

Making of National Gas Rules

National Gas (South Australia) Law – Section 294

I, Tom Koutsantonis, Minister for Mineral Resources and Energy for the Crown in right of the State of South Australia, as the Minister administering the *National Gas (South Australia) Act 2008* of South Australia, hereby make the National Gas (Gas Trading Exchanges) Rules under section 294D(1) of the National Gas (South Australia) Law on the recommendation of the Ministerial Council on Energy.

These Rules have been signed by me for the purposes of identification as the National Gas (Gas Trading Exchanges) Rules 2013 and commence operation on 1 January 2014.



Hon Tom Koutsantonis MP
Minister for Mineral Resources and Energy

24 December 2013

NATIONAL GAS (GAS TRADING EXCHANGES) RULES

Part 22 Gas Trading Exchange

Division 1 Preliminary

532 Application of this Part

This Part contains rules applicable to a gas trading exchange.

533 Definitions

In this Part:

exchange agreement means the gas trading exchange agreement as defined in the NGL.

market conduct rules means Division 5 of this Part.

membership agreement means an agreement by which a person agrees with the Operator to become a gas trading exchange member and to comply with the terms of the exchange agreement.

Operator means AEMO or, if and to the extent that AEMO has appointed a person to operate the gas trading exchange in accordance with rule 535, that person.

product means goods or a service (or a combination of goods and services) that may be traded on the gas trading exchange.

publish, by the Operator, means to make publicly available on the Operator's website.

Division 2 Operator

534 Fees recoverable by AEMO

- (1) AEMO may charge fees (**exchange fees**) relating to the establishment, operation and administration of the gas trading exchange payable by gas trading exchange members, or categories of gas trading exchange members, in accordance with the the exchange agreement.
- (2) Exchange fees should be sufficient to cover AEMO's budgeted costs of establishing, operating and administering the gas trading exchange.
- (3) AEMO must consult with gas trading exchange members on the structure, introduction and determination of exchange fees.

- (4) Rules 135CA(4), 135CA(5) and 135CA(6) apply to exchange fees as if references in those provisions to:
 - (a) participant fees were to exchange fees; and
 - (b) budgeted revenue requirements were to AEMO's budgeted costs referred to in subrule (2).

535 Appointment of Operator by AEMO

- (1) AEMO may appoint a person to operate all or any part of a gas trading exchange if AEMO is satisfied that the person:
 - (a) has the necessary qualifications and expertise to perform the relevant functions and exercise the relevant powers of the Operator; and
 - (b) has no interest that compromises, or would reasonably be seen to compromise, its ability to operate the gas trading exchange in an impartial manner; and
 - (c) is authorised under all applicable laws to perform those functions and exercise those powers.
- (2) Before appointing a person under subrule (1), AEMO must consult with gas trading exchange members in relation to the proposed appointment.
- (3) AEMO is not responsible for the fees, costs or expenses of any person appointed under this rule, which may only be recovered in accordance with the exchange agreement.

536 Determination of payments

- (1) Subject to subrule (2), the amount payable by or to a gas trading exchange member in respect of a product traded on the gas trading exchange must give effect to the terms of an order submitted by the relevant gas trading exchange member in accordance with the exchange agreement.
- (2) The Operator must determine, in accordance with the methodology established under subrule (3), amounts payable by or to gas trading exchange members in respect of, or as a consequence of:
 - (a) a failure to deliver, supply or accept goods or services in accordance with the exchange agreement; and
 - (b) the closing out of obligations of a gas trading exchange member pursuant to rule 538(4).

