

National Gas Law and National Gas Rules

These proposed revisions to the National Gas Rules and drafting instructions for the National Gas Law have been prepared by the Australian Energy Market Commission and accompany its Review into the scope of economic regulation applied to covered pipelines final report dated 3 July 2018. These draft rules and drafting instructions reflect the final recommendations made in that report.

This document is provided for information only.

3 July 2018

The proposed revisions to Parts 1 to 15 of the National Gas Rules are tracked on version 38 of the NGR. The proposed revisions to Part 18 of the National Gas Rules are tracked against the National Amendment (Improvements to Natural Gas Bulletin Board) Rule 2017 No.3, most of which is yet to commence (on 30 September 2018).

Drafting instructions for NGL amendments

PURPOSE OF THIS PAPER

This paper sets out changes to the National Gas Law (NGL) to implement recommendations set out in the Australian Energy Market Commission (AEMC) final report for its *Review into the scope of economic regulation applied to covered pipelines (Final Report)*.

This paper covers changes to the provisions relating to the coverage of expansions of the capacity of covered pipelines and changes to the arbitration framework in Chapter 6 of the NGL. The reasoning for these changes is set out in detail in chapters 4, 7 and 9, respectively, of the Final Report.

The required changes are discussed in two parts in this paper:

Part 1: Amendments to the NGL required to give effect to the Commission's policy recommendations relating to expansions in chapters 4 and 7 of the Final Report

Part 2: Amendments to the NGL required to give effect to the Commission's policy recommendations relating to arbitration in chapter 9 of the Final Report

PART 1: AMENDMENTS TO THE NATIONAL GAS LAW FOR EXPANSIONS AND EXTENSIONS

The broad aim of these changes is to reduce the ability for service providers to exercise market power over pipeline expansions. This is achieved by including all expansions of the capacity of covered pipelines as part of the covered pipeline. In addition, existing extensions may also be incorporated into an existing access arrangement, bringing related pipeline assets under one regulatory framework.

Part 1.1 Including new expansions to covered pipelines in the access arrangement

Objective

The objective is that any expansion to the capacity of a covered full regulation pipeline must automatically form part of the covered pipeline and therefore that the access arrangement applies to the services provided by means of the pipeline as expanded. Similarly, any expansion to the capacity of a covered light regulation pipeline must automatically form part of the covered pipeline.

The NGL appears to leave to the NGR what the extension and expansion requirements are; however, the AER's discretion remains and the objective is to remove any uncertainty and ability for the NGR to be changed in future in a way that reduces the effectiveness of this policy objective.

Amendments to the NGR have been implemented to create a mechanism by which existing expansions to the capacity of covered pipelines will, by operation of those rules, be included in the access arrangement such that it applies to the services provided by means of the pipeline as expanded. Therefore, any existing expansion to the capacity of a covered pipeline (full regulation) that, by operation of the extension and expansion requirements under the applicable access arrangement, has not been taken to be part of the covered pipeline will, as a result of these amendments, now be part of the covered pipeline. These amendments to the NGR require the service provider to include the expansion in its next access arrangement proposal.

There are currently no light regulation pipelines with expansions that do not form part of the covered pipeline.

Detailed changes required

The outcome of this is that the ‘extension and expansion requirements’ provisions, and other relevant definitions, in the NGL need to be amended so that the service provider no longer has any discretion to propose that the extension and expansion requirements in the access arrangement state that the access arrangement does not apply to incremental services to be provided as a result of an expansion of the capacity of the pipeline. Furthermore, the regulator would also not have any discretion to make a decision in this regard when approving the extension and expansion requirements as part of the access arrangement.

The intention is that, by operation of law, an expansion to the capacity of a covered pipeline automatically forms part of that covered pipeline and is regulated in the same manner as the covered pipeline. The regulator’s discretion to exclude an expansion from a light regulation pipeline where there is no limited access arrangement under section 19 of the NGL would also be removed.

In order to meet this policy objective, amendments will be required to sections 18 and 19 of the NGL, as well as to the following definitions in the NGL:

- distribution pipeline
- pipeline
- transmission pipeline
- extension and expansion requirements
- new facility

The definitions of "transmission pipeline" and "distribution pipeline" may need to be amended to make clear that a covered pipeline always includes an expansion of that pipeline, such that the “extension and expansion requirements” in the access arrangement are not able to provide otherwise.

This policy objective does not apply to extensions of covered pipelines. That is, the intention is that a service provider retains the discretion to propose, through the extension and expansion requirements in the access arrangement, whether the access arrangement applies to the services provided by means of the extension. Similarly, the AER will retain the discretion to approve or reject this approach through its approval of the extension and expansion requirements in the access arrangement.

PART 2: AMENDMENTS TO THE NATIONAL GAS LAW FOR ARBITRATION

The broad aim of the changes for the arbitration framework is to create a more credible threat of arbitration to constrain the use of market power of pipeline service providers by clarifying the bases for access determinations, improving the arbitration process and enhancing its transparency. A new fast-tracked arbitration process is also recommended to be available to users and prospective users under certain circumstances. The regulators will also be required to calculate an initial capital base for light regulation pipelines, where one does not already exist, for use in arbitration.

2.1 Dispute resolution expert

Objective

The objective is to clarify and provide additional guidance on the role of the independent expert that may be appointed by the dispute resolution body under section 199(1)(e) of the NGL.

Detailed changes required

This may be achieved by the insertion of a new section in Part 6 of Chapter 6 of the NGL. The relevant provision needs to specify that where a matter is referred to an independent expert by the dispute resolution body:

- the independent expert will be appointed on terms and conditions determined by the dispute resolution body
- the independent expert must report to the dispute resolution body in accordance with the requirements of the dispute resolution body
- the dispute resolution body must publish the expert's report that has been provided as evidence under section 199(1)(e) of the NGL

It should also be made clear that an independent expert must:

- have relevant knowledge and expertise
- not have any material direct or indirect interest or association that compromises, or is likely to compromise, the impartiality of the expert in relation to relevant disputes.
- disclose to the dispute resolution body any material direct or indirect interest or association that compromises, or would be reasonably seen to compromise, the impartiality of the expert in relation to relevant disputes.

2.2 Additional requirements for decisions by the dispute resolution body

Objective

The objective is that the dispute resolution framework includes a set of criteria that guides the dispute resolution body's decisions.

Detailed changes required

In respect of resolution body's decisions, an access determination under Chapter 6 would be made by reference to a set of criteria. These changes may be achieved by the amendment of section 184 of the NGL to insert a new paragraph (5) which states that in making an access determination, the dispute resolution body must have regard to the following:

- the national gas objective
- the revenue and pricing principles
- an access determination made previously in respect of the pipeline
- any previous capital base determination made in respect of a light regulation pipeline under the Gas Code or the Rules, as if that capital base were rolled forward to the time of the making of the access determination in accordance with the Rules
- pre-existing contractual rights on the pipeline.

Consideration will need to be given to whether section 189 requires amendment to reflect the inclusion of additional criteria in accordance with this drafting instruction.

For an access dispute regarding a tariff for services provided by a light regulation pipeline, the tariff must be determined using the same methodology that would be used by the AER if it were setting a tariff for a reference service for each year of the time period in which access is being sought.

2.3 Creating a fast-tracked dispute resolution process

Objective

The objective is to create a fast-tracked dispute resolution process that can be used as an alternative to an otherwise longer dispute resolution process. There are currently no timeframes prescribed in Chapter 6 of the NGL for the resolution of a dispute and therefore, there is no time periods specified for the process for the dispute resolution body or the parties to the dispute to follow. The intention is not to replace the dispute resolution body's discretion to setting timeframes for the resolution of all disputes, but rather, to provide an alternative fast-tracked process that can be used if certain conditions are met.

Detailed changes required

These changes may be achieved by the insertion of a new Part 6A in Chapter 6 of the NGL that sets out the provisions to give effect to this process. Consequential changes to other sections of the law are also likely to be required, including a change to make clear to what extent the dispute resolution body is to be deemed to have satisfied section 198(1)(b) if it meets its obligations under the fast track timeframes.

In order to use the fast-track process, one or more of the assessment criteria must be met and the prospective user must agree to the use of the fast-tracked process. In other words, the dispute resolution body cannot decide to use the fast-tracked process if the prospective user does not want to use the fast-tracked process.

The dispute resolution body must form the view as to whether or not to propose the fast-track process having regard to whether one or more specified criteria are met.

The fast-track criteria are as follows:

- the pipeline the subject of the dispute is a full regulation pipeline
- the service that is subject to the dispute is the same or similar to a reference service under the access arrangement for the pipeline
- provision of the access requested by the prospective user would not require an extension of the pipeline
- any other criteria that the dispute resolution body considers would enable it to carry out the dispute resolution under the fast-tracked process.

The fast-tracked process would be as follows:

- a party submits a notice to the dispute resolution body raising a dispute. If the person raising the dispute is a prospective user, it must indicate if it wishes the dispute to be considered under the fast-track process.
- dispute resolution body publishes notice of dispute within 5 business days of receiving notice raising a dispute. The notice must state that if any other party wishes to join the dispute then that party must notify the dispute resolution body within 5 business days of publishing the notice
- If no parties notify that they wish to join the dispute within 5 business days of the notice of dispute being published then:
 - if the prospective user has initiated the dispute and wishes the dispute to be considered under the fast track process, the dispute resolution body must determine

- whether to use the fast-track process having regard to the fast track criteria and notify the parties of its decision within 10 business days of the notice of dispute being published
 - if the prospective user is not the initiator of the dispute then the dispute resolution body may consider whether to use the fast-track process having regard to the fast track criteria and, if it wishes to do so, seek consent from the prospective user. If consent is obtained the dispute resolution body must notify the parties that it will use the fast-track process within 10 business days of the notice of dispute being published
- each party provides the access determination proposed by the party, a list of supporting information exchanged between the parties prior to the submission of a dispute notice and other information supporting each party's proposed access determination within 10 business days of being notified that dispute will be fast-tracked
- the dispute resolution body may ask a party to the dispute to provide further information and party must do so within 10 business days
- the dispute resolution body may refer any matter to an expert within 5 days of receiving further information from the parties
- dispute resolution body makes determination within 30 business days of the parties providing proposed access determination and supporting information

At any stage of the fast-track process the dispute resolution body may consider whether to require the parties to engage in alternative dispute resolution under section 185 for the purposes of resolving the dispute. If the dispute is not resolved then the fast-track process restarts from the stage at which it was halted.

These changes could be achieved by the inclusion of a new Part 6A in Chapter 6 of the NGL

2.4 Publication of dispute information

Objective

The objective is to require the dispute resolution body to publish certain information regarding the dispute to create greater transparency about the existence of the dispute (to more easily facilitate the joining of parties) and the outcomes of the dispute resolution process.

Detailed changes required

There are three sets of information to be published by the dispute resolution body, as follows:

1. within 5 business days of a party notifying a dispute, the dispute resolution body must publish a notice outlining:
 - the parties to the dispute
 - the pipeline that is the subject of the dispute
 - the pipeline service type that is the subject of the dispute (described in accordance with the requirements of the Rules)
2. as soon as practicable after completion of the dispute process, the dispute resolution body must publish a document setting out the dispute resolution body's access determination including relevant financial calculations (and any applicable capital base determination)
3. as soon as practicable after completion of the dispute process, the dispute resolution body must publish the information provided to the dispute resolution body by the parties to the dispute during the dispute including any reports provided by independent experts.

Changes to give effect to the first notice could be made by amending section 181 of the NGL to insert a new paragraph (4) which states the requirements in point 1 above.

Changes to give effect to the second and third points could be made by introducing a new section 181A following section 181 which states the requirements of points 2 and 3 above. The section may be titled “Publication of access dispute information”.

The dispute resolution body’s decision to disclose the information under the second and third points would be subject to a test. The test would be similar to that set out in section 329(1) of the NGL. Changes to give effect to this could be made by including a paragraph in section 205 which states that the dispute resolution body may choose to disclose confidential information received during the dispute process if the dispute resolution body is of the opinion:

- that the disclosure of the confidential information would not cause detriment to the person who has given it or to the person from whom that person received it; or
- that although the disclosure of the confidential information may cause detriment to such a person, the public benefit in disclosing the information outweighs that detriment.

2.5 Joining parties to an existing dispute

Objective

The objective is to enable a third party to request that the dispute resolution body join that party to an existing dispute between two other parties. These changes would build on Part 7 of Chapter 6. The current provisions allow the dispute resolution body to join parties to the dispute but there is no express provision that facilitates a third party making a request to join a dispute. The recommendation in section 2.4 requiring the dispute resolution body to publish a notice of a dispute facilitates third parties joining disputes by becoming aware of the existence of disputes.

Detailed changes required

Within 5 business days of the publication of a dispute resolution notice, a party may request to join a dispute by sending a dispute joining request to the dispute resolution body, referring to the dispute notice in question, and its reasons for wanting to join the dispute (that is, highlighting the matters that it has in common with the dispute).

The dispute resolution body has the discretion to decide whether to approve or refuse to approve that party’s request to be joined to the existing dispute, based on the requirements currently applied under section 209. More specifically, in paragraphs (1)(b) and (3), being that there are one or more matters in common to the access disputes and hearing them together would be likely to result in the disputes being resolved in a more efficient and timely manner.

If the dispute resolution body refuses to approve the request for the third party to join the dispute it must provide notice to the requesting party within 5 business days of receiving the request, and must provide its reasons for its decision, which must refer to the requirements in section 209.

2.6 Provision for the rules to define circumstances that may constitute an access dispute

Objective

The objective is to allow the Rules to specify specific circumstances or events that will be taken to be an inability to agree or otherwise constitute a trigger that enables a party to initiate an access dispute.

Detailed changes required

It is proposed that a new rule 181(1a) be inserted that provides that the Rules may specify circumstances or events that may constitute an inability to agree for the purposes of section 181(1) or otherwise constitute a trigger for an access dispute.

NGR amendments: transitional rules

Schedule 1 Transitional Amendments

Calculation of opening capital base for light regulation pipeline

- (1) Within six months of the commencement date of the Amending Rule, the AER must determine and publish an opening capital base for any *light regulation pipeline* which, at the commencement date:
 - (a) does not have an opening capital base that has been calculated by the AER in accordance with these Rules at any time; or
 - (b) does not have an opening capital base that has been calculated in accordance with the Gas Code at any time.
- (2) For the purposes of subrule (1), the capital base must be determined in accordance with rule 35A(1).
- (3) For the purposes of subrule (2), the AER may request a *light regulation pipeline* service provider to provide information that the AER considers reasonably necessary to determine the capital base and a *light regulation pipeline* must comply with any such request within 20 business days of the date of the request.

An existing expansion that is not included in the existing access arrangement must be included in the access arrangement at the next access arrangement revision

- (1) This rule applies to a service provider in respect of a *full regulation pipeline* who, at the commencement date, owns, operates or controls part of a pipeline that is an expansion of the capacity of the covered pipeline to which the access arrangement relates and that has not previously been included in the access arrangement.

Note:

An expansion of a covered pipeline may not have been included in the access arrangement because it did not form part of the covered pipeline as a result of the extension and expansion requirements under the access arrangement, which operated with the effect that the access arrangement would not apply to pipeline services provided by means of the covered pipeline as expanded.

- (2) A service provider to whom this rule applies must, in the extension and expansion requirements of its upcoming *access arrangement proposal*, include all expansions of the capacity of the covered pipeline to which the *access arrangement proposal* relates that have not previously been included in the access arrangement, such that the expansions of the capacity of the covered pipeline will be taken to be part of the covered pipeline and the access arrangement will apply to pipeline services provided by means of the covered pipeline as expanded.
- (3) A service provider to whom this rule applies must, as part of its *access arrangement proposal*, calculate the opening capital base for those parts of the pipeline that comprise previous expansions of the covered pipeline in accordance with rule 77(1).
- (4) A service provider to whom this rule applies must, as part of its *access arrangement proposal*, include access arrangement information in relation to those parts of the pipeline that comprise the expansion in accordance with rule 72.

Transitional rules will also need to address the following:

- When making its decision on the *access arrangement proposal* in accordance with Part 8 of the NGR, the AER must assess the service provider's calculation of the opening capital base submitted under subrule (3) and determined in accordance with rule 77.
- AER must calculate an opening capital base for the service provider, which includes the expansions as assessed under this rule.
- From the subsequent access arrangement period, the full capital base (including the expansion) is rolled forward in accordance with rule 77(2).

Permit a service provider to seek an existing extension to a scheme pipeline be included in the relevant access arrangement at any time on an ongoing basis

- This can be achieved under existing arrangements but the mechanism for the determination of the capital base for the extension and how it is rolled into the rest of the capital base of the pipeline needs to be provided for and is to be consistent with that for expansions

All future expansions must form part of the covered pipeline (access arrangement applies to the services provided by means of the covered pipeline as expanded)

- This will be achieved through the amendments to the law (and rule 104) which will remove the discretion in the 'extension and expansion requirements' to not include an expansion in the access arrangement

NGR amendments: draft changes to Parts 1-18

Part 1 Preliminary

1 Citation

These rules may be cited as the *National Gas Rules 2008*.

2 Commencement

[Deleted]

3 Interpretation

In these rules:

access arrangement information – See rule 42.

access arrangement period for an applicable access arrangement means any of the following periods that may be applicable to the access arrangement:

- (a) the period between the commencement of the access arrangement and the commencement of the first revision of the access arrangement;
- (b) if the first revision of the access arrangement has not yet taken effect – the period between the commencement of the access arrangement and the revision commencement date for the access arrangement;
- (c) if revision of the access arrangement prior to its expiry is not contemplated – the period between the commencement of the access arrangement and the *expiry date* for the access arrangement;
- ~~(d) the period between the actual commencement of successive revisions of the access arrangement;~~
- (e) the period between the revision commencement date of the last revision of the access arrangement and the revision commencement date for the access arrangement;
- (f) if the access arrangement has been revised but further revision prior to its expiry is not contemplated – the period between the commencement of the last revision of the access arrangement and the *expiry date* for the access arrangement;

Note:

One should bear in mind that the actual date on which a revision takes effect may differ from a revision commencement date stated in the access arrangement (which is a date fixed some time in advance as the intended date for the revision to take effect). The revision commencement date is relevant to the definition of the *access arrangement period* only until the revision actually takes effect and the date thus crystallises.

access arrangement proposal means:

- (a) a full or limited access arrangement submitted for the AER's approval; or
- (b) an *access arrangement revision proposal*; or
- (c) an *access arrangement variation proposal*.

access arrangement revision proposal means a proposal for the revision of an access arrangement submitted for the AER's approval under rule 52.

access arrangement variation proposal means a proposal for the variation of an access arrangement submitted for the AER's approval under rule 65.

allowed rate of return see rule 87(1).

allowed rate of return objective see rule 87(3).

approved CTP process means a tender process approved by the AER under Part 5 as a competitive tender process.

contact details of a person means:

- (a) the street address of the person's place of residence or business; and
- (b) the person's postal address; and
- (c) the person's telephone number; and
- (d) the person's fax number; and
- (e) if the person has a website – the website address; and
- (f) the person's email address.

credit support means:

- (a) for the purposes of Part 19 – see rule 200.
- (b) for the purposes of Part 20 – see rule 364.
- (c) for the purposes of Part 21 – see rule 523.

