gas Industry Co will ensure decisions on commissioning of auditors will occur expeditiously</p>	<p>Gas Industry Co does not consider that such a provision is necessary. The guideline note is meant to provide details on how Gas Industry Co intends to carry out the audit provisions of the Rules. Gas Industry Co endeavours to carry out all of these functions expeditiously, subject to logistical, resource, and other constraints. An explicit provision in the guidelines is therefore not necessary.</p>