- (3) The Operator must make, and may amend, a methodology for determining amounts payable in the circumstances contemplated in subrule (2), which must give effect to the following principles:
 - (a) the manner in which an amount in respect of a given set of circumstances is calculated must be the same for all transactions for a particular product; and
 - (b) an amount may be calculated by reference to the price applicable to a particular transaction or to a price determined by the Operator; and
 - (c) where the Operator determines a price to calculate an amount, the price in respect of any given period must be the same for all transactions for a particular product.
- (4) The Operator must make the methodology available to gas trading exchange members, the AER and any other person who requests a copy.
- (5) In making and amending the methodology, the Operator must consult with gas trading exchange members.
- (6) An amount determined under subrule (2) in respect of a gas trading exchange member and referable to a particular period of time is due and payable:
 - (a) by that gas trading exchange member to the Operator; or
 - (b) by the Operator to the gas trading exchange member,

as the case may be, under the exchange agreement and in accordance with its settlement provisions, and may be set off against other amounts (including exchange fees) payable between the Operator and the gas trading exchange member under the exchange agreement.

Division 3 Membership and Participation

537 Becoming a member

- (1) Any person may apply to the Operator to become a gas trading exchange member in accordance with the exchange agreement.
- (2) The exchange agreement may provide for different categories of membership.
- (3) The Operator must enter into a membership agreement with an applicant that satisfies the criteria for membership in the relevant category as set out in the exchange agreement.

538 Suspension and termination

- (1) The Operator may, in accordance with the exchange agreement, suspend or limit the access of a gas trading exchange member to the gas trading exchange or suspend it from trading in specified products if:
 - (a) the gas trading exchange member ceases to satisfy the applicable criteria for trading;
 - (b) a suspension event, as described in the exchange agreement, occurs in relation to the gas trading exchange member;
 - (c) the Operator is otherwise required or permitted to do so under the exchange agreement.
- (2) The Operator may terminate the membership agreement of a gas trading exchange member if a default event, as described in the exchange agreement, is not remedied within the period specified in the exchange agreement.
- (3) The Operator must terminate the membership agreement of a gas trading exchange member at its request, if the Operator is satisfied that the gas trading exchange member has met all of its obligations and has no contingent liabilities under the exchange agreement.
- (4) If the Operator is entitled to terminate the membership agreement of a gas trading exchange member, the Operator may, instead of or in addition to termination and in accordance with the exchange agreement:
 - (a) close out the obligations of the parties under relevant transactions entered into by that person but not yet performed;
 - (b) require the payment of amounts actually or contingently owing by that person;
 - (c) draw on and apply any credit support or collateral provided to the Operator by or in relation to that person;
 - (d) do all other things permitted under the exchange agreement to secure payment by, or reduce the potential liability of, that person in relation to the gas trading exchange.

Division 4 Exchange Agreement

539 Requirement for exchange agreement

- (1) An exchange agreement must be in effect at all times during the period of operation of the gas trading exchange and must be published by the Operator.

- (2) AEMO must make and publish the first exchange agreement before the day on which the operation of the gas trading exchange first commences.
- (3) The exchange agreement must address each of the matters specified in rule 541 and, subject to this Part, may include any other matter relevant to the gas trading exchange.

540 Amendment of exchange agreement

- (1) The Operator may only amend the exchange agreement if it is satisfied that the amendment:
 - (a) is consistent with the NGL and these rules; and
 - (b) is appropriate having regard to:
 - (i) the national gas objective; and
 - (ii) any compliance costs likely to be incurred by the Operator or gas trading exchange members in consequence of the amendment.
- (2) Any person may propose an amendment to the exchange agreement and the Operator must publish any proposed amendment it makes or receives.
- (3) The Operator may only reject a proposed amendment without consultation if the Operator reasonably considers that the proposal:
 - (a) is inconsistent with the gas trading exchange functions;
 - (b) is similar to a proposal considered, but rejected, in the previous 12 months;
or
 - (c) is misconceived or lacking in substance.
- (4) Unless subrule (3) applies, the Operator must consult on a proposed amendment with gas trading exchange members and any other person the Operator considers to be affected by the proposed amendment, in accordance with the process specified in the exchange agreement.
- (5) The exchange agreement must include the following minimum requirements for consulting and deciding on amendments to the exchange agreement:
 - (a) the Operator must allow a period for consulted parties to make submissions on the proposed amendment that is reasonable in all the circumstances, and not less than:
 - (i) 10 business days in relation to an amendment of a minor or administrative nature or a matter that, if not addressed urgently, will result in that matter imminently prejudicing or threatening the effective operation of the gas trading exchange;