CTP access arrangement means the access arrangement (based on the result of an *approved CTP process*) for a *CTP pipeline*.

CTP pipeline means a pipeline to which an irrevocable *tender approval decision* relates.

decision includes a recommendation, determination or order.

default interest rate means a rate of 2% above the interest rate.

distributor means:

- (a) For the purposes of Part 12A – see rule 119A.
- (b) For the purposes of Part 15A – as set out in that Part.
- (c) For the purposes of Part 19 – see rule 200.
- (d) For the purposes of Part 20 – see the definition of STTM distributor in rule 364.
- (e) For the purposes of Part 21 – see rule 502.

downstream location means a location to which natural gas is delivered by means of a pipeline and includes a location to which natural gas from the pipeline is delivered by means of a branch pipeline (a **lateral**).

element of an access arrangement proposal includes a part or provision of the *access arrangement proposal*.

energy laws has the meaning given in section 2(1) of the *NERL*.

expedited consultative procedure means the procedure for consultative *decision* making laid down in rule 9.

expiry date means a date fixed in an access arrangement for the expiry of the access arrangement.

extended consultative procedure means the procedure for consultative *decision* making laid down in rule 9A.

full access arrangement proposal means an *access arrangement proposal* consisting of, or relating to, a full access arrangement.

full regulation pipeline means a covered pipeline other than a *light regulation pipeline*.

incremental services means pipeline services provided by means of an extension to, or expansion of the capacity of, the pipeline.

insolvency official means a receiver, receiver and manager, administrator, provisional liquidator, liquidator, trustee in bankruptcy or person having a similar or analogous function.

interest rate means:

- (a) the most recent 1 month Bank Bill Swap Reference Rate mid rate determined by the Australian Financial Markets Association, as identified by AEMO on its website; or
- (b) if the above rate ceases to exist, or that rate becomes, in AEMO's reasonable opinion, inappropriate, the interest rate determined and published by AEMO on its website.

Law means the *NGL* and these rules.

light regulation pipeline means a pipeline by means of which light regulation services are provided.

limited access arrangement proposal means an *access arrangement proposal* consisting of, or relating to, a limited access arrangement.

National Energy Retail Law means the National Energy Retail Law set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* of South Australia.

National Energy Retail Rules has the same meaning as in the *National Energy Retail Law*

NER means the National Electricity Rules within the meaning of the National Electricity Law as set out in the schedule to the *National Electricity (South Australia) Act 1996* of South Australia.

NERL means the *National Energy Retail Law*.

NERR means the *National Energy Retail Rules*.

NGL means the National Gas Law.

non-delegable duty means a duty that a service provider cannot carry out through the instrumentality of another service provider under section 10 of the *NGL*.

rate of return consultative procedure means the procedure for consultative decision making laid down in rule 9B.

rate of return guidelines means the guidelines made under rule 87.

receipt or delivery point means a point on a pipeline at which a service provider takes delivery of natural gas, or delivers natural gas.

reclassification application means an application under section 128 of the *NGL* for reclassification of a pipeline.

reference tariff variation mechanism – See rules 92 and 97.

reference service factors means the criteria set out in rule 47A(15).

reference service proposal means, in respect of a service provider for a full regulation pipeline, the proposal submitted under rule 47A.

retail customer has the same meaning as in the *NGL*.

retailer has the same meaning as in the *NGL*.

retailer insolvency event – see rule 520.

review submission date means a date on or before which an *access arrangement revision proposal* is required to be submitted – See rules 49 to 52.

revision commencement date for an applicable access arrangement means the date fixed in the access arrangement as the date on which revisions resulting from a review of an access arrangement are intended to take effect.

scheme pipeline service provider means a service provider for a scheme pipeline.

serve – a pipeline *serves* a particular location or point if there is a *receipt or delivery point* at that location or point into which natural gas is injected, or from which natural gas is delivered.

standard consultative procedure means the procedure for consultative *decision* making laid down in rule 8.

tender approval decision means a *decision* by the AER under Part 5 approving a tender process as a competitive tender process;

upstream location means a location at which natural gas is injected into a pipeline.

Part 3 Decision-making under the Law

Division 1 Preliminary

7 Definitions

In this Part:

decision maker means:

- (a) the NCC; or
- (b) the AER; or
- (c) AEMO.

overall time limit means the time within which a *decision maker* is required by the *Law* to make a final *decision* on a proposal.

proponent means a person who makes or submits a proposal.

proposal means:

- (a) an application; or
- (b) an *access arrangement proposal*; or
- (c) a proposal that a *decision maker* itself initiates for making a *decision* of a particular kind under the *Law*.

Division 2 Decision making models

8 Standard consultative procedure

- (1) If the *Law* requires a *decision maker* to deal with a proposal in accordance with the *standard consultative procedure*, the *decision maker* must proceed in accordance with this rule.
- (2) The *decision maker* must proceed as follows:
 - (a) the *decision maker* must publish a notice on its website and in a newspaper circulating generally throughout Australia:
 - (i) describing the proposal and giving the address of a website at which the proposal can be inspected; and
 - (ii) inviting written submissions on the proposal within 15 business days of the date of the notice; and
 - (b) the *decision maker* must, after considering relevant submissions made within the time allowed in the notice and other matters the *decision maker* considers relevant, make a draft *decision*; and
 - (c) if the draft *decision* identifies changes to the proposal that should, in the *decision maker's* opinion, be made, the *decision maker* must:
 - (i) if it is the proponent – modify its proposal accordingly; or

- (ii) if someone else is the proponent – notify the proponent of the *decision* and the reasons for it and give the proponent a reasonable opportunity to modify its proposal in the light of the *decision*;
 - (d) the *decision* maker must then publish, on its website and in any other way the *decision* maker considers appropriate:
 - (i) the draft *decision*; and
 - (ii) any modification of the proposal made in the light of the draft *decision*; and
 - (iii) a notice inviting written submissions and comments on the draft *decision*, and (if applicable) the modified proposal, within a period (at least 15 business days) stated in the notice;
 - (e) the *decision* maker must, within 20 business days after the end of the period allowed for making submissions and comments on the draft *decision*, consider all submissions and comments made within the time allowed and make its final *decision*.
- (3) A draft or final *decision* must:
 - (a) be in writing; and
 - (b) state the terms of the *decision* and the reasons for it.
- (4) After making a final *decision*, the *decision* maker must, without delay:
 - (a) if the *decision* is in the nature of a recommendation – deliver the final *decision* to the authority or person to whom the recommendation is addressed; and
 - (b) give copies of the final *decision* to the parties to the administrative process in which the *decision* is made; and
 - (c) publish the final *decision* on the *decision* maker's website; and
 - (d) make the final *decision* available for inspection during business hours at the *decision* maker's public offices.
- (5) Subject to the *Law*, a *decision* made in accordance with this rule takes effect on the date provided for its commencement under the terms of the *decision* or, if no date is so provided, 10 business days after the date of the *decision*.

9 Expedited consultative procedure

- (1) If the *Law* requires a *decision* maker to deal with a proposal in accordance with the *expedited consultative procedure*, the *decision* maker must proceed in accordance with this rule.
- (2) The *decision* maker must proceed as follows:
 - (a) the *decision* maker must, after such consultation (if any) as the *decision* maker considers appropriate (and any revision of the proposal that results from that consultation), make a draft *decision*; and

- (b) the *decision* maker must give copies of the draft *decision* to the parties to the administrative process in which the *decision* is to be made; and
 - (c) the *decision* maker must publish, on its website and in any other way the *decision* maker considers appropriate, the draft *decision* together with a notice:
 - (i) stating why the *decision* is required; and
 - (ii) giving reasonable details of the context in which the draft *decision* has been made, the issues involved and the possible effects of the *decision*; and
 - (iii) inviting written submissions and comments on the draft *decision* within 15 business days from the date of the notice;
 - (d) the *decision* maker must, within 20 business days after the end of the period allowed for making submissions and comments on the draft *decision*, consider all submissions and comments made within the time allowed and make its final *decision*.
- (3) A draft or final *decision* must:
- (a) be in writing; and
 - (b) state the terms of the *decision* and the reasons for it.
- (4) After making a final *decision*, the *decision* maker must, without delay:
- (a) if the *decision* is in the nature of a recommendation – deliver the final *decision* to the authority or person to whom the recommendation is addressed; and
 - (b) give copies of the final *decision* to the parties to the administrative process in which the *decision* is made; and
 - (c) publish the final *decision* on the *decision* maker's website; and
 - (d) make the final *decision* available for inspection during business hours at the *decision* maker's public offices.
- (5) Subject to the *Law*, a *decision* made in accordance with this rule takes effect on the date provided for its commencement under the terms of the *decision* or, if no date is so provided, 10 business days after the date of the *decision*.

9A Extended consultative procedure

- (1) This rule applies wherever any person (the **consulting party**) is required by these rules to comply with the *extended consultative procedure*.
- (2) The consulting party must:
 - (a) give a notice to all persons with whom consultation is required:
 - (i) giving particulars of the matter under consultation; and
 - (ii) inviting written submissions on the matter under consultation; and

- (iii) fixing a date (to be not less than 25 business days after the notice is given) as the closing date for submissions;
 - (b) publish the notice.
- (3) Unless otherwise specified in these rules, consultation is required with:
 - (a) all Registered participants; and
 - (b) all persons registered as Intending participants; and
 - (c) any other persons who appear to the consulting party to have a proper interest in the matter; and
 - (d) if the consulting party is not AEMO-AEMO.
- (4) A written submission:
 - (a) must be received by the consulting party on or before the closing date for submissions (and if not so received will not be regarded as a valid submission for the purposes of this rule); and
 - (b) may state whether the person making the submission considers that a meeting about the matter under consultation is necessary or desirable and, if so, the reasons why such a meeting is necessary or desirable.
- (5) The consulting party must within 20 business days from the closing date for submissions consider all valid submissions and if, after considering the submissions, the consulting party concludes that it is necessary or desirable to hold a meeting or meetings, the consulting party must endeavour to hold the meeting or meetings within a further 25 business days.
- (6) When the consulting party has completed its consideration of the matter under consultation (and any meetings to be held under subrule (5) have been held), the consulting party:
 - (a) must publish a draft report setting out:
 - (i) the conclusions and any determinations proposed by the consulting party; and
 - (ii) the reasons for the consulting party's conclusions; and
 - (iii) the procedure followed by the consulting party in its consideration of the matter; and
 - (iv) a summary of each issue that the consulting party considers material contained in a valid written submission or raised in the course of a meeting and the consulting party's response to that issue; and
 - (v) in a notice at the front of the draft report – an invitation to the persons from whom submissions were sought to make written submissions to the consulting party on the draft report before a closing date (at least 10 business days after publication of the draft report) stated in the invitation; and
 - (b) must make the draft report available to the persons from whom submissions were sought; and

- (c) subject to the consulting party's obligations of confidentiality, must, at the request of a person from whom a submission was sought, make available material submitted to the consulting party.
- (7) The consulting party must consider all valid submissions on the draft report within 30 business days after the closing date for submissions and, at the conclusion of its consideration, the consulting party:
 - (a) must publish a final report setting out:
 - (i) the conclusions and determinations of the consulting party; and
 - (ii) the reasons for the consulting party's conclusions; and
 - (iii) the procedure followed by the consulting party in its consideration of the matter; and
 - (iv) a summary of each issue raised in a valid submission that the consulting party considers material and the consulting party's response to that issue; and
 - (b) must make the final report available to the persons from whom submissions were sought.
- (8) A notice, draft report or final report to be published under this rule must be published as follows:
 - (a) if the consulting party is the AEMC, the AER or AEMO – the consulting party must publish the notice or report on its website;
 - (b) in any other case – the consulting party must give AEMO a copy of the notice or report and AEMO must, within 3 business days of receipt of the notice or report, publish it on its website.
- (9) The consulting party must not make a *decision* or determination to which the *extended consultative procedure* applies until the consulting party has completed all the procedures set out in this rule (but substantial compliance is sufficient).

9B Rate of return consultative procedure

- (1) If the Law requires a *decision* maker to comply with the *rate of return consultative procedure* in making, amending, replacing or reviewing the *rate of return guidelines*, the *decision* maker must proceed in accordance with this rule.
- (2) The *decision* maker must proceed as follows:
 - (a) the *decision* maker must publish a notice on its website and in a newspaper circulating generally throughout Australia:
 - (i) describing the proposed *rate of return guidelines*, amendments or review, and giving the address of a website on which the details of such guidelines, amendments or review, and the reasons for them, are published; and
 - (ii) inviting written submissions on the proposed *rate of return guidelines*, amendments or review within no less than 30 *business days* of the date of the notice;

- (b) the *decision* maker may publish such issues, consultation and discussion papers, and hold such conferences and information sessions in relation to the proposed *rate of return guidelines*, amendments or review as it considers appropriate; and
 - (c) the *decision* maker must, within 80 *business days* of the date of the notice referred to in subrule (2)(a) and after considering relevant submissions made within the time allowed in the notice and other matters the *decision* maker considers relevant, make its final *decision*.
- (3) The final *decision* must:
- (a) be in writing; and
 - (b) state the terms of the *decision* and the reasons for it; and
 - (c) include a summary of each issue raised in submissions, that the *decision* maker reasonably considers to be material, together with the *decision* maker's response to each such issue.
- (4) The *decision* maker may extend the time within which it is required to make its final *decision* if:
- (a) the consultation involves issues of unusual complexity or difficulty; or
 - (b) the extension of time has become necessary because of circumstances beyond the *decision* maker's control.
- (5) After making a final decision, the *decision* maker must, without delay:
- (a) publish the final *decision* on the *decision* maker's website; and
 - (b) make the final *decision* available for inspection during business hours at the *decision* maker's public offices.

Division 3 Summary rejection of certain proposals

10 General power to reject non-compliant or frivolous proposals

- (1) A *decision* maker may, despite any other provision of these rules, reject a proposal on the ground that:
- (a) the proposal has not been made in accordance with the *Law*; or
 - (b) relevant information or materials have not been provided as required by the *Law*; or
 - (c) the proposal is frivolous or vexatious.
- (2) A *decision* to reject a proposal under this rule must be made within 10 business days after receipt of the proposal by the *decision* maker.
- (3) A *decision* to reject a proposal under this rule must:
- (a) be made in writing; and
 - (b) set out the reasons for the *decision*; and
 - (c) be given to the proponent without delay.

Division 4 Time limits

11 Calculation of time

- (1) If the *Law* fixes a time limit within which a *decision* maker must make a *decision* on a proposal, then for the purpose of calculating elapsed time, any of the following periods is, if the decision-maker so decides, to be disregarded:
 - (a) any period allowed the proponent for correction or revision of the proposal;
 - (b) any period taken by the proponent or any other person to provide information, relevant to the *decision* maker's *decision* on the proposal, in response to a notice or requirement issued or made by the *decision* maker under the *Law*;
 - (c) any period allowed for public submissions on the proposal or on a draft *decision* on the proposal;
 - (d) any period allowed for submissions on a proposal by the AER to disclose confidential information, any period then taken by the AER to consider the submissions and decide whether to disclose the information, and any period occupied by a review of the *decision*;
 - (e) the period between commencement and conclusion of court proceedings to determine questions arising from the proposal or the *decision* maker's handling of the proposal.
- (2) The decision-maker must:
 - (a) give notice of a *decision* under this rule to the proponent; and
 - (b) publish notice of the *decision* on its website.

12 Power to extend time limits

- (1) Subject to limitations fixed by the *Law*, a *decision* maker may extend the time within which:
 - (a) a proponent is required by the *Law* to take a particular step in a *decision* making process; or
 - (b) the *decision* maker is required by the *Law* to make a *decision* on a proposal.
- (2) The *decision* maker cannot, however, extend an overall time limit unless:
 - (a) the proposal involves questions of unusual complexity or difficulty; or
 - (b) the extension of time has become necessary because of circumstances beyond the *decision* maker's control.
- (3) If a *decision* maker extends an overall time limit, the *decision* maker must:
 - (a) give notice of the extension to the proponent (unless the *decision* maker is itself the proponent); and
 - (b) publish notice of the extension on its website and in a newspaper circulating generally throughout Australia.
- (4) The notice must:

- (a) specify the extent of the extension; and
- (b) give reasons for the extension.

13 — ~~Absolute time limit for full access arrangement proposal~~

~~(1) Despite the other provisions of this Division, there is an absolute overall time limit of 13 months between the date on which a proponent submits a full access arrangement proposal for the AER's approval and the date the AER makes a final decision on the proposal.~~

~~(2) The absolute overall time limit:~~

- ~~(a) is unaffected by a decision that a particular period, or particular periods, of elapsed time are to be disregarded; and~~

~~(b) cannot be extended.13 [Deleted]~~

14 Decisions made out of time

- (1) If a *decision* maker fails to make a *decision* within an overall time limit (whether absolute or not), the *decision* maker must report on its failure to the MCE.

Note:

Non-compliance with a time limit does not invalidate the *decision* maker's *decision*: See section 332 of the *NGL*.

- (2) The report must:
 - (a) state the extent the *decision* was (or will be) out of time; and
 - (b) describe the *decision* maker's handling of the proposal; and
 - (c) give reasons for the *decision* maker's failure to make the *decision* within the relevant time limit.
- (3) A report under this rule must be published on the *decision* maker's website as soon as practicable after it is given to the MCE.

Part 7 **Light regulation determinations and information requirements**

Division 1 **Making and effect of light regulation determinations**

34 **Application for light regulation determination (Section 112(2) of the NGL)**

- (1) An application for a light regulation determination must:
 - (a) be in writing; and
 - (b) identify the pipeline that provides, or is to provide, the services for which the determination is sought and include a reference to a website at which a description of the pipeline can be inspected; and
 - (c) include a description of all pipeline services provided or to be provided by means of the pipeline; and
 - (d) include the applicant's reasons for asserting that the pipeline services should be light regulation services; and
 - (e) include other information and materials on which the applicant relies in support of the application.
- (2) The application must also include the following information:
 - (a) the capacity of the pipeline and the extent to which that capacity is currently utilised; and
 - (b) for a transmission pipeline, a description of:
 - (i) all locations *served* by the pipeline (i.e. all locations at which *receipt or delivery points* for natural gas carried by the pipeline exist); and
 - (ii) all pipelines that currently *serve* the same locations; and
 - (iii) all pipelines that currently pass within 100 km of any location *served* by the pipeline; and
 - (c) for a distribution pipeline, a description of:
 - (i) the geographical area *served* by the pipeline; and
 - (ii) the points at which natural gas is, or is to be, injected into the pipeline; and
 - (d) a description of the pipeline services provided, or to be provided, by the pipeline; and
 - (e) an indication of any other sources of energy available to consumers of gas from the pipeline; and
 - (f) the identity of the parties with an interest in the pipeline and the nature and extent of each interest; and
 - (g) a description of the following relationships:

- (i) any relationship between the owner, operator and controller of the pipeline (or any 2 of them);
 - (ii) any relationship between the owner, operator or controller of the pipeline and a user of pipeline services or a supplier or consumer of gas in a location or geographical area *served* by the pipeline;
 - (iii) any relationship between the owner, operator or controller of the pipeline and the owner, operator or controller of any other pipeline *servicing* any one or more of the same locations or the same geographical area; and
- (h) an estimate of the annual cost to the service provider of regulation on the basis of light regulation and on the basis of full regulation; and
 - (i) any other information the applicant considers relevant to the application of the National Gas Objective or the form of regulation factors in the circumstances of the present case.

35 NCC's decision on the application (Sections 113 and 114 of the NGL)

- (1) In deciding an application for a light regulation determination, the NCC must:
 - (a) proceed in accordance with the *standard consultative procedure*; and
 - (b) consult with the AER.
- (2) A light regulation determination or a *decision* not to make a light regulation determination must:
 - (a) identify the pipeline, and the pipeline services, to which the determination or *decision* relates; and
 - (b) include a reference to a website at which a description of the pipeline, and the pipeline services, can be inspected; and
 - (c) state the terms of the determination or *decision* and the reasons for it.

35A Opening capital base for light regulation pipelines

- (1) Subject to subrule (2), within 6 months of a pipeline first becoming a light regulation pipeline the AER must publish an opening capital base for the pipeline that has been calculated under subrule (5).
- (2) Subrule (1) does not apply to a light regulation pipeline which has previously had an opening capital base determined either by the AER or under the Gas Code.
- (3) The AER may request a service provider for a light regulation pipeline to provide information that the AER considers reasonably necessary to determine the opening capital base under this Rule.
- (4) A service provider for a light regulation pipeline must provide information requested by the AER under subrule (3) within 20 business days of the date of the request.

- (5) The opening capital base is to be as follows:
- (a) if the pipeline was commissioned before the commencement of these rules, the opening capital base is to be determined by reference to the relevant provisions of the Gas Code;
 - (b) if the pipeline was commissioned after the commencement of these rules, the opening capital base is to be:
 - (i) the cost of construction of the pipeline and pipeline assets incurred before commissioning of the pipeline (including the cost of acquiring easements and other interests in land necessary for the establishment and operation of the pipeline);
- plus:
- (ii) the amount of capital expenditure since the commissioning of the pipeline;
- less:
- (iii) depreciation; and
 - (iv) the value of pipeline assets disposed of since the commissioning of the pipeline.
- (6) If the NGL requires a dispute resolution body to consider the capital base determination for a *light regulation pipeline* then the capital base it must consider is to be:
- (a) the capital base most recently determined for the *light regulation pipeline* (whether under the Gas Code or by the AER under the NGL or these Rules, including in its capacity as a dispute resolution body under the NGL) plus:
 - (b) the amount of capital expenditure since the time of the most recent capital base determination for the pipeline;
- less:
- (c) depreciation since the time of the most recent capital base determination for the pipeline; and
 - (d) the value of pipeline assets disposed of since the time of the most recent capital base determination for the pipeline.

Division 2 Provision of information by light regulation pipelines

35B Definitions and interpretation

- (1) In this Division:
- access information standard is defined in rule 36A.
 - application date means:

- (a) in relation to a pipeline that is a *light regulation pipeline* on the commencement date – the date falling 5 months after the commencement date;
- (b) in relation to a pipeline that becomes a *light regulation pipeline* within 5 months after the commencement date – the date falling 5 months after the commencement date; and
- (c) in relation to any other pipeline, the later of:
 - (i) the date the pipeline is commissioned; and
 - (ii) the date the pipeline becomes a *light regulation pipeline*.

Note:

Section 12 of the NGL defines when a pipeline is commissioned.

business day means a day that is not a Saturday, Sunday or public holiday in any participating jurisdiction or in relation to a pipeline in Western Australia, that jurisdiction alone.

commencement date means [to be determined in final rule made].

daily flow data means, for a large distribution pipeline:

- (a) the quantity of natural gas that is metered as having been, or estimated in good faith by the pipeline operator to have been, injected at each receipt point on the pipeline on a gas day; and
- (b) the quantity of natural gas that is metered as having been, or estimated in good faith by the pipeline operator to have been, withdrawn at each delivery point on the pipeline on the gas day.

financial information means the information required to be published under rule 36D.

financial reporting guidelines means the guidelines published by the AER under rule 36F as amended from time to time.

flow rate means the rate at which gas flows past a point on a pipeline in an hour, expressed in GJ/hour.

information includes data.

large distribution pipeline means a distribution pipeline or part of a distribution pipeline that has a maximum daily capacity under normal operating conditions of >10TJ/day and a maximum pressure capability under normal operating conditions of >4MPa.

meter means a device that measures and records quantities of gas by reference to volume, mass or energy content.

pipeline information is defined in rule 36C(2).

pipeline service information is defined in rule 36C(3).

service and access information is defined in rule 36C.

service availability information is defined in rule 36C(5).

service provider has the meaning in section 8 of the *NGL*.

service usage information is defined in rule 36C(4).

weighted average price information is defined in rule 36E.

36 Service provider must publish terms and conditions of access to light regulation services

- (1) A service provider providing pipeline services by means of a *light regulation pipeline* must publish on its website:
 - (a) the prices on offer for light regulation services; ~~and~~
 - (b) the other terms and conditions of access to those services; and
 - (c) the methodology used to calculate the price referred to in subrule (1)(a) and sufficient information to enable prospective users to understand how that price reflects the application of the methodology.
- (2) If, however, a limited access arrangement is in force and is accessible on the service provider's website, the terms and conditions of access (other than price) need not be separately published on the website.

Note:

This rule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.

Note:

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

~~(3)~~

-36A Access information standard

- (1) A service provider required by this Division to prepare, publish and maintain information must do so in accordance with the access information standard.
- (2) The access information standard means that the information:
 - (a) is not false or misleading in a material particular;
 - (b) in relation to information of a technical nature, is prepared, published and maintained in accordance with the practices, methods and acts that would reasonably be expected from an experienced and competent person engaged in the ownership, operation or control of a pipeline in Australia acting with all due skill, diligence, prudence and foresight; and
 - (c) in relation to a forecast or estimate, is supported by a statement of the basis of the forecast or estimate and:
 - (i) is arrived at on a reasonable basis; and
 - (ii) represents the best forecast or estimate possible in the circumstances.
- (3) Where a service provider becomes aware that information required to be published by it under this Division does not comply with the access information standard or this Division, the service provider must publish information that does comply as soon as practicable after the service provider becomes aware of the non-compliance.

(4) Information published under this Division must include the date of publication, the date to which the information is current and, if the information replaces an earlier version as provided for by subrule (3), notice of that fact.

36B Service provider must publish information

(1) A service provider for a light regulation pipeline must prepare, maintain and publish on its website:

(a) if the light regulation pipeline is a distribution pipeline, the service and access information specified in rule 36C(1)(a) to (c);

(b) if the light regulation pipeline is a distribution pipeline that is or includes a large distribution pipeline, then in respect of the large distribution pipeline only, the service and access information specified in rule 36C(1)(d);

(c) the financial information specified in rule 36D; and

(d) weighted average price information, subject to rule 36E(3),

in accordance with the NGL, this Division and the financial reporting guidelines.

(2) The information referred to in subrule (1) must be published at the following times.

<u>service and access information (for light regulation pipelines that are distribution pipelines only)</u>	<u>pipeline information</u>	<u>No later than 20 business days after the application date for the light regulation pipeline.</u> <u>Updated pipeline information must be published within 20 business days after there is a change.</u>
	<u>pipeline service information</u>	<u>No later than 20 business days after the application date for the light regulation pipeline.</u> <u>Updated pipeline service information must be published within 20 business days after a new pipeline service is added or an existing pipeline service changes or is withdrawn.</u>
	<u>service usage information</u>	<u>Each month after the application date for the light regulation pipeline, by the last business day of the month for the prior month.</u>
	<u>service availability information</u>	<u>Each month after the application date for the light regulation pipeline, by the last business day of the month for the next 36 or 12 months as applicable.</u>
<u>financial information</u>		<u>Annually no later than four months after the end of the financial year of the</u>

	<u>service provider for the <i>light regulation pipeline</i>.</u>
<u>weighted average price information</u>	<u>Annually no later than four months after the end of the financial year of the service provider for the <i>light regulation pipeline</i>.</u>

- (3) A service provider for a *light regulation pipeline* must publish the information referred to in subrule (1) by making the information publicly available on the service provider's website.
- (4) When the service provider for a *light regulation pipeline* publishes financial information and weighted average price information, it must notify the AER without delay that the information has been published.
- (5) A service provider for a *light regulation pipeline* must ensure that historical service usage information, financial information and weighted average price information for its *light regulation pipeline* continues to be publicly available for a period of 5 years after the date the information is first published, by publishing the information in accordance with subrule (3).

36C Service and access information for distribution pipelines

- (1) The service and access information comprises:
- (a) the pipeline information described in subrule (2);
 - (b) the pipeline service information described in subrule (3);
 - (c) the service usage information described in subrule (4); and
 - (d) for large distribution pipelines only, the service availability information described in subrule (5).
- (2) The pipeline information in respect of a *light regulation pipeline* that is a distribution pipeline comprises:
- (a) the quantity of natural gas that can be transported through each gate station on the distribution pipeline in any 24 hour period;
 - (b) the details of all points on the pipeline where the service provider takes delivery of natural gas;
 - (c) a schematic map of the pipeline that shows the location on the pipeline of the points referred to in paragraph (b) and the geographic limits of the areas served by the pipeline;
 - (d) any technical or physical characteristics of the pipeline that may affect access to or use of the pipeline or the price for pipeline services on the pipeline; and
 - (e) policies of the service provider that may affect access to or use of the pipeline or the price for pipeline services on the pipeline which may include:
 - (i) queuing requirements;
 - (ii) a receipt or delivery point change policy;

- (iii) a metering and measurement policy; and
 - (iv) a balancing policy.
- (3) The pipeline service information for a pipeline comprises a list of the pipeline services available on the pipeline and for each pipeline service:
 - (a) a description of the service and any locational limitations on availability; and
 - (b) the priority ranking of the service in relation to the other pipeline services including when scheduling and in the event of curtailment.
- (4) The service usage information for a pipeline for a month comprises the total quantity of natural gas metered as having been injected into the pipeline during the month.
- (5) The service availability information for a large distribution pipeline for a month comprises:
 - (a) an outlook of the firm capacity of the pipeline that the service provider has available for sale or that it will have available for sale for each month in the following 36 month period;
 - (b) information about matters expected to affect the capacity of the pipeline (including any planned expansions of the capacity) for each month in the following 12 month period, including:
 - (i) the expected start and end dates of the matters expected to affect the capacity of the pipeline;
 - (ii) a description of the matters expected to affect the capacity of the pipeline; and
 - (iii) the expected capacity of the pipeline during the period it is affected by the matters referred to in paragraphs (i) and (ii);
 - (c) information on any other limitations on the availability of the pipeline services identified in the pipeline service information;
 - (d) the following information for each entry and exit point on the large distribution pipeline:
 - (i) daily flow data;
 - (ii) where a meter is installed at the relevant entry or exit point, the flow rate averaged over the shortest reasonably practical period, reported by period;
 - (iii) the pressure averaged over the shortest reasonably practical period, reported by period; and
 - (iv) a static table showing the maximum flow rate of the entry or exit point against pressure.

36D Financial information

- (1) A service provider for a *light regulation pipeline* must prepare and publish on its website financial information about each of its *light regulation pipelines*. The financial information must:

- (a) be in the form and contain the information specified in the financial reporting guidelines; and
 - (b) be certified in the manner provided for in the financial reporting guidelines.
- (2) To avoid doubt, a dispute resolution body is not bound by financial information published under this rule or by any methods, principles or inputs that have been used to calculate financial information published under this rule.

36E Weighted average price information

- (1) Subject to subrule (3), a service provider for a *light regulation pipeline* must prepare and publish on its website weighted average price information for each of its *light regulation pipelines*. The weighted average price information must:
 - (a) be determined using a methodology set out in the financial reporting guidelines;
 - (b) be in the form and contain the information specified in the financial reporting guidelines; and
 - (c) be certified in the manner provided for in the financial reporting guidelines.
- (2) The weighted average price information for a *light regulation pipeline* means:
 - (a) the weighted average prices paid by users for pipeline services in a financial year of the service provider of the *light regulation pipeline*; and
 - (b) a description of the methodology used by the service provider to calculate the weighted average prices.
- (3) Subject to subrule (4), a service provider is not required to publish the weighted average price information for a pipeline service for a financial year if:
 - (a) during the relevant period, the pipeline service was provided, directly or indirectly, to no more than 2 users of the *light regulation pipeline*; and
 - (b) the service provider gives a notice to the AER at least 20 business days before the date required for publication that the service provider is not publishing the information for that financial year, specifying the pipeline service to which the notice relates and certifying the pipeline service was provided to no more than 2 users of the *light regulation pipeline* during the relevant period.
- (4) Where a notice is given to the AER under subrule (3), the AER may by notice to the service provider require the service provider to treat two or more pipeline services on the *light regulation pipeline* as if they were the same pipeline service and calculate and publish weighted average price information for the financial year on that basis. A service provider must comply with a notice given to it under this subrule.

36F Financial reporting guidelines

- (1) The AER must publish and maintain financial reporting guidelines under this Division.
- (2) The financial reporting guidelines must:

- (a) provide for the publication of financial information about each *light regulation pipeline* on a pipeline by pipeline basis and in respect of the financial year of the service provider for the pipeline, which may include:

 - (i) financial statements;
 - (ii) information on the methods, principles and inputs used to calculate:

 - (A) the value of any assets used in the provision of pipeline services;
 - (B) depreciation allowances;
 - (C) the allocation of costs between the different categories of pipeline services provided by the pipeline; and
 - (D) the allocation of costs to the pipeline if the service provider operates more than one pipeline,

which must be consistent with the methods, models and principles used to determine this information for *full regulation pipelines*; and
 - (iii) financial performance metrics;
- (b) specify the methods, principles and inputs to be used to calculate weighted average price information and the form this information is to take;
- (c) specify the level of detail of information required, which must be the level of detail reasonably required to enable a prospective user or users to negotiate on an informed basis with a service provider for the provision of a pipeline service to them by the service provider;
- (d) specify the basis on which the financial information and weighted average price information is to be provided; and
- (e) specify the form of any statement and/or any supporting documentation required to demonstrate that the information provided:

 - (i) has been arrived at on a reasonable basis; and
 - (ii) to the best knowledge of the service provider is accurate and complete.
- (3) The AER may from time to time amend the financial reporting guidelines in accordance with the *standard consultative procedure* in rule 8.

Notes:

The standard consultative procedure provides for publication of the proposal and consultation on the draft decision before making a final decision.

- (4) Nothing prevents the AER from publishing the financial reporting guidelines in the same document as the financial reporting guidelines published under Part 23.

37 Service provider must provide information about access negotiations for light regulation services

- (1) A service provider providing pipeline services by means of a *light regulation pipeline* must report to the AER on access negotiations relating to light regulation services.

- (2) A report under this rule:
 - (a) must be made in a manner and form determined or approved by the AER; and
 - (b) must state the result of the negotiations and include other information required by the AER; and
 - (c) must be made (at least annually) at times specified by the AER.
- (3) The AER may, from time to time, publish an assessment of information reported to it by service providers under this rule.

Note:

This rule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.

Division **23** Revocation of light regulation determinations

38 Application for revocation of light regulation determination (Section 118(2) of the NGL)

An application for the revocation of a light regulation determination must:

- (a) state the applicant's name and *contact details*; and
- (b) identify the light regulation determination to which the application relates; and
- (c) identify the service provider; and
- (d) identify the covered pipeline; and
- (e) state the applicant's reasons for asserting that light regulation determination should be revoked; and
- (f) include any information and materials on which the applicant relies.

39 NCC's decision on application (Sections 119 and 120 of the NGL)

- (1) In deciding an application for revocation of a light regulation determination, the NCC must:
 - (a) proceed in accordance with the *standard consultative procedure*; and
 - (b) consult with the AER.
- (2) A *decision* on an application for revocation of a light regulation determination must:
 - (a) be in writing; and
 - (b) identify the light regulation determination; and
 - (c) identify the service provider and the covered pipeline; and
 - (d) describe the pipeline services affected by the *decision*; and
 - (e) state the terms of the *decision* and the reasons for it.

Part 8 Access arrangements

Division 1 AER's decisions regarding approval of access arrangement proposals

~~40 AER's discretion in decision-making process regarding access arrangement proposal~~

~~No discretion~~

- ~~(1) If the Law states that the AER has no discretion under a particular provision of the Law, then the discretion is entirely excluded in regard to an element of an access arrangement proposal governed by the relevant provision.~~

~~Example:~~

~~If the service provider proposes an access arrangement period of 5 years, the AER must accept that part of the proposal. (See rule 50(3).)~~

~~Limited discretion~~

- ~~(2) If the Law states that the AER's discretion under a particular provision of the Law is limited, then the AER may not withhold its approval to an element of an access arrangement proposal that is governed by the relevant provision if the AER is satisfied that it:~~

- ~~(a) complies with applicable requirements of the Law; and
(b) is consistent with applicable criteria (if any) prescribed by the Law.~~

~~Example:~~

~~The AER has limited discretion under rule 89. (See rule 89(3).) This rule governs the design of a depreciation schedule. In dealing with a full access arrangement submitted for its approval, the AER cannot, in its draft decision, insist on change to an aspect of a depreciation schedule governed by rule 89 unless the AER considers change necessary to correct non-compliance with a provision of the Law or an inconsistency between the schedule and the applicable criteria. Even though the AER might consider change desirable to achieve more complete conformity between the schedule and the principles and objectives of the Law, it would not be entitled to give effect to that view in the decision-making process.~~

~~Full discretion~~

- ~~(3) In all other cases, the AER has a discretion to withhold its approval to an element of an access arrangement proposal if, in the AER's opinion, a preferable alternative exists that:~~

- ~~(a) complies with applicable requirements of the Law; and
(b) is consistent with applicable criteria (if any) prescribed by the Law.~~

~~Example:~~

~~In dealing with a full access arrangement submitted for its approval, the AER could, in its draft decision, insist on changes to queuing requirements if of the opinion that the changes could improve competition in upstream or downstream markets for natural gas.~~

40 [Deleted]

41 **Access arrangement proposal to be approved in its entirety or not at all**

- (1) The AER's approval of an *access arrangement proposal* implies approval of every element of the proposal.
- (2) It follows that, if the AER withholds its approval to any *element of an access arrangement proposal*, the proposal cannot be approved.