- (ii) 20 business days in any other case; and
- (b) the Operator must publish its reasons for making any amendment or deciding to reject any proposal; and
- (c) the Operator must notify the AER of any amendments to the exchange agreement on or before the effective date of those amendments; and
- (d) the Operator must allow a reasonable time for gas trading exchange members to take any measures necessary to comply with an amended exchange agreement before the amendment comes into effect.

541 Minimum content of exchange agreement

The exchange agreement must set out:

- (a) the criteria that a person must satisfy to become a gas trading exchange member, either generally or in any particular category of membership, which must include a requirement to enter into a membership agreement with the Operator; and
- (b) the form of membership agreement; and
- (c) a description of the products offered for trading on the gas trading exchange from time to time; and
- (d) any criteria that a gas trading exchange member must satisfy in order to participate in the trading of a product; and
- (e) a requirement to provide security for payment in respect of products traded, including the form and amount of acceptable security and the circumstances in which the Operator may call on security provided; and
- (f) procedures and timing requirements for conducting trading, concluding transactions, payment and settlement; and
- (g) provisions for the calculation of net settlement amounts payable by or to gas trading exchange members from time to time, incorporating exchange fees and amounts determined under rule 536; and
- (h) obligations of the Operator and gas trading exchange members to maintain the security and integrity of the trading platform; and
- (i) the process for the suspension or limitation of access to the gas trading exchange, or trading in specified products, by a gas trading exchange member; and
- (j) the events or circumstances that are default events in respect of a gas trading exchange member and the steps the Operator may take in respect of a default event; and
- (k) the process for termination of a membership agreement; and

- (l) the timing and content of market information to be made available by the Operator; and
- (m) the process for amending the exchange agreement, subject to rule 540.

Division 5 Market Conduct Rules

542 General requirements

A gas trading exchange member must, in relation to its activities in connection with the gas trading exchange or the products it trades on the gas trading exchange:

- (a) comply with all applicable laws relevant to the performance of its obligations; and
- (b) not act fraudulently, dishonestly or in bad faith; and
- (c) not engage in any conduct with the intent of distorting or manipulating prices (including reported prices) or misleading any person.

543 Conduct in relation to trading

- (1) A gas trading exchange member must not submit offers to buy or sell products on the gas trading exchange:
 - (a) if the gas trading exchange member knows, or ought to know, that it will not be able to perform its obligations under a resulting transaction;
 - (b) with the intention of defaulting in its performance;
 - (c) with the intention of causing a transaction with itself;
 - (d) with the intention of causing a transaction with an associate, in circumstances where the terms of that transaction may be varied on terms that would not reasonably be agreed with a separate unrelated party.
- (2) A gas trading exchange member must not intentionally or recklessly default in the performance of its obligations under any transaction arising on the gas trading exchange.
- (3) A gas trading exchange member must not manipulate or attempt to manipulate the price of products traded on the gas trading exchange.

544 Conduct in relation to information

- (1) A gas trading exchange member must take all reasonable steps to ensure that all data and information given to the Operator or another gas trading exchange member in accordance with the exchange agreement is correct.

- (2) A gas trading exchange member must comply with its obligations under the exchange agreement to keep information confidential.

545 AER monitoring of gas trading exchange

- (1) The AER must monitor trading activity on the gas trading exchange with a view to ensuring that gas trading exchange members are in compliance with the market conduct rules.
- (2) The AER may, in connection with its investigation of a gas trading exchange member's compliance with the market conduct rules, request the Operator to suspend or limit the access of that member to a gas trading exchange if the AER considers that continued trading by that member may materially and adversely affect:
 - (a) the financial position of other gas trading exchange members;
 - (b) the integrity of the gas trading exchange.
- (3) The Operator must comply with a request by the AER under subrule (2).