(3) Subject to other provisions of the *Rules negating or limiting the AER's discretion*, the AER has discretion to accept or approve, or to refuse to accept or approve, any element of an *access arrangement proposal*.

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Division 2 **Access arrangement information**

42 **General requirements for access arrangement information**

- (1) *Access arrangement information* for an access arrangement or an *access arrangement proposal* is information that is reasonably necessary for users and prospective users:
 - (a) to understand the background to the access arrangement or the *access arrangement proposal*; and
 - (b) to understand the basis and derivation of the various elements of the access arrangement or the *access arrangement proposal*.
- (2) *Access arrangement information* must include the information specifically required by the *Law*.

43 **Requirement to provide access arrangement information**

- (1) A service provider, when submitting an *access arrangement proposal* for the AER's approval, must submit, together with the proposal, *access arrangement information* for the *access arrangement proposal*.

Note:

This subrule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.

- (2) If particular information (**sensitive information**) is confidential, and its public disclosure could cause undue harm to the legitimate business interests of the service provider, a user or prospective user, the AER may permit the service provider to submit *access arrangement information* in a form, approved by the AER, in which the sensitive information:
 - (a) is aggregated or generalised so as to avoid disclosure of the elements that make it sensitive; or
 - (b) if that is not possible – is entirely suppressed.

- (3) If information submitted as *access arrangement information* is, in the AER's opinion, deficient in its comprehensiveness or in any other respect, the AER may require the proponent:
 - (a) to make the revisions necessary to correct the deficiency and to re-submit the *access arrangement information*; or
 - (b) to submit further *access arrangement information* as an addendum to the information already submitted.

44 Publication etc of access arrangement information

A requirement of the *Law* for publication or the provision of copies of an access arrangement or an *access arrangement proposal* extends, subject to these rules, to *access arrangement information* relating to the access arrangement or *access arrangement proposal*.

Division 3 Limited access arrangements

45 Requirements for limited access arrangement (and limited access arrangement proposal) (Section 116(2) of the NGL)

- (1) A limited access arrangement for a *light regulation pipeline* must:
 - (a) identify the pipeline and include a reference to a website at which a description of the pipeline can be inspected; and
 - (b) ~~describes~~ set out a list of all the pipeline services that the service provider ~~proposes to offer to~~ can reasonably provide ~~by means of~~ on the pipeline; which must be described having regard to the characteristics in rule 47A(2); and
 - (c) state the terms and conditions (other than price) for access to the pipeline services ~~likely to be sought by a significant part of the market~~; and
 - (d) if the access arrangement is to contain queuing requirements – set out the queuing requirements; and

Note:

Queuing requirements are necessary if the access arrangement is for a transmission pipeline but, if the pipeline is a distribution pipeline, queuing requirements are not necessary unless the AER has given prior notification of the need to include queuing requirements (See rule 103).

 - (e) set out the capacity trading requirements; and
 - (f) set out the extension and expansion requirements; and
 - (g) state the terms and conditions for changing receipt and delivery points; and
 - (h) if there is to be a *review submission date* – state the *review submission date* and the revision commencement date; and
 - (i) if there is to be an *expiry date* – state the *expiry date*.
- (2) The *access arrangement information* for the limited access arrangement must include ~~the following~~:

~~(a) the capacity of the pipeline and the extent to which that capacity is currently utilised;~~

~~(b) the key performance indicators for the pipeline.~~

- (3) This rule extends to an *access arrangement proposal* consisting of a proposed limited access arrangement for a *light regulation pipeline*.

Division 4 Full access arrangements

46 Submission of full access arrangement proposal (Section 132 of the NGL)

- (1) Within ~~3 months~~20 business days after a pipeline becomes a covered pipeline, the service provider must submit for the AER's approval ~~an access arrangement reference service proposal proposing a under rule 47A in respect of the full access arrangement for proposal it is required to make in respect of~~ the covered pipeline.

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(1A) Within 3 months after the AER makes a reference service proposal decision in respect of the reference service proposal submitted under subrule (1), the service provider for the covered pipeline must submit for the AER's approval a full access arrangement proposal.

Exceptions:

~~1~~ Such a proposal is ~~The proposals referred to in subrules (1) and (1A) are~~ not required for a *light regulation pipeline* unless:

- (a) the service provider wishes the pipeline services to cease to be light regulation services, advises the NCC to that effect, and an obligation to submit a full access arrangement consequently arises under section 117 of the *NGL*; or
- (b) the NCC decides to revoke a light regulation determination and an obligation to submit a full access arrangement consequently arises under section 121(1) of the *NGL*.

2 The obligation to submit an *access arrangement proposal* for a *CTP access arrangement* is governed by Part 5 and not by this rule.

- (2) If an obligation to submit a full access arrangement arises in the circumstances described in Exception 1, ~~the access arrangement proposal must be submitted within 3 months after the obligation arises;~~

(a) the reference service proposal must be submitted within 20 business days of the obligation arising; and

(b) the access arrangement proposal must be submitted within 3 months after AER makes a reference service proposal decision in respect of the reference service proposal submitted under subrule (2)(a).

- (3) The AER may extend the period for submitting an *access arrangement proposal* under this rule, but the period (or aggregate period) of extension cannot exceed 2 months.

Note:

This rule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.

47 Voluntary submission of access arrangement proposal for full access arrangement (Section 127 of the NGL)

- (1) A service provider for a pipeline that is not a covered pipeline may voluntarily submit for the AER's approval an *access arrangement proposal* proposing a full access arrangement for the pipeline.

Note:

The pipeline becomes a covered pipeline when the access arrangement takes effect as an applicable access arrangement and ceases to be a covered pipeline when the access arrangement expires. (See Section 127(2) and (3) of the *NGL*.)

(1A) If a service provider decides to voluntarily submit for the AER's approval an *access arrangement proposal* proposing a full access arrangement for the pipeline then it must first submit for the AER's approval a *reference service proposal* under rule 47A in respect of the full access arrangement proposal it proposes to make in respect of the covered pipeline.

- (2) However:

- (a) at any time before the AER makes a final *decision* to approve the access arrangement, the service provider may withdraw the *reference service proposal or the access arrangement proposal*; and
- (b) the withdrawal terminates the administrative process for approval of the proposed access arrangement.

- (3) When an *access arrangement proposal* for a pipeline that is not currently classified is submitted to the AER for approval under this rule, the AER must, within 20 business days after receiving the *access arrangement proposal*:

- (a) pass on to the NCC a copy of the *access arrangement proposal*, and accompanying *access arrangement information*; and
- (b) ask the NCC to classify the pipeline in accordance with the pipeline classification criterion.

- (4) The NCC must make an initial classification *decision*:

- (a) classifying the pipeline as a transmission pipeline or a distribution pipeline; and
- (b) if the pipeline is classified as a transmission pipeline – determining whether the pipeline is also a cross-boundary transmission pipeline; and
- (c) if the pipeline is classified as a distribution pipeline – determining whether the pipeline is also a cross-boundary distribution pipeline; and

- (d) if the pipeline is a cross-boundary distribution pipeline – determining, with regard to the jurisdictional determination criteria, the participating jurisdiction with which the pipeline is most closely connected.
- (5) The NCC must notify the AEMC and the AER of an initial classification *decision* under this rule.
- (6) If the service provider withdraws the *access arrangement proposal* before the AER makes a final *decision* to approve the access arrangement:
 - (a) the AER must immediately notify the NCC of the withdrawal; and
 - (b) an initial classification *decision*, if already made, lapses.

47A Reference services

- (1) A service provider in respect of a full regulation pipeline must, whenever required to do so under subrule (3), submit to the AER a reference service proposal in respect of a forthcoming full access arrangement proposal that:
 - (a) identifies the pipeline and includes a reference to a website at which a description of the pipeline can be inspected;
 - (b) sets out a list of all the pipeline services that the service provider can reasonably provide on the pipeline and those pipeline services must be described having regard to the characteristics in subrule (3);
 - (c) from the list in subrule (1)(b), identifies at least one of those pipeline services that the service provider proposes to specify as reference services having regard to the reference service factors including any supporting information required by the AER;
 - (d) if the pipeline service provider has engaged with pipeline users and end users in developing its reference service proposal, describes any feedback received from those users about which pipeline services should be specified as reference services.
- (2) A pipeline service is to be treated as distinct from another pipeline service having regard to the characteristics of different pipeline services, including:
 - (a) the service type (for example, forward haul, backhaul, connection, park and loan);
 - (b) the direction of the pipeline, as distinct from the service type;
 - (c) the priority of the service relative to other pipeline services of the same type;
 - (d) the direction of flow of natural gas through the pipeline; and
 - (e) the receipt and delivery points.

- (3) A service provider in respect of a full regulation pipeline must submit a reference service proposal to the AER:
- (a) no later than 12 months prior to the review submission date for the access arrangement; or
 - (b) if no access arrangement applies, in accordance with rule 46.
- (4) If the AER considers that the reference service proposal does not comply, in any respect, with a requirement of the Rules, the AER may notify the service provider that it requires resubmission of the reference service proposal, and in doing so, must:
- (a) state why, and in what respects, the AER considers the reference service proposal to be non-compliant; and
 - (b) state a date by which the service provider is required to resubmit the amended reference service proposal.
- (5) If a service provider fails to submit a reference service proposal where required to do so under these Rules by the date that is 11 months prior to the review submission date, the AER must itself propose a reference service proposal for the relevant pipeline.
- (6) As soon as practicable after:
- (a) receiving a reference service proposal from the service provider under subrule (3) that the AER does not consider needs resubmission under subrule (4);
 - (b) receiving the resubmitted reference service proposal under subrule (4); or
 - (c) proposing a a reference service proposal under subrule (5),
the AER must publish:
 - (d) the reference service proposal; and
 - (e) an invitation for written submissions on the reference service proposal (which must be for a period of at least 15 business days after the publication of the reference service proposal).
- (7) Any person may make written submissions to the AER on the reference service proposal, or the issues within the proposal including, without limitation, whether the reference service proposal should specify other services as reference services.
- (8) Following receipt of submissions under subrule (7), the AER may, at its discretion, undertake further consultation on the reference service proposal.
- (9) No later than 6 months prior to the review submission date for the access arrangement, the AER must make a reference service proposal decision and give a

copy of the *decision* to the service provider and publish its *decision*, together with its reasons for the *decision*, on its website.

(10) A *reference service proposal decision* is a *decision* to approve, or to refuse to approve, a *reference service proposal*.

(11) If, in a *reference service proposal decision*, the AER refuses to approve a *reference service proposal* the AER must revise the *reference service proposal* having regard to:

(a) the matters that these rules require a *reference service proposal* to include; and

(b) the service provider's *reference service proposal*; and

(c) the AER's reasons for refusing to approve that proposal,

and give a copy of the revised *reference service proposal* to the service provider and publish the revised *reference service proposal* on its website.

(12) If the AER publishes a revised *reference service proposal* under subrule (11) it must as soon as practicable after publishing the revised proposal make a *reference service proposal decision* to give effect to the revised *reference service proposal*.

(13) In making its *reference service proposal decision*, the AER must have regard to:

(a) the *reference service factors*;

(b) submissions made in response to its invitation under subrule (7) (within the time allowed in the invitation);

(c) where applicable, any feedback the service provider has received from pipeline users and end users, as described in accordance with subrule (1)(d); and

(d) any other matters the AER considers relevant.

(14) In deciding whether or not a pipeline service should be specified as a reference service, the AER must have regard to the *reference service factors*.

(15) The *reference service factors* are:

(a) actual and forecast demand for the pipeline service and the number of prospective users of the service;

(b) the extent to which the pipeline service is substitutable with another pipeline service to be specified as a reference service;

(c) the feasibility of allocating costs to the pipeline service;

(d) the usefulness of specifying the pipeline service as a reference service in supporting access negotiations and dispute resolution for other pipeline services, such that:

- (i) reference services serve as a point of reference from which pipeline services that are not reference services can be assessed by a user or prospective user for the purpose of negotiating access to those other pipeline services;
- (ii) a reference tariff serves as a benchmark for the price of pipeline services that are not reference services; and
- (iii) reference service terms and conditions serve as a benchmark for the terms and conditions of pipeline services that are not reference services;
- (e) the likely regulatory cost for all parties (including the AER, users, prospective users and the service provider) in specifying the pipeline service as a reference service.

48 Requirements for full access arrangement (and full access arrangement proposal)

- (1) A full access arrangement must:
 - (a) identify the pipeline to which the access arrangement relates and include a reference to a website at which a description of the pipeline can be inspected; and
 - (b) describe all of the pipeline services that the service provider proposes to offer to can reasonably provide by means of the pipeline on the pipeline, which must be consistent with the AER's reference service proposal decision under rule 47A, unless there has been a material change in circumstances; and
 - (c) specify the reference services, which must be consistent with the AER's reference service proposal decision under rule 47A, unless there has been a material change in circumstances; and
 - (c1) if the information provided under subrules (1)(b) or (1)(c) is different to the AER's reference service proposal decision under rule 47A, describe the material change in circumstances that necessitated the change having regard to the reference service factors; and
 - (d) specify for each reference service:
 - (i) the reference tariff; and
 - (ii) the other terms and conditions on which ~~the~~each reference service will be provided; and
 - (e) if the access arrangement is to contain queuing requirements – set out the queuing requirements; and

Note:

Queuing requirements are necessary if the access arrangement is for a transmission pipeline but, if the pipeline is a distribution pipeline, queuing requirements are not necessary unless the AER has given prior notification of the need to include queuing requirements (See rule 103).

- (f) set out the capacity trading requirements; and
- (g) set out the extension and expansion requirements; and

- (h) state the terms and conditions for changing receipt and delivery points; and
- (i) if there is to be a *review submission date* – state the *review submission date* and the revision commencement date; and

Note:

A full access arrangement must contain a *review submission date* and a revision commencement date unless it is a voluntary access arrangement – See rule 49.

- (j) if there is to be an *expiry date* – state the *expiry date*.

Note:

A full access arrangement may contain an *expiry date* if it is a voluntary access arrangement (but not otherwise) – See rule 49.

- (2) This rule extends to an *access arrangement proposal* consisting of a proposed full access arrangement.

Division 5 Review and expiry of certain access arrangements

49 Review submission, revision commencement and expiry dates

- (1) A full access arrangement (other than a voluntary access arrangement):
 - (a) must contain a *review submission date* and a revision commencement date; and
 - (b) must not contain an *expiry date*.
- (2) An access arrangement to which this subrule applies:
 - (a) may contain a *review submission date* or both a *review submission date* and an *expiry date*; and
 - (b) must, if it contains a *review submission date*, contain a revision commencement date; and
 - (c) must, if it contains no *review submission date*, contain an *expiry date*.
- (3) Subrule (2) applies to:
 - (a) a full access arrangement that is a voluntary access arrangement; and
 - (b) a limited access arrangement for a *light regulation pipeline*.

50 Review of access arrangements

- (1) ~~As a general rule~~
 - ~~(a) a *review submission date* will fall 4 years after the access arrangement took effect or the last revision commencement date; and~~
 - ~~(b) a revision commencement date will fall 5 years after the access arrangement took effect or the last revision commencement date.~~
- ~~(2) If a service provider, as part of an *access arrangement proposal*, proposes to fix a full access arrangement (other than a voluntary access arrangement), must propose a *review submission date* and a revision commencement date. The~~

~~proposed revision commencement date must be not less than 12 months after the proposed review submission date and a revision commencement date in accordance with the general rule, the AER must accept that part of the proposal.~~

~~(3) The AER has no discretion under subrule (2).~~

~~(4) (2) The AER may, however, must approve the dates that do not conform with the general rule proposed by the service provider under subrule (1) if it is satisfied that they those dates are consistent with the national gas objective and the revenue and pricing principles and if the proposed revision commencement date is not less than 12 months after the proposed review submission date.~~

~~(3) If the AER does not approve the dates proposed by the service provider for the review submission date or the revision commencement date (as the case may be), because it considers those dates are not consistent with the national gas objective and the revenue and pricing principles, the AER must fix an alternative review submission date or revision commencement date (as the case may be).~~

51 Acceleration of review submission date

- (1) The *review submission date* fixed in an access arrangement advances to an earlier date if:
 - (a) the access arrangement provides for acceleration of the *review submission date* on the occurrence of a trigger event; and
 - (b) the trigger event occurs; and
 - (c) the *review submission date* determined, in accordance with the access arrangement, by reference to the trigger event, is earlier than the fixed date.
- (2) A trigger event may consist of any significant circumstance or conjunction of circumstances.

Examples:

- 1 A re-direction of the flow of natural gas through the pipeline.
- 2 A competing source of natural gas becomes available to customers *served* by the pipeline.
- 3 A significant extension, expansion or interconnection occurs.

- (3) The AER may ~~insist on~~require the inclusion in an access arrangement of trigger events and may specify the nature of the trigger events to be included.

52 Access arrangement revision proposal

- (1) A service provider must, on or before the *review submission date* of an applicable access arrangement, submit an *access arrangement revision proposal* to the AER.

Note:

This subrule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.

- (2) The *access arrangement revision proposal* must:

- (a) set out the amendments to the access arrangement that the service provider proposes for the ensuing *access arrangement period*; and
 - (b) incorporate the text of the access arrangement in the revised form.
- (3) The AER may extend the period for submitting an *access arrangement revision proposal* under this rule, but the period (or aggregate period) of extension cannot exceed 2 months.

Division 6 Division or consolidation of access arrangements

53 Access arrangement proposal for division or consolidation of access arrangements

- (1) The AER may, by notice to a service provider for a covered pipeline, direct the service provider to submit separate *access arrangement proposals* for different parts of the covered pipeline.
- (2) If pipeline services provided, or to be provided, by a service provider are (or are to be) provided by means of 2 or more covered pipelines, the AER may, by notice to the service provider, direct the service provider to submit a consolidated *access arrangement proposal* for all the relevant covered pipelines.

Example:

The AER might direct the submission of a consolidated *access arrangement proposal* for 2 or more covered transmission pipelines, 2 or more covered distribution pipelines or a combination of covered transmission and covered distribution pipelines.

- (3) The AER may give a direction under this rule either on its own initiative or on application by the service provider.
- (4) In deciding whether to give a direction under this rule, the AER must have regard to:
 - (a) the nature of the pipeline or pipelines; and
 - (b) the nature of the pipeline services provided or to be provided by means of the pipeline or pipelines; and
 - (c) any other matter the AER considers relevant.
- (5) Before the AER gives the direction, it must consult on the proposed terms of the direction with the service provider and any other persons with whom it considers consultation appropriate.
- (6) A service provider must comply with a direction under this rule.

Note:

This subrule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.

- (7) A direction under this rule may be subject to such conditions as the AER thinks fit and includes in the direction.

Division 7 Procedure for dealing with limited access arrangement proposal

54 Application of this Division

This Division applies to a *limited access arrangement proposal*.

Exception:

This Division does not apply to an *access arrangement variation proposal* relating to a limited access arrangement if the proposal is approved by the AER under Division 10 as a proposal for a non-material variation.

55 Decision on limited access arrangement proposal

- (1) The AER must deal with a *limited access arrangement proposal* for a *light regulation pipeline* in accordance with the *expedited consultative procedure*.
- (2) However:
 - (a) at any time before the AER makes a final *decision* to approve a limited access arrangement, the service provider may withdraw the *access arrangement proposal*; and
 - (b) the withdrawal terminates the administrative process for approval of the proposed limited access arrangement.
- (3) If the AER, in its final *decision* on a *limited access arrangement proposal* for a *light regulation pipeline*, approves the proposal, the access arrangement, or the revision or variation, to which the proposal relates, takes effect on a date fixed in the final *decision* or, if no date is so fixed, 10 business days after the date of the final *decision*.

Note:

In the case of an *access arrangement revision proposal*, this date may, but will not necessarily, be the revision commencement date fixed in the access arrangement.

- (4) A final *decision* on a *limited access arrangement proposal* for a *light regulation pipeline* must be made within 4 months after submission of the proposal for the AER's approval.
- (5) The time limit fixed by subrule (4) cannot be extended by more than a further 2 months.

Division 8 Procedure for dealing with full access arrangement proposal

56 Application of this Division

This Division applies to a *full access arrangement proposal*.

Exception:

This Division does not apply to an *access arrangement variation proposal* relating to a full access arrangement if the proposal is approved by the AER under Division 10 as a proposal for a non-material variation.

~~57~~ ~~Pre-submission conference~~

- ~~(1) A service provider may, in the course of preparing a *full access arrangement proposal* for the AER's approval, by notice to the AER, request a pre-submission conference with representatives of the AER to discuss questions affecting the proper formulation of the proposal.~~
- ~~(2) The AER must comply with such a request unless the request appears to be unreasonable.~~

~~57~~ ~~[Deleted]~~

58 Notification of submission of full access arrangement proposal for approval

- (1) As soon as practicable after receiving a *full access arrangement proposal*, or referring it (in the case of an *access arrangement variation proposal*) to be dealt with under this Division, the AER must publish a notice (an **initiating notice**) on its website ~~and in a newspaper circulating generally throughout Australia:~~
 - (a) notifying receipt of the proposal; and
 - (b) describing the proposal and giving the address of a website at which the proposal can be inspected; and
 - (c) inviting written submissions on the proposal by a date specified in the notice (which must fall at least 20 business days after the first publication of the notice).
- (2) The AER may, however, defer publication of an initiating notice for up to 30 business days after the submission of the *access arrangement proposal* if, on a preliminary examination of the proposal, the AER considers the proposal or the related *access arrangement information* deficient in some respect, and allows the service provider an opportunity to correct the deficiency.
- (3) A service provider may, with the AER's consent, revise a *full access arrangement proposal* even though an initiating notice has been published.

59 Access arrangement draft decision

- (1) After considering the submissions made within the time allowed in the initiating notice, and any other matters the AER considers relevant, the AER must make an access arrangement draft *decision*.
- (2) An access arrangement draft *decision* indicates whether the AER is prepared to approve the *access arrangement proposal* as submitted and, if not, the nature of the amendments that are required in order to make the proposal acceptable to the AER.

Examples:

1. If the AER is not satisfied that the *access arrangement proposal* adequately describes the pipeline services offered, or to be offered, by the service provider, the *decision* might indicate the amendment or the nature of the amendment required to correct the deficiency.
 2. If the AER is not satisfied that the *access arrangement proposal* designates as reference services all pipeline services that it considers should be specified as reference services under rule ~~4047A~~, the *decision* might indicate that further or other pipeline services should be designated as reference services.
 3. The *decision* might indicate that specified changes, or changes of a specified nature, should be made to a reference tariff.
 4. The *decision* might indicate changes to queuing requirements, capacity trading requirements, or extension and expansion requirements needed to make the access arrangement acceptable to the AER.
- (3) If an access arrangement draft *decision* indicates that revision of the *access arrangement proposal* is necessary to make the proposal acceptable to the AER, the *decision* must fix a period (at least ~~1530~~ business days) for revision of the proposal (the **revision period**).
- (4) An access arrangement draft *decision* must include a statement of the reasons for the *decision*.
- (5) When the AER makes an access arrangement draft *decision*, it must:
- (a) give a copy of the *decision* to the service provider; and
 - (b) publish the *decision* on the AER's website; and ~~make it available for inspection, during business hours, at the AER's public offices; and~~
 - (c) publish on its website ~~and in a newspaper circulating generally throughout Australia~~ a notice:
 - (i) stating that an access arrangement draft *decision* has been made and giving a reference to a website at which the relevant *access arrangement proposal* and the relevant draft *decision* may be inspected; and
 - (ii) if a period has been allowed for revision of the proposal – specifying the revision period; and
 - (iii) inviting written submissions within the time allowed in the notice (which must be at least 20 business days from the end of the revision period).

60 Revision of access arrangement proposal in response to draft decision

- (1) The service provider may, within the revision period, submit additions or other amendments to the *access arrangement proposal* to address matters raised in the access arrangement draft *decision*.
- (2) The amendments must be limited to those necessary to address matters raised in the access arrangement draft *decision* unless the AER approves further amendments.

Example:

The AER might approve amendments to the *access arrangement proposal* to deal with a change in circumstances of the service provider's business since submission of the *access arrangement proposal*.

- (3) If the service provider submits amendments to the *access arrangement proposal*, the service provider must also provide the AER (together with the amendments) with a revised proposal incorporating the amendments.
- (4) As soon as practicable after receiving the revised *access arrangement proposal*, the AER must publish it on its website.

61 Hearing relating to access arrangement draft decision

- (1) The AER may, on its own initiative or on request by any person, hold a hearing about an access arrangement draft *decision*.
- (2) A request for a hearing must:
 - (a) be made in writing within 10 business days after publication of the draft *decision*; and
 - (b) state the applicant's name and *contact details*; and
 - (c) state the applicant's reasons for requesting a hearing.
- (3) If the AER refuses a request for a hearing, it must give the applicant written reasons for the refusal.

Example:

The AER might refuse the request on the ground that the applicant failed to make written submissions in response to the initiating notice or that the applicant's request does not disclose a sufficient reason for a hearing.

- (4) If the AER decides to hold a hearing (on request or on its own initiative), it must appoint a time and place for the hearing and give notice of the appointed time and place on its website.

62 Access arrangement final decision

- (1) After considering the submissions made in response to the access arrangement draft *decision* within the time allowed in the notice, and any other matters the AER considers relevant, the AER must make an access arrangement final *decision*.
- (2) An access arrangement final *decision* is a *decision* to approve, or to refuse to approve, an *access arrangement proposal*.
- (3) If the *access arrangement proposal* has been revised since its original submission, the access arrangement final *decision* relates to the proposal as revised.
- (4) An access arrangement final *decision* must include a statement of the reasons for the *decision*.
- (5) When the AER makes an access arrangement final *decision*, it must:

- (a) give a copy of the *decision* to the service provider; and
 - (b) publish the *decision* on the AER's website ~~and make it available for inspection, during business hours, at the AER's public offices.~~
- (6) If an access arrangement final *decision* approves an *access arrangement proposal*, the access arrangement, or the revision or variation, to which the *decision* relates, takes effect on a date fixed in the final *decision* or, if no date is so fixed, 10 business days after the date of the final *decision*.

Note:

In the case of an *access arrangement revision proposal*, this date may, but will not necessarily, be the revision commencement date fixed in the access arrangement.

- (7) An access arrangement final *decision* must be made within ~~6~~8 months of the date of receipt of the *access arrangement proposal*.
- (8) The time limit fixed by subrule (7) cannot be extended by more than a further 2 months.

Division 9 Power of the AER to make and approve its own proposal for an arrangement or revisions to an access arrangement

63 AER's power to make or revise access arrangement on failure by service provider to submit an access arrangement proposal

- (1) If a service provider fails to submit an *access arrangement proposal* in one of the following cases, the AER must itself propose an access arrangement or revisions to the access arrangement (as the case requires) for the relevant pipeline.

Cases to which this subrule applies:

- (a) the service provider is required to submit an *access arrangement proposal* for a full access arrangement under section 132 of the *NGL* and rule 46, and fails to do so;
 - (b) the service provider is required to submit an *access arrangement revision proposal* under section 132 of the *NGL* and rule 52, and fails to do so.
- (2) The AER must make a *decision* giving effect to its proposal (or some modified version of its proposal resulting from the *decision* making process) within 6 months after the end of the period allowed for submission of an *access arrangement proposal* by the service provider.
- (3) In making a *decision* under subrule (2), the AER must:
- (a) if the proposal is, or relates to, a limited access arrangement – proceed in accordance with the *expedited consultative procedure*; or
 - (b) if the proposal is, or relates to, a full access arrangement – proceed in accordance with the *standard consultative procedure*.

64 AER's power to make or revise access arrangement on refusing to approve an access arrangement proposal

- (1) If, in an access arrangement final *decision*, the AER refuses to approve an *access arrangement proposal* (other than a variation proposal), the AER must itself propose an access arrangement or revisions to the access arrangement (as the case requires) for the relevant pipeline.

Exception:

If the *access arrangement proposal* is for a limited access arrangement for an international pipeline to which a price regulation exemption applies, the AER may (but need not) exercise its powers under this rule. (See section 167(2) of the *NGL*)

- (2) The AER's proposal for an access arrangement or revisions is to be formulated with regard to:
- the matters that the *Law* requires an access arrangement to include; and
 - the service provider's *access arrangement proposal*; and
 - the AER's reasons for refusing to approve that proposal.
- (3) The AER may (but is not obliged to) consult on its proposal.
- (4) The AER must, within 2 months after the access arrangement final *decision*, make a *decision* giving effect to its proposal.
- (5) When the AER makes a *decision* under this rule, it must:
- give a copy of the *decision* to the service provider; and
 - publish the *decision* on the AER's website ~~and make it available for inspection, during business hours, at the AER's public offices.~~
- (6) The access arrangement or the revisions to which the *decision* relates takes effect on a date fixed in the determination or, if no date is so fixed, 10 business days after the date of the *decision*.

Division 10 Supplementary power to vary applicable access arrangement

65 Application for variation of applicable access arrangement

- (1) A service provider may submit for the AER's approval a proposal for variation of the applicable access arrangement (an *access arrangement variation proposal*).
- (2) An *access arrangement variation proposal* cannot, however, be submitted between a *review submission date* for the applicable access arrangement and the commencement of the new *access arrangement period*.
- (3) An *access arrangement variation proposal* must:
- be in writing; and
 - state the variation sought and the reasons for it; and

- (c) if the service provider considers the variation non-material – state that opinion and the reasons for it.

66 Preliminary assessment of access arrangement variation proposal

- (1) Within 20 business days after receiving an *access arrangement variation proposal* from a service provider, the AER must decide whether or not it considers the variation non-material.
- (2) If the AER considers the variation non-material, the AER may, without consultation, approve the proposal.
- (3) If the AER does not consider the proposed variation non-material, the AER must refer the *access arrangement variation proposal* to be dealt with as a *limited access arrangement proposal* under Division 7 or a *full access arrangement proposal* under Division 8 (as the case requires).
- (4) If the service provider considers the proposed variation non-material and the AER disagrees with the service provider on that point, the AER must give the service provider written reasons for its contrary opinion.

67 Decision on access arrangement variation proposal

A *decision* by the AER on an *access arrangement variation proposal* under this Division must:

- (a) be in writing; and
- (b) state the terms of the *decision* and the reasons for it; and
- (c) if the *decision* is to approve the variation as a non-material variation:
 - (i) set out the terms of the approved variation; and
 - (ii) state the commencement date of the variation; and
- (d) be given to the applicant service provider without delay; and
- (e) be published on the AER's website.

Division 11 AER's power to vary or revoke access arrangement

68 AER may vary or revoke access arrangement

- (1) The AER may vary or revoke an access arrangement during an *access arrangement period* if it appears to the AER that the determination is affected by a material error or deficiency of one or more of the following kinds:
 - (a) a clerical mistake or an accidental slip or omission;
 - (b) a miscalculation or misdescription;
 - (c) a defect in form;
 - (d) a deficiency resulting from the provision of false or materially misleading information to the AER.

- (2) If the AER revokes an access arrangement under subrule (1), the AER must make a new access arrangement to apply for the remainder of the *access arrangement period* for which the revoked access arrangement was to apply.
- (3) A substituted access arrangement must not differ from the revoked access arrangement more than necessary to correct the relevant error or deficiency.
- (4) The AER may only vary an access arrangement, or revoke and substitute an access arrangement, under this rule if it has first consulted with the relevant service provider and any other persons with whom it considers consultation appropriate.

Part 9 Price and revenue regulation

Division 1 Preliminary

69 Interpretation

In this Part:

capital base, in relation to a pipeline, means the capital value to be attributed, in accordance with this Part, to pipeline assets.

capital expenditure means costs and expenditure of a capital nature incurred to provide, or in providing, pipeline services.

conforming capital expenditure means capital expenditure that complies with the new capital expenditure criteria.

depreciation means depreciation of the capital base.

new capital expenditure criteria mean the criteria stated in rule 79.

non-conforming capital expenditure means capital expenditure that does not comply with the new capital expenditure criteria.

operating expenditure means operating, maintenance and other costs and expenditure of a non-capital nature incurred in providing pipeline services and includes expenditure incurred in increasing long-term demand for pipeline services and otherwise developing the market for pipeline services.

pipeline assets, in relation to a pipeline, means capital assets that constitute the pipeline or are otherwise used by the service provider to provide services.

tariff class means customers for one or more reference services who constitute a tariff class under a full access arrangement.

70 Application of this Part

This Part applies only in respect of a full access arrangement (or a *full access arrangement proposal*).

71 Assessment of compliance

- (1) In determining whether capital or operating expenditure is efficient and complies with other criteria prescribed by these rules, the AER may, without embarking on a detailed investigation, infer compliance from the operation of an incentive mechanism or on any other basis the AER considers appropriate.
- (2) The AER must, however, consider, and give appropriate weight to, submissions and comments received when the question whether a relevant *access arrangement proposal* should be approved is submitted for public consultation.

Division 2 Access arrangement information relevant to price and revenue regulation

72 Specific requirements for access arrangement information relevant to price and revenue regulation

- (1) The *access arrangement information* for a *full access arrangement proposal* (other than an *access arrangement variation proposal*) must include the following:
 - (a) if the *access arrangement period* commences at the end of an earlier *access arrangement period*:
 - (i) capital expenditure (by asset class) over the earlier *access arrangement period*; and
 - (ii) operating expenditure (by category) over the earlier *access arrangement period*; and
 - (iii) usage of the pipeline over the earlier *access arrangement period* showing:
 - (A) for a distribution pipeline, minimum, maximum and average demand and, for a transmission pipeline, minimum, maximum and average demand for each *receipt or delivery point*; and
 - (B) for a distribution pipeline, customer numbers in total and by tariff class and, for a transmission pipeline, user numbers for each *receipt or delivery point*;
 - (b) how the capital base is arrived at and, if the *access arrangement period* commences at the end of an earlier *access arrangement period*, a demonstration of how the capital base increased or diminished over the previous *access arrangement period*;
 - (c) the projected capital base over the *access arrangement period*, including:
 - (i) a forecast of conforming capital expenditure for the period and the basis for the forecast; and
 - (ii) a forecast of depreciation for the period including a demonstration of how the forecast is derived on the basis of the proposed depreciation method;
 - (d) to the extent it is practicable to forecast pipeline capacity and utilisation of pipeline capacity over the *access arrangement period*, a forecast of pipeline capacity and utilisation of pipeline capacity over that period and the basis on which the forecast has been derived;
 - (e) a forecast of operating expenditure over the *access arrangement period* and the basis on which the forecast has been derived;
 - ~~(f) the key performance indicators to be used by the service provider to support expenditure to be incurred over the *access arrangement period*;~~
~~(f) [Deleted]~~
 - (g) the proposed return on equity, return on debt and *allowed rate of return*, for each regulatory year of the *access arrangement period*, in accordance with

- rule 87, including any departure from the methodologies set out in the *rate of return guidelines* and the reasons for that departure;
- (ga) the proposed formula (if any) that is to be applied in accordance with rule 87(12);
 - (h) the estimated cost of corporate income tax calculated in accordance with rule 87A, including the proposed value of imputation credits referred to in that rule;
 - (i) if an incentive mechanism operated for the previous *access arrangement period*—the proposed carry-over of increments for efficiency gains or decrements for efficiency losses in the previous *access arrangement period* and a demonstration of how allowance is to be made for any such increments or decrements;
 - (j) the proposed approach to the setting of tariffs including:
 - (i) the suggested basis of reference tariffs, including the method used to allocate costs and a demonstration of the relationship between costs and tariffs; and
 - (ii) a description of any pricing principles employed but not otherwise disclosed under this rule;
 - (k) the service provider's rationale for any proposed *reference tariff variation mechanism*;
 - (l) the service provider's rationale for any proposed incentive mechanism;
 - (m) the total revenue to be derived from pipeline services for each regulatory year of the *access arrangement period*.
- (2) The *access arrangement information* for an *access arrangement variation proposal* related to a full access arrangement must include so much of the above information as is relevant to the proposal.
- (3) Where the AER has published financial models under rule 75A, the *access arrangement information* for a full access arrangement proposal must be provided in accordance with the requirements of rule 75B.

73 Basis on which financial information is to be provided

- (1) Financial information must be provided on:
 - (a) a nominal basis; or
 - (b) a real basis; or
 - (c) some other recognised basis for dealing with the effects of inflation.
- (2) The basis on which financial information is provided must be stated in the *access arrangement information*.
- (3) All financial information must be provided, and all calculations made, ~~consistently~~ on the same basis and using any applicable financial models published by the AER under these Rules.

74 Forecasts and estimates

- (1) Information in the nature of a forecast or estimate must be supported by a statement of the basis of the forecast or estimate.
- (2) A forecast or estimate:
 - (a) must be arrived at on a reasonable basis; and
 - (b) must represent the best forecast or estimate possible in the circumstances.

75 Inferred or derivative information

~~(+)~~ Information in the nature of an extrapolation or inference must be supported by the primary information on which the extrapolation or inference is based. ~~If~~

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75A Preparation and amendment of financial models

- (1) The AER may prepare and publish a revenue model and/or a capital base roll forward model (**financial models**) and if it does, must do so in accordance with this rule 75A and rule 75B.
- (2) If the AER publishes a financial model under this rule, a service provider must use the model in accordance with the requirements of these rules.
- (3) The AER may from time to time, in accordance with this rule 75A and rule 75B, amend or replace a financial model in accordance with these rules.
- (4) In preparing or amending a financial model, the AER must publish a notice on its website:
 - (a) describing the proposed model or amendments to the model (as the case may be), and giving the address of a website on which the details of the model or amendments, and the reasons for them, are published; and
 - (b) inviting written submissions on the proposed model or amendments to the model (as the case may be) within no less than 30 business days of the date of the notice.
- (5) The AER may publish such issues, consultation and discussion papers, and hold such conferences and information sessions, in relation to the proposed model or amendments to the model (as the case may be) as it considers appropriate.
- (6) Within 80 business days of publishing the notice referred to in subrule (4), and after considering relevant submissions made within the time allowed in the notice and other matters the AER considers relevant, the AER must make its final *decision*.
- (7) The AER's final *decision* must:
 - (a) be in writing;
 - (b) state the terms of the *decision* and the reasons for it; and

- (c) include a summary of each issue raised in submissions that the AER reasonably considers to be material, together with the AER's response to each issue.
- (8) The AER may extend the time within which it is required to make its final *decision* if:
 - (a) the consultation involves issues of unusual complexity or difficulty; and
 - (b) the extension of time has become necessary because of circumstances beyond the AER's control.
- (9) After making a final *decision*, the AER must, without delay, publish the final *decision* on its website.

75B Contents of the financial models

- (1) A revenue model must set out the manner in which the service provider's total revenue is to be calculated.
- (2) The revenue model must include (but is not limited to):
 - (i) the revenue requirements of the service provider calculated in accordance with the building block approach in rule 76;
 - (ii) the method that the AER determines is likely to result in the best estimates of expected inflation;
 - (iii) the timing assumptions and associated discount rates that are to apply in relation to the calculation of the building blocks referred to in rule 76;
 - (iv) the manner in which working capital is to be treated; and
 - (v) the manner in which the estimated cost of corporate income tax is to be calculated.
- (3) A capital base roll forward model must set out the AER's method for determining the roll forward of the capital base for a *full regulation pipeline*:
 - (i) from the immediately preceding *access arrangement period* to the beginning of the first regulatory year of the next *access arrangement period*, so as to establish the value of the opening capital base as at the beginning of the first regulatory year of the next *access arrangement period*; and
 - (ii) from one year in an *access arrangement period* to the next regulatory year in that same *access arrangement period*, so as to establish the value of the capital base as at the beginning of the next regulatory year;

and under which the roll forward of the capital base from the immediately preceding *access arrangement period* to the beginning of the first regulatory year of the next *access arrangement period* is consistent with this Part 9.

Division 3 Building block approach

76 Total revenue

Total revenue is to be determined for each regulatory year of the *access arrangement period* using the building block approach in which the building blocks are:

- (a) a return on the projected capital base for the year (See Divisions 4 and 5); and
- (b) depreciation on the projected capital base for the year (See Division 6); and
- (c) the estimated cost of corporate income tax for the year (See Division 5A); and
- (d) increments or decrements for the year resulting from the operation of an incentive mechanism to encourage gains in efficiency (See Division 9); and
- (e) a forecast of operating expenditure for the year (See Division 7).

Division 4 The Capital base

77 Opening capital base

- (1) When a pipeline first becomes a covered pipeline, or the opening capital base for a pipeline is first calculated, the opening capital base is to be as follows:
 - (a) if the pipeline was commissioned before the commencement of these rules, the opening capital base is to be determined by reference to the relevant provisions of the Gas Code;
 - (b) if the pipeline was commissioned after the commencement of these rules, the opening capital base is to be:
 - (i) the cost of construction of the pipeline and pipeline assets incurred before commissioning of the pipeline (including the cost of acquiring easements and other interests in land necessary for the establishment and operation of the pipeline);plus:
 - (ii) the amount of capital expenditure since the commissioning of the pipeline;less:
 - (iii) depreciation; and
 - (iv) the value of pipeline assets disposed of since the commissioning of the pipeline.
- (2) If an *access arrangement period* follows immediately on the conclusion of a preceding *access arrangement period*, the opening capital base for the later *access arrangement period* is to be:
 - (a) the opening capital base as at the commencement of the earlier *access arrangement period* adjusted for any difference between estimated and actual capital expenditure included in that opening capital base. This adjustment

must also remove any benefit or penalty associated with any difference between the estimated and actual capital expenditure;

plus:

- (b) conforming capital expenditure made, or to be made, during the earlier *access arrangement period*;

plus:

- (c) any amounts to be added to the capital base under rule 82, 84 or 86;

less:

- (d) depreciation over the earlier *access arrangement period* (to be calculated in accordance with any relevant provisions of the access arrangement governing the calculation of depreciation for the purpose of establishing the opening capital base); and

Note:

See rule 90.

- (e) redundant assets identified during the course of the earlier *access arrangement period*; and

- (f) the value of pipeline assets disposed of during the earlier *access arrangement period*.

- (3) If a period intervenes between *access arrangement periods* during which the pipeline is not subject to a full access arrangement, the opening capital base for the later *access arrangement period* is to be:

- (a) the opening capital base determined in accordance with these rules for a notional access arrangement taking effect at the end of the *access arrangement period* for the last full access arrangement (the **relevant date**);

plus:

- (b) the amount of capital expenditure since the relevant date;

less:

- (c) depreciation since the relevant date; and
- (d) the value of pipeline assets disposed of since the relevant date.

78 Projected capital base

The projected capital base for a particular period is:

- (a) the opening capital base;

plus:

- (b) forecast conforming capital expenditure for the period;

less:

- (c) forecast depreciation for the period; and
- (d) the forecast value of pipeline assets to be disposed of in the course of the period.

79 New capital expenditure criteria

- (1) Conforming capital expenditure is capital expenditure that conforms with the following criteria:
 - (a) the capital expenditure must be such as would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of providing services; and
 - (b) the capital expenditure must be justifiable on a ground stated in subrule (2)~~(3)~~; and
 - (c) the capital expenditure must be for expenditure that is properly allocated in accordance with the requirements of subrule (6).
- (2) Capital expenditure is justifiable if:
 - (a) the overall economic value of the expenditure is positive; or
 - (b) the present value of the expected incremental revenue to be generated as a result of the expenditure exceeds the present value of the capital expenditure; or
 - (c) the capital expenditure is necessary:
 - (i) to maintain and improve the safety of services; or
 - (ii) to maintain the integrity of services; or
 - (iii) to comply with a regulatory obligation or requirement; or
 - (iv) to maintain the service provider's capacity to meet levels of demand for services existing at the time the capital expenditure is incurred (as distinct from projected demand that is dependent on an expansion of pipeline capacity); or
 - (d) the capital expenditure is an aggregate amount divisible into 2 parts, one referable to incremental services and the other referable to a purpose referred to in paragraph (c), and the former is justifiable under paragraph (b) and the latter under paragraph (c)~~(c)~~.
- ~~(3)~~ (3) In deciding whether the overall economic value of capital expenditure is positive, consideration is to be given only to economic value directly accruing to the service provider, gas producers, users and end users.
- (4) In determining the present value of expected incremental revenue:
 - (a) a tariff will be assumed for incremental services based on (or extrapolated from) prevailing reference tariffs or an estimate of the reference tariffs that would have been set for comparable services if those services had been reference services; and
 - (b) incremental revenue will be taken to be the gross revenue to be derived from the incremental services less incremental operating expenditure for the incremental services; and
 - (c) a discount rate is to be used equal to the rate of return implicit in the reference tariff.

- (5) If capital expenditure made during an *access arrangement period* conforms, in part, with the criteria laid down in this rule, the capital expenditure is, to that extent, to be regarded as conforming capital expenditure.

~~(6) —~~

~~The AER's discretion under this rule is limited.~~

~~**Note:**~~

~~See rule 40(2).~~

~~(6) Conforming capital expenditure that is included in an *access arrangement revision proposal* must be for expenditure that is properly allocated between:~~

~~(a) reference services;~~

~~(b) other services provided by means of the covered pipeline; and~~

~~(c) other services provided by means of uncovered parts (if any) of the pipeline;~~

~~-~~

80 AER's power to make advance determination with regard to future capital expenditure

- (1) The AER may, on application by a service provider, make a determination to the effect that, if capital expenditure is made in accordance with proposals made by the service provider and specified in the determination, the expenditure will meet the new capital expenditure criteria.
- (2) The AER may (but is not required to) engage in public consultation before making a determination under subrule (1).
- (3) A determination under subrule (1) is binding on the AER but a *decision* not to make such a determination creates no presumption that future expenditure will not meet the relevant criteria.

81 Non-conforming capital expenditure

A service provider may make, during an *access arrangement period*, capital expenditure that is, in whole or in part, non-conforming capital expenditure.

82 Capital contributions by users to new capital expenditure

- (1) A user may make a capital contribution towards a service provider's capital expenditure.
- (2) Capital expenditure to which a user has contributed may, with the AER's approval, be rolled into the capital base for a pipeline but, subject to subrule (3), not to the extent of any such capital contribution.

- (3) The AER may approve the rolling of capital expenditure (including a capital contribution made by a user, or part of such a capital contribution) into the capital base for a pipeline on condition that the access arrangement contain a mechanism to prevent the service provider from benefiting, through increased revenue, from the user's contribution to the capital base.

83 Surcharges

- (1) When the service provider makes non-conforming capital expenditure, it may notify the AER that it proposes to recover the amount, or part of the amount, of the expenditure by means of a surcharge.

Note:

A surcharge may be proposed even where the non-conforming capital expenditure has been funded in whole or part by a user.

- (2) A surcharge is a charge, approved by the AER, in addition to a reference tariff (or other tariff):
 - (a) to be levied on users of incremental services; and
 - (b) designed to recover non-conforming capital expenditure or a specified portion of non-conforming capital expenditure.
- (3) To the extent that non-conforming capital expenditure is, or is to be, recovered by means of the surcharge, it can never be rolled into the capital base.
- (4) The AER must not approve a surcharge unless satisfied that the amount to be recovered from the surcharge does not exceed (in present value terms) the amount of the non-conforming capital expenditure that would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of providing services.
- (5) The AER may (but is not required to) engage in public consultation before approving a surcharge.
- (6) The AER's approval of a surcharge is binding on an arbitrator in an access dispute.

84 Speculative capital expenditure account

- (1) A full access arrangement may provide that the amount of non-conforming capital expenditure, to the extent that it is not to be recovered through a surcharge on users or a capital contribution, is to be added to a notional fund (the **speculative capital expenditure account**).

- (2) The balance of the speculative capital expenditure account increases annually at a rate, ~~determined at the AER's discretion, which may, but need not, be the rate of return implicit in a reference tariff which:~~

(a) must, at least, be the rate of return implicit in a reference tariff; and

(b) may be higher than the rate under subrule (2)(a), if the AER considers a higher rate of return is appropriate, having regard to the circumstances and nature of

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the investment to which the relevant portion of the balance of the speculative capital expenditure account relates.

- (3) If at any time the type or volume of services changes so that capital expenditure that did not, when made, comply with the new capital expenditure criteria becomes compliant, the relevant portion of the speculative capital expenditure account (including the return referable to that portion of the account) is to be withdrawn from the account and rolled into the capital base as at the commencement of the next *access arrangement period*.

85 Capital redundancy

- (1) A full access arrangement may include (and the AER may require it to include) a mechanism to ensure that assets that cease to contribute in any way to the delivery of pipeline services (redundant assets) are removed from the capital base.
- (2) A reduction of the capital base in accordance with such a mechanism may only take effect from the commencement of the first *access arrangement period* to follow the inclusion of the mechanism in the access arrangement or the commencement of a later *access arrangement period*.
- (3) An applicable access arrangement may include a mechanism for sharing costs associated with a decline in demand for pipeline services between the service provider and users.
- (4) Before requiring or approving a mechanism under this rule, the AER must take into account the uncertainty such a mechanism would cause and the effect the uncertainty would have on the service provider, users and prospective users.

86 Re-use of redundant assets

- (1) Subject to the new capital expenditure criteria, if, after the reduction of the capital base by the value of assets identified as redundant, the assets later contribute to the delivery of pipeline services, the assets may be treated as new capital expenditure of an amount calculated by taking their value as at the time of their removal from the capital base and increasing it annually at the rate of return implicit in the reference tariff.
- (2) To the extent the new capital expenditure criteria allow, the amount arrived at under subrule (1) will be returned to the capital base in accordance with those criteria.

Division 5 Rate of return

87 Rate of return

- (1) Subject to rule 82(3), the return on the projected capital base for each regulatory year of the *access arrangement period* is to be calculated by applying a rate of return that is determined in accordance with this rule 87 (the *allowed rate of return*).

- (2) The *allowed rate of return* is to be determined such that it achieves the *allowed rate of return objective*.
- (3) The *allowed rate of return objective* is that the rate of return for a service provider is to be commensurate with the efficient financing costs of a benchmark efficient entity with a similar degree of risk as that which applies to the service provider in respect of the provision of reference services (the *allowed rate of return objective*).
- (4) Subject to subrule (2), the *allowed rate of return* for a regulatory year is to be:
 - (a) a weighted average of the return on equity for the *access arrangement period* in which that regulatory year occurs (as estimated under subrule (6)) and the return on debt for that regulatory year (as estimated under subrule (8)); and
 - (b) determined on a nominal vanilla basis that is consistent with the estimate of the value of imputation credits referred to in rule 87A.
- (5) In determining the *allowed rate of return*, regard must be had to:
 - (a) relevant estimation methods, financial models, market data and other evidence;
 - (b) the desirability of using an approach that leads to the consistent application of any estimates of financial parameters that are relevant to the estimates of, and that are common to, the return on equity and the return on debt; and
 - (c) any interrelationships between estimates of financial parameters that are relevant to the estimates of the return on equity and the return on debt.

Return on equity

- (6) The return on equity for an *access arrangement period* is to be estimated such that it contributes to the achievement of the *allowed rate of return objective*.
- (7) In estimating the return on equity under subrule (6), regard must be had to the prevailing conditions in the market for equity funds.

Return on debt

- (8) The return on debt for a regulatory year is to be estimated such that it contributes to the achievement of the *allowed rate of return objective*.
- (9) The return on debt may be estimated using a methodology which results in either:
 - (a) the return on debt for each regulatory year in the *access arrangement period* being the same; or
 - (b) the return on debt (and consequently the *allowed rate of return*) being, or potentially being, different for different regulatory years in the *access arrangement period*.
- (10) Subject to subrule (8), the methodology adopted to estimate the return on debt may, without limitation, be designed to result in the return on debt reflecting:

- (a) the return that would be required by debt investors in a benchmark efficient entity if it raised debt at the time or shortly before the time when the AER's *decision* on the access arrangement for that *access arrangement period* is made;
 - (b) the average return that would have been required by debt investors in a benchmark efficient entity if it raised debt over an historical period prior to the commencement of a regulatory year in the *access arrangement period*; or
 - (c) some combination of the returns referred to in subrules (a) and (b).
- (11) In estimating the return on debt under subrule (8), regard must be had to the following factors:
- (a) the desirability of minimising any difference between the return on debt and the return on debt of a benchmark efficient entity referred to in the *allowed rate of return objective*;
 - (b) the interrelationship between the return on equity and the return on debt;
 - (c) the incentives that the return on debt may provide in relation to capital expenditure over the *access arrangement period*, including as to the timing of any capital expenditure; and
 - (d) any impacts (including in relation to the costs of servicing debt across *access arrangement periods*) on a benchmark efficient entity referred to in the *allowed rate of return objective* that could arise as a result of changing the methodology that is used to estimate the return on debt from one *access arrangement period* to the next.
- (12) If the return on debt is to be estimated using a methodology of the type referred to in subrule (9)(b) then a resulting change to the service provider's total revenue must be effected through the automatic application of a formula that is specified in the *decision* on the access arrangement for that *access arrangement period*.

Rate of return guidelines

- (13) The AER must, in accordance with the *rate of return consultative procedure*, make and publish guidelines (the *rate of return guidelines*).
- (14) The *rate of return guidelines* must set out:
- (a) the methodologies that the AER proposes to use in estimating the *allowed rate of return*, including how those methodologies are proposed to result in the determination of a return on equity and a return on debt in a way that is consistent with the *allowed rate of return objective*; and
 - (b) the estimation methods, financial models, market data and other evidence the AER proposes to take into account in estimating the return on equity, the return on debt and the value of imputation credits referred to in rule 87A.
- (15) There must be *rate of return guidelines* in force at all times after the date on which the AER first publishes the *rate of return guidelines* under these rules.

- (16) The AER must, in accordance with the *rate of return consultative procedure*, review the *rate of return guidelines*:
- (a) at intervals not exceeding five years for the first interval and three years for all subsequent intervals, with the first interval starting from the date that the first *rate of return guidelines* are published under these rules; and
 - (b) at the same time as it reviews the Rate of Return Guidelines under clauses 6.5.2 and 6A.6.2 of the *NER*.
- (17) The AER may, from time to time and in accordance with the *rate of return consultative procedure*, amend or replace the *rate of return guidelines*.
- (18) The *rate of return guidelines* are not mandatory (and so do not bind the AER or anyone else) but, if the AER makes a *decision* in relation to the rate of return (including in an access arrangement draft *decision* or an access arrangement final *decision*) that is not in accordance with them, the AER must state, in its reasons for the *decision*, the reasons for departing from the guidelines.
- (19) If the *rate of return guidelines* indicate that there may be a change of regulatory approach by the *decision maker* in future *decisions*, the guidelines should also (if practicable) indicate how transitional issues are to be dealt with.

Division 5A

87A Estimated cost of corporate income tax

- (1) The estimated cost of corporate income tax of a service provider for each regulatory year of an *access arrangement period* (ETC_t) is to be estimated in accordance with the following formula:

$$ETC_t = (ETI_t \times r_t) (1 - \gamma)$$

Where

ETI_t is an estimate of the taxable income for that regulatory year that would be earned by a benchmark efficient entity as a result of the provision of reference services if such an entity, rather than the service provider, operated the business of the service provider;

r_t is the expected statutory income tax rate for that regulatory year as determined by the AER; and

γ is the value of imputation credits.

Division 6 Depreciation

88 Depreciation schedule

- (1) The depreciation schedule sets out the basis on which the pipeline assets constituting the capital base are to be depreciated for the purpose of determining a reference tariff.

- (2) The depreciation schedule may consist of a number of separate schedules, each relating to a particular asset or class of assets.

89 Depreciation criteria

- (1) The depreciation schedule should be designed:
 - (a) so that reference tariffs will vary, over time, in a way that promotes efficient growth in the market for reference services; and
 - (b) so that each asset or group of assets is depreciated over the economic life of that asset or group of assets; and
 - (c) so as to allow, as far as reasonably practicable, for adjustment reflecting changes in the expected economic life of a particular asset, or a particular group of assets; and
 - (d) so that (subject to the rules about capital redundancy), an asset is depreciated only once (ie that the amount by which the asset is depreciated over its economic life does not exceed the value of the asset at the time of its inclusion in the capital base (adjusted, if the AER permits, for inflation)); and
 - (e) so as to allow for the service provider's reasonable needs for cash flow to meet financing, non-capital and other costs.
- (2) Compliance with subrule (1)(a) may involve deferral of a substantial proportion of the depreciation, particularly where:
 - (a) the present market for pipeline services is relatively immature; and
 - (b) the reference tariffs have been calculated on the assumption of significant market growth; and
 - (c) the pipeline has been designed and constructed so as to accommodate future growth in demand.

~~(3) The AER's discretion under this rule is limited.~~

Note:

~~See rule 40(2).~~

90 Calculation of depreciation for rolling forward capital base from one access arrangement period to the next

- (1) A full access arrangement must contain provisions governing the calculation of depreciation for establishing the opening capital base for the next *access arrangement period* after the one to which the access arrangement currently relates.
- (2) The provisions must resolve whether depreciation of the capital base is to be based on forecast or actual capital expenditure.

Division 7 Operating expenditure

91 Criteria governing operating expenditure

- (a) (1) Operating expenditure must be such as would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of delivering pipeline services.

~~(2) The AER's discretion under this rule is limited.~~

Note:

~~See rule 40(2)-(2) The forecast of required operating expenditure of a pipeline service provider that is included in the full access arrangement must be for expenditure that is properly allocated between:~~

- (a) reference services;
- (b) other services provided by means of the covered pipeline; and
- (c) other services provided by means of uncovered parts (if any) of the pipeline;

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Division 8 Tariffs

92 Revenue equalisation

- (1) A full access arrangement must include a mechanism (a *reference tariff variation mechanism*) for variation of a reference tariff over the course of an *access arrangement period*.

~~(2) The (2) Except to the extent that subrule (3) applies, the reference tariff variation mechanism must be designed to equalise (in terms of present values):~~

- (a) forecast revenue from reference services ~~over~~for the *access arrangement period*; and
- (b) the portion of total revenue allocated to reference services for the *access arrangement period*.

(3) ~~However, if~~ there is an interval ~~(the interval of delay)~~ between a revision commencement date stated in a full access arrangement and the date on which revisions to the access arrangement actually commence: (the interval of delay):

- (a) reference tariffs, as in force at the end of the previous *access arrangement period*, must continue without variation for the interval of delay; but
- (b) the operation of this subrule may be taken into account in fixing reference tariffs for the new *access arrangement period*, such that there may be an adjustment for any under-recovery or over-recovery by the service provider as a result of the continuation of reference tariffs from the previous *access arrangement period* during the interval of delay.

- (4) For the avoidance of doubt, once the revisions to an access arrangement actually commence the access arrangement period to which the revised access arrangement applies includes the interval of delay.

93 Allocation of total revenue and costs

- (1) Total revenue is to be allocated between reference other services in the ratio in which costs are allocated between reference and other services.
- (2) Costs are to be allocated between reference and other services as follows:
 - (a) costs directly attributable to reference services are to be allocated to those services; and
 - (b) costs directly attributable to pipeline services that are not reference services are to be allocated to those services; and
 - (c) other costs are to be allocated between reference and other services on a basis (which must be consistent with the revenue and pricing principles) determined or approved by the AER.
- (3) The AER may, however, permit the allocation of the costs of rebateable services, in whole or part, to reference services if:
 - (a) the AER is satisfied that the service provider will apply an appropriate portion of the revenue generated from the sale of rebateable services to provide price rebates (or refunds) to reduce the users of reference services tariff in accordance with rule 97; and
 - (b) any other conditions determined by the AER are satisfied.
- (4) A pipeline service is a **rebateable service** if:
 - (a) the service is not a reference service; and
 - (b) substantial uncertainty exists concerning the extent of the demand for the service or of the revenue to be generated from the service; ~~and~~
 - ~~(c) the market for the service is substantially different from the market for any reference service.~~

94 Tariffs – distribution pipelines

- (1) For the purpose of determining reference tariffs, customers for reference services provided by means of a distribution pipeline must be divided into tariff classes.
- (2) A tariff class must be constituted with regard to:
 - (a) the need to group customers for reference services together on an economically efficient basis; and
 - (b) the need to avoid unnecessary transaction costs.
- (3) For each tariff class, the revenue expected to be recovered should lie on or between:
 - (a) an upper bound representing the stand alone cost of providing the reference service to customers who belong to that class; and

- (b) a lower bound representing the avoidable cost of not providing the reference service to those customers.
- (4) A tariff, and if it consists of 2 or more charging parameters, each charging parameter for a tariff class:
 - (a) must take into account the long run marginal cost for the reference service or, in the case of a charging parameter, for the element of the service to which the charging parameter relates;
 - (b) must be determined having regard to:
 - (i) transaction costs associated with the tariff or each charging parameter; and
 - (ii) whether customers belonging to the relevant tariff class are able or likely to respond to price signals.
- (5) If, however, as a result of the operation of subrule (4), the service provider may not recover the expected revenue, the tariffs must be adjusted to ensure recovery of expected revenue with minimum distortion to efficient patterns of consumption.

~~(6) The AER's discretion under this rule is limited.~~

95 Tariffs – transmission pipelines

- (1) A tariff for a reference service provided by means of a transmission pipeline must be designed:
 - (a) to generate from the provision of each reference service the portion of total revenue referable to that reference service; and
 - (b) as far as is practicable consistently with paragraph (a), to generate from the user, or the class of users, to which the reference service is provided, the portion of total revenue referable to providing the reference service to the particular user or class of users.
- (2) The portion of total revenue referable to a particular reference service is determined as follows:
 - (a) costs directly attributable to each reference service are to be allocated to that service; and
 - (b) other costs attributable to reference services are to be allocated between them on a basis (which must be consistent with the revenue and pricing principles) determined or approved by the AER.
- (3) The portion of total revenue referable to providing a reference service to a particular user or class of users is determined as follows:
 - (a) costs directly attributable to supplying the user or class of users are to be allocated to the relevant user or class; and
 - (b) other costs are to be allocated between the user or class of users and other users or classes of users on a basis (which must be consistent with the revenue and pricing principles) determined or approved by the AER.

~~(4) The AER's discretion under this rule is limited.~~

Note:

~~See rule 40(2).~~

96 Prudent discounts

- (1) Despite the other provisions of this Division, the AER may, on application by a service provider, approve a discount for a particular user or prospective user or a particular class of users or prospective users.
- (2) The AER may only approve a discount under this rule if satisfied that:
 - (a) the discount is necessary to:
 - (i) respond to competition from other providers of pipeline services or other sources of energy; or
 - (ii) maintain efficient use of the pipeline; and
 - (b) the provision of the discount is likely to lead to reference or equivalent tariffs lower than they would otherwise have been.

Note:

Even though a user's incremental load is retained at a discounted price, overall tariffs may be lower because of the user's contribution to fixed costs.

- (3) If the AER approves a discount under this rule, the AER may also approve allocation of the cost, or part of the cost, of providing the discount to the costs of providing a reference or other service in one or more future *access arrangement periods*.
- (4) In this rule:
equivalent tariff means the tariff that is likely to have been set for a service that is not a reference service if the service had been a reference service.

97 Mechanics of reference tariff variation

- (1) A *reference tariff variation mechanism* may provide for variation of a reference tariff:
 - (a) in accordance with a schedule of fixed tariffs; or
 - (b) in accordance with a formula set out in the access arrangement; or
 - (c) as a result of a cost pass through for a defined event (such as a cost pass through for a particular tax); or
 - (c1) as a result of the application of a portion of the revenue generated from the sale of rebateable services to reduce the reference tariff as contemplated under rule 93(3); or
 - (d) by the combined operation of 2 or more of the above.
- (2) A formula for variation of a reference tariff may (for example) provide for:

- (a) variable caps on the revenue to be derived from a particular combination of reference services; or
 - (b) tariff basket price control; or
 - (c) revenue yield control; or
 - (d) a combination of all or any of the above.
- (3) In deciding whether a particular *reference tariff variation mechanism* is appropriate to a particular access arrangement, the AER must have regard to:
- (a) the need for efficient tariff structures; and
 - (b) the possible effects of the *reference tariff variation mechanism* on administrative costs of the AER, the service provider, and users or potential users; and
 - (c) the regulatory arrangements (if any) applicable to the relevant reference services before the commencement of the proposed *reference tariff variation mechanism*; and
 - (d) the desirability of consistency between regulatory arrangements for similar services (both within and beyond the relevant jurisdiction); and
 - ~~(e) the risk sharing arrangements implicit in the access arrangement; and~~
 - (f) any other relevant factor.
- (4) A *reference tariff variation mechanism* must give the AER adequate oversight or powers of approval over variation of the reference tariff.
- (5) Except as provided by a *reference tariff variation mechanism*, a reference tariff is not to vary during the course of an *access arrangement period*.

Division 9 Incentive mechanisms

98 Incentive mechanism

- (1) A full access arrangement may include (and the AER may require it to include) one or more incentive mechanisms to encourage efficiency in the provision of services by the service provider.
- (2) An incentive mechanism may provide for carrying over increments for efficiency gains and decrements for losses of efficiency from one *access arrangement period* to the next.
- (3) An incentive mechanism must be consistent with the revenue and pricing principles.

Division 10 Fixed principles

99 Fixed principles

- (1) A full access arrangement may include a principle declared in the access arrangement to be fixed for a stated period.
- (2) A principle may be fixed for a period extending over 2 or more *access arrangement periods*.
- (3) A fixed principle approved before the commencement of these rules, or approved by the AER under these rules, is binding on the AER and the service provider for the period for which the principle is fixed.
- (4) However:
 - (a) the AER may vary or revoke a fixed principle at any time with the service provider's consent; and
 - (b) if a rule is inconsistent with a fixed principle, the rule operates to the exclusion of the fixed principle.

Part 10 Other provisions of and concerning access arrangement

Division 1 General

100 General requirement for consistency

The provisions of an access arrangement must be consistent with:

- (a) the national gas objective; and
- (b) these rules and the Procedures as in force when the terms and conditions of the access arrangement are determined or revised; and

~~101 Full access arrangement to contain statement of reference services~~

- ~~(1) A full access arrangement must specify as a reference service:
 - ~~(a) at least one pipeline service that is likely to be sought by a significant part(c) in respect of the market; non-tariff terms and~~
 - ~~(b) any other pipeline service that is likely to be sought by a significant part of conditions, the market and which risk sharing arrangements implicit in the AER considers should be specified as a reference service access arrangement.~~~~
- ~~(2) In deciding whether to specify a pipeline service as a reference service, the AER must take into account the revenue and pricing principles.~~

~~101 [Deleted]~~

102 Variable operation of access arrangement

- (1) The operation of an applicable access arrangement may vary according to factors, or in accordance with a formula, stated in the arrangement.
- (2) A variation in the operation of an applicable access arrangement that is made, or occurs, in accordance with the provisions of the access arrangement, is not to be regarded as a variation of the access arrangement itself.

Division 2 Specific provisions

103 Queuing requirements

- (1) An access arrangement must contain queuing requirements if:
 - (a) the access arrangement is for a transmission pipeline; or
 - (b) the access arrangement is for a distribution pipeline and the AER notifies the service provider that the access arrangement must contain queuing requirements.

- (2) If the AER gives a notification under subrule (1), the access arrangement must contain queuing requirements as from the commencement of the first *access arrangement period* to commence after the date of the notification (but this requirement lapses if the AER, by notice to the service provider, withdraws the notification).
- (3) Queuing requirements must establish a process or mechanism (or both) for establishing an order of priority between prospective users of spare or developable capacity (or both) in which all prospective users (whether associates of, or unrelated to, the service provider) are treated on a fair and equal basis.
- (4) Queuing requirements might (for example) provide that the order of priority is to be determined:
 - (a) on a first-come-first-served basis; or
 - (b) on the basis of a publicly notified auction in which all prospective users of the relevant spare capacity or developable capacity are able to participate.
- (5) Queuing requirements must be sufficiently detailed to enable prospective users:
 - (a) to understand the basis on which an order of priority between them has been, or will be, determined; and
 - (b) if an order of priority has been determined – to determine the prospective user's position in the queue.

104 Extension and expansion requirements

- (1) Extension and expansion requirements may state whether the applicable access arrangement will apply to incremental services to be provided as a result of a particular extension to ~~or expansion of the capacity of~~ the pipeline or may allow for later resolution of that question on a basis stated in the requirements.
- (2) Extension and expansion requirements must state that the applicable access arrangement will apply to incremental services to be provided as a result of a particular expansion to the capacity of the pipeline.
- (3) Extension and expansion requirements included in a full access arrangement must, if they provide that an applicable access arrangement is to apply to incremental services provided as a result of an extension to the pipeline, deal with the effect of the extension ~~or expansion~~ on tariffs.
- (34) The extension and expansion requirements cannot require the service provider to provide funds for work involved in making an extension or expansion unless the service provider agrees.

105 Capacity trading requirements

- (1) Capacity trading requirements must provide for transfer of capacity:
 - (a) if the service provider is registered as a participant in a particular gas market – in accordance with rules or Procedures governing the relevant gas market; or

- (b) if the service provider is not so registered, or the relevant rules or Procedures do not deal with capacity trading – in accordance with this rule.
- (2) A user may, without the service provider's consent, transfer, by way of subcontract, all or any of the user's contracted capacity to another (the **third party**) with the following consequences:
 - (a) the transferor's rights against, and obligations to, the service provider are (subject to paragraph (b)) unaffected by the transfer; but
 - (b) the transferor must immediately give notice to the service provider of:
 - (i) the subcontract and its likely duration; and
 - (ii) the identity of the third party; and
 - (iii) the amount of the contracted capacity transferred.
- (3) A user may, with the service provider's consent, transfer all or any of the user's contracted capacity to another (the **third party**) with the following consequences:
 - (a) the transferor's rights against, and obligations to, the service provider are terminated or modified in accordance with the capacity trading requirements; and
 - (b) a contract arises between the service provider and the third party on terms and conditions determined by or in accordance with the capacity trading requirements.
- (4) The service provider must not withhold its consent under subrule (3) unless it has reasonable grounds, based on technical or commercial considerations, for doing so.
- (5) An adjustment of rights and liabilities under subrule (3) does not affect rights or liabilities that had accrued under, or in relation to, the contract before the transfer took effect.
- (6) The capacity trading requirements may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.

106 Change of receipt or delivery point by user

- (1) An access arrangement must provide for the change of a *receipt or delivery point* in accordance with the following principles:
 - (a) a user may, with the service provider's consent, change the user's *receipt or delivery point*;
 - (b) the service provider must not withhold its consent unless it has reasonable grounds, based on technical or commercial considerations, for doing so.
- (2) The access arrangement may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.

Part 11 Facilitation of, and request for, access

Division 1 Obligations on scheme pipeline service providers

107 Availability of applicable access arrangement and other information

- (1) A *scheme pipeline service provider* must ensure that the applicable access arrangement is accessible on the service provider's website.
- (a) (2) ~~The~~ At the request of a prospective user, the AER may, by notice to a *scheme pipeline service provider*, require the service provider to provide, ~~at the request of a prospective user,~~ specified information the prospective user reasonably requires to decide whether to seek access to a pipeline service provided by the service provider and, if so, how to go about applying for access.
- (2a) The AER may refuse to issue a notice under subrule (2) in respect of all or part of the requested information if, in the AER's reasonable opinion:
 - (a) the prospective user has not attempted to request the information from the *scheme pipeline service provider*;
 - (b) the prospective user has requested the information from the *scheme pipeline service provider* but the *scheme pipeline service provider* has not had sufficient time to respond to the prospective user;
 - (c) the information is otherwise already available to the prospective user; or
 - (d) the information is not reasonably required by the prospective user in order to decide whether to seek access, or to apply for access, to a service provided by the service provider.
- (3) A notice under subrule (2) may require the provision of specified information to prospective users generally, prospective users of a particular class, or a particular prospective user.
- (4) The service provider must provide the required information (free of charge) to a prospective user:
 - (a) within a time limit fixed by the AER in its notice; or
 - (b) if the notice does not fix a time limit – within 5 business days after the prospective user requests the information.
- (5) A copy of an applicable access arrangement, or information, may be provided:
 - (a) by giving or sending it to the recipient in documentary form; or
 - (b) by faxing it to the recipient's fax address; or
 - (c) by transmitting it, in electronic form, to the recipient's email address.

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- (6) A service provider incurs, by providing information required under this rule, no liability for breach of contract or breach of confidence or any other civil liability.

Note:

This rule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.

Note:

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

108 Information about tariffs

- (1) A prospective user that reasonably requires the provision of a pipeline service that a *scheme pipeline service provider* is in a position to provide, but for which the service provider has published no tariff, may (by written request) ask the service provider:
- (a) to fix a tariff for the service; and
 - (b) to notify the prospective user of the tariff for the service.
- (2) A *scheme pipeline service provider* who is in a position to provide the service to which the request relates must, as soon as practicable after receiving a request from a prospective user for the tariff, inform the prospective user, in writing, of the relevant tariff.
- (3) A service provider is in a position to provide a particular service if it is commercially and technically feasible for the service provider to provide the service.

Note:

This rule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.

Note:

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

109 Prohibition of bundling of services

- (1) A *scheme pipeline service provider* must not make it a condition of the provision of a particular pipeline service to a prospective user that the prospective user accept another non-gratuitous service from the service provider unless the bundling of the services is reasonably necessary.
- (2) The description of pipeline services in an access arrangement must conform with this principle.

Note:

This rule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.

Note:

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

110 Information to be provided by users about unutilised contracted capacity

- (1) A user must, within 10 business days after receiving a request from any person for information about the user's unutilised contracted capacity (if any), provide the person with the following information:
 - (a) whether unutilised contracted capacity is, or is likely to become, available; and
 - (b) if so:
 - (i) the quantity of the unutilised contracted capacity that is, or is likely to become, available; and
 - (ii) the nature of the unutilised contracted capacity (ie whether it is firm or interruptible and whether it is forward or backhaul); and
 - (iii) when the unutilised contracted capacity will be, or is likely to become, available nominating, if possible, a specific date; and
 - (iv) the terms and conditions (which may include price) on which the user would be prepared to transfer the unutilised capacity; and
 - (c) whether technical or safety considerations might limit the utilisation of the user's unutilised contracted capacity and, if so, the nature of those considerations.
- (2) On providing information under subrule (1), a user must immediately notify the service provider of the provision of the information:
 - (a) stating the name and *contact details* of the person to whom the information was provided; and
 - (b) giving full details of the information provided.
- (3) A user incurs, by providing information under this rule, no liability for breach of contract or breach of confidence or any other civil liability.

Note:

This rule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.

Note:

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

~~111 Public registers of spare capacity~~

- ~~(1) This rule applies to:~~
- ~~(a) a scheme pipeline service provider that provides pipeline services by means of a transmission pipeline; and~~
 - ~~(b) a scheme pipeline service provider that:~~
 - ~~(i) provides pipeline services by means of a distribution pipeline; and~~

- ~~(ii) is, by determination of the AER, a service provider to which this rule applies.~~
- ~~(2) In deciding whether this rule should apply to a distribution service provider, the AER must have regard to whether it is technically feasible and commercially reasonable for the service provider to maintain a register of spare capacity.~~
- ~~(3) A service provider to which this rule applies must establish and maintain a register of spare capacity.~~
- ~~(4) The register of spare capacity must include the following information:~~
- ~~(a) information about the spare capacity that the service provider reasonably believes exists for the haulage of natural gas between defined receipt and delivery points; and~~
 - ~~(b) information about spare capacity that the service provider reasonably believes will exist for the haulage of natural gas between defined receipt and delivery points including information about planned developable capacity and expected additions to spare capacity; and~~
 - ~~(c) information (which must be as specific as the circumstances reasonably allow) about when the spare capacity is, or will become, available; and~~
 - ~~(d) information notified to the service provider by a user about unutilised contracted capacity including:
 - ~~(i) the quantity and type of the unutilised contracted capacity and when it will be available; and~~
 - ~~(ii) proposed terms and conditions (which may include the price) for the sale of the unutilised contracted capacity.~~~~
- ~~(5) If the relevant covered pipeline consists of one or more trunk or mains pipelines and a subordinate pipeline or pipelines, the information contained in the register may be confined to the trunk or mains pipeline or pipelines.~~
- ~~(6) The receipt and delivery points defined in the register must be likely to be commercially significant for a significant number of prospective users and as numerous as is commercially and technically reasonable.~~
- ~~(7) Information about planned developable capacity or other expected additions of spare capacity need not be included in the register if disclosure of the information would be unduly harmful to the legitimate business interests of the service provider or of a user or prospective user.~~
- ~~(8) The service provider must ensure that the register of spare capacity is accessible on the service provider's website.~~

111 [Deleted]

Note:

~~This rule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.~~

Note:

~~This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.~~

112 Requests for access

- (1) A prospective user may request a *scheme pipeline service provider* to provide a pipeline service for the prospective user. For the purposes of this rule 112, the date of the prospective user's request is referred to as the "access request date".
- (2) The request must be made in writing and must:
 - (a) state the time or times when the pipeline service will be required and the capacity that is to be utilised; and
 - (b) identify the entry point where the user proposes to introduce natural gas to the pipeline or the exit point where the user proposes to take natural gas from the pipeline or, if the requested service is a haulage service, both entry and exit point; and
 - (c) state the relevant technical details (including the proposed gas specification) for the connection to the pipeline, and for ensuring safety and reliability of the supply of natural gas to, or from, the pipeline. ~~(3) The service provider must, within 20 business days after the date of the request, respond to the request.~~
- (3) The service provider must:
 - (a) ~~by informing~~ within 5 business days after the access request date, respond to the request acknowledging receipt; and
 - (b) within 10 business days after the access request date, inform the prospective user:
 - ~~(i) whether the service provider can~~ that it is able to provide the requested pipeline service; ~~and~~ or
 - ~~(ii) if so, the terms and conditions on which the service provider is prepared to provide the requested pipeline service;~~
 - ~~(i) (b) by informing the prospective user that the service provider~~ that it needs to carry out further investigation to determine whether it can provide the requested pipeline service ~~and setting out a proposal for carrying out the further investigation including;~~ or
 - ~~(i) a statement of the nature of the investigation; and~~
 - ~~(ii) a plan (including a time schedule) for carrying out and completing the investigation; and~~
 - ~~(iii) a statement of the reasonable costs of the investigation the prospective user would be required to meet.~~
 - (iii) that it is unable to provide the requested pipeline service.
- (4) If the service provider ~~informs the prospective user that it cannot~~ is unable to provide the requested pipeline service, ~~the service provider~~ it must:

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- (a) provide the prospective user with written reasons explaining why the requested pipeline service cannot be provided; and
 - (b) if there is some prospect that it will become possible to provide the requested service at some time in the future – give details (which must be as specific as the circumstances reasonably allow) of when capacity to provide the requested service is likely to become available and, if possible, nominate a specific date.
- (5) ~~If the service provider responds is able to provide the service, it must, within 25 business days of the access request by proposing date, provide the terms and conditions on which the service provider is prepared to provide the requested pipeline service (the access proposal).~~
- (6) ~~If the service provider needs to carry out further investigation, the following provisions apply to determine whether it can provide the requested pipeline service, it must carry out the investigation and then, within 25 business days of the access request date, inform the prospective user:~~
- ~~(a) (a) if that it is able to provide the requested service; or~~
 - ~~(b) that it is unable to provide the requested service.~~
- (7) ~~If the service provider is unable to provide the requested pipeline service it must include in its notification under subule (6) the information specified in subrule (4).~~
- (8) ~~If the service provider is able to provide the service, it must, within 15 business days of providing the notice under subrule (6)(a), provide the terms and conditions on which the service provider is prepared to provide the requested pipeline service (the access proposal).~~
- (9) ~~If the prospective user:~~
- ~~(a) wants to seek access to the pipeline service based on the access proposal provided by the service provider under subrules (5) or (8), it must notify the service provider within 15 business days of receiving the access proposal; or~~
 - ~~(b) wants to request amendments to the access proposal provided by the service provider under subrules (5) or (8), it must notify the service provider within 15 business days of receiving the access proposal and provide its requested amendments.~~
- (10) ~~Following the prospective user's response under subrule (9)(b), the service provider must respond within 15 business days. If the parties have not agreed on the service provider's proposal (or some negotiated modification of it) within a further 20 business days after the date of the service provider's response –under this subrule, then the service provider is taken to have rejected the prospective user's request; and,~~

Note:

This rule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.

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Note:

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

~~(b) if the parties agree on the service provider's proposal or on some negotiated modification of it within 20 business days after the date of the response—the service provider must carry out the investigation in accordance with the agreement and, on the conclusion of the investigation, inform the prospective user whether it can, or cannot, provide the requested pipeline service and comply with other relevant requirements of this rule.~~

~~(11) Without limiting section 181(1) of the NGL, if:~~

- ~~(a) the prospective user disagrees with any of the service provider's responses under this rule; or~~
- ~~(b) the service provider does not respond within the timeframes prescribed by this rule,~~

~~the prospective user may commence an access dispute in accordance with Chapter 6 of the NGL.~~

Drafting note:

A change to the NGL has been proposed to allow the Rules to define the circumstances that will be taken to constitute an inability to agree for the purposes of section 181(1) of the NGL. This subrule (11) cannot be made in the absence of that change to the NGL.

Division 2 Provision of information by full regulation distribution pipelines

112A Definitions and interpretation

~~(1) In this this Division:~~

~~**access information standard** is defined in rule 112B.~~

~~**application date** means:~~

- ~~(a) in relation to a pipeline that is a full regulation distribution pipeline on the commencement date – the date falling 5 months after the commencement date;~~
- ~~(b) in relation to a pipeline that becomes a full regulation distribution pipeline within 5 months after the commencement date – the date falling 5 months after the commencement date; and~~
- ~~(c) in relation to any other pipeline, the later of:~~
- ~~(i) the date the pipeline is commissioned; and~~
- ~~(ii) the date the pipeline becomes a full regulation distribution pipeline.~~

Note:

~~This rule is classified as a civil penalty provision under the National Gas (South Australian) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australian) Regulations.~~

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Note:

~~This rule Section 12 of the NGL defines when a pipeline is commissioned.~~

~~**business day** means a day that is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4, that jurisdiction alone.~~

~~**commencement date** means [to be determined in final rule made].~~

~~**daily flow data** means, for a large full regulation distribution pipeline:~~

- ~~(a) the quantity of natural gas that is metered as having been, or estimated in good faith by the pipeline operator to have been, injected at each receipt point on the National Gas (South Australia) Regulations on a gas day; and~~
- ~~(b) the quantity of natural gas that is metered as having been, or estimated in good faith by the pipeline operator to have been, withdrawn at each delivery point on the pipeline on the gas day.~~

~~**flow rate** means the rate at which gas flows past a point on a pipeline in an hour, expressed in GJ/hour.~~

~~**full regulation distribution pipeline** means a full regulation pipeline that is a distribution pipeline.~~

~~**information** includes data.~~

~~**large full regulation distribution pipeline** means a full regulation distribution pipeline or part of a full regulation distribution pipeline that has a maximum daily capacity under normal operating conditions of >10TJ/day and a maximum pressure capability under normal operating conditions of >4MPa.~~

~~**meter** means a device that measures and records quantities of gas by reference to volume, mass or energy content.~~

~~**pipeline information** is defined in rule 112D(2).~~

~~**pipeline service information** is defined in rule 112D(3).~~

~~**service and access information** is defined in rule 112D.~~

~~**service availability information** is defined in rule 112D(5).~~

~~**service provider** has the meaning in section 8 of the NGL.~~

~~**service usage information** is defined in rule 112D(4).~~

112B Access information standard

- (1) ~~A service provider required by rules 112C and 112D to prepare, publish and maintain information must do so in accordance with the access information standard.~~
- (2) ~~The **access information standard** means that the information:~~
- ~~(a) is not false or misleading in a material particular;~~
- ~~(b) in relation to information of a technical nature, is prepared, published and maintained in accordance with the practices, methods and acts that would reasonably be expected from an experienced and competent person engaged~~

- in the ownership, operation or control of a pipeline in Australia) Regulations: acting with all due skill, diligence, prudence and foresight; and
- (c) in relation to a forecast or estimate, is supported by a statement of the basis of the forecast or estimate and:
- (i) is arrived at on a reasonable basis; and
- (ii) represents the best forecast or estimate possible in the circumstances.
- (3) Where a service provider becomes aware that information required to be published by it under rules 112C and 112D does not comply with the access information standard or rules 112C and 112D, the service provider must publish information that does comply as soon as practicable after the service provider becomes aware of the non-compliance.
- (4) Information published under rules 112C and 112D must include the date of publication, the date to which the information is current and, if the information replaces an earlier version as provided for by subrule (3), notice of that fact.

112C Service provider for full regulation distribution pipelines must publish information

- (1) A service provider for a full regulation distribution pipeline must prepare, maintain and publish on its website:
- (a) the service and access information specified in rule 112D(1)(a) to (c);
- (b) if the full regulation distribution pipeline is or includes a large full regulation distribution pipeline, then in respect of the large full regulation distribution pipeline only, the service and access information specified in rule 112D(1)(d),
- in accordance with the NGL and this Division.

- (2) The information referred to in subrule (1) must be published at the following times.

<u>service and access information (for full regulation distribution pipeline only)</u>	<u>pipeline information</u>	<u>No later than 20 business days after the application date for the full regulation distribution pipeline.</u> <u>Updated pipeline information must be published within 20 business days after there is a change.</u>
	<u>pipeline service information</u>	<u>No later than 20 business days after the application date for the full regulation distribution pipeline.</u> <u>Updated pipeline service information must be published within 20 business days after a new pipeline service is added or an existing pipeline service changes or is withdrawn.</u>

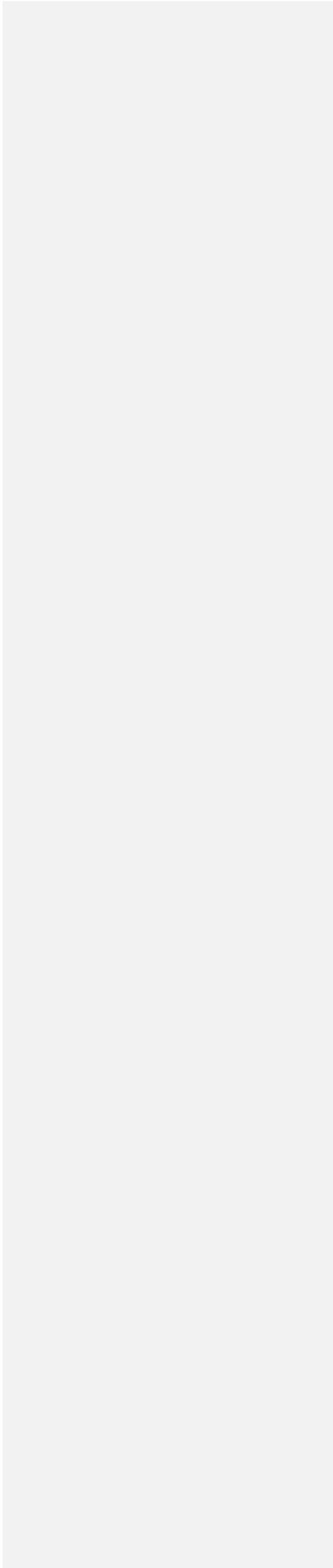
	<u>service usage information</u>	<u>Each month after the application date for the full regulation distribution pipeline, by the last business day of the month for the prior month.</u>
	<u>service availability information</u>	<u>Each month after the application date for the full regulation distribution pipeline, by the last business day of the month for the next 36 or 12 months as applicable.</u>

- (3) A service provider for a full regulation distribution pipeline must publish the information referred to in subrule (1) by making the information publicly available on the service provider's website.
- (4) A service provider for a full regulation distribution pipeline must ensure that historical service usage information for its full regulation distribution pipeline continues to be publicly available for a period of 5 years after the date the information is first published, by publishing the information in accordance with subrule (3).

112D Service and access information for distribution pipelines

- (1) The service and access information comprises:
- (a) the pipeline information described in subrule (2);
 - (b) the pipeline service information described in subrule (3);
 - (c) the service usage information described in subrule (4); and
 - (d) for large full regulation distribution pipelines only, the service availability information described in subrule (5).
- (2) The pipeline information in respect of a full regulation distribution pipeline, comprises:
- (a) the quantity of natural gas that can be transported through each gate station on the distribution pipeline in any 24 hour period;
 - (b) the details of all points on the pipeline where the service provider takes delivery of natural gas; and
 - (c) a schematic map of the pipeline that shows the location on the pipeline of the points referred to in paragraph (b) and the geographic limits of the areas served by the pipeline;
 - (d) any technical or physical characteristics of the pipeline that may affect access to or use of the pipeline or the price for pipeline services on the pipeline; and
 - (e) policies of the service provider that may affect access to or use of the pipeline or the price for pipeline services on the pipeline which may include:
 - (i) queuing requirements;
 - (ii) a receipt or delivery point change policy;

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Part 15 **SchemePipeline** register

133 Establishment and maintenance of register

- (1) The AEMC must establish and maintain a register (the **schemepipeline** register).
- (2) The **schemepipeline** register is a register of all pipelines that are, or have been, subject to any form of regulation or exemption from regulation under the *Law* or the old scheme.
- (3) The **schemepipeline** register is to include for each pipeline:
 - (a) a description of the pipeline (including, in the case of a covered pipeline, historical information about extensions and capacity expansions occurring while the pipeline was covered); ~~and~~
 - (b) the pipeline's classification and regulatory history under the *Law* and the old scheme; ~~and~~
 - (c) the name of the pipeline service provider.
- (4) The **schemepipeline** register is to include the text of current and former:
 - (a) greenfields pipeline incentives; and
 - (b) *tender approval decisions*; and
 - (c) coverage determinations; and
 - (d) coverage revocation determinations; and
 - (e) light regulation determinations; and
 - (f) applicable access arrangements; ~~and~~
 - (g) access determinations (as defined in Part 1 of the *NGL*) and access determinations (as defined in Part 6A of the *NGL*); and
 - (h) exemption decisions made under Division 6 of Part 23 of the *Rules*; and
 - (i) initial opening capital base determinations for light regulation pipelines made under rule 35.

134 Notification of extension or capacity expansion **or new pipeline**

- (1) When the description of a **scheme pipeline or non-scheme** pipeline is affected by an extension or capacity expansion, the service provider must give the AEMC a revised description of the pipeline, incorporating the extension or expansion, for inclusion in the register.
- (2) The service provider of a new pipeline must give the AEMC the information under rule 133(3) within one month of the pipeline being commissioned for inclusion in the register.

135 Public availability of the register

The **schemepipeline** register

(a) ~~must~~ be accessible on the AEMC's website; ~~and~~.

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~~(b) must be available for inspection by the public at the AEMC's public offices during business hours.~~

135A Provision of information

- (1) The AEMC may, by notice on its website, specify the form and manner in which information for inclusion in the pipeline register maintained under this Part 15 must be provided to the AEMC.
- (2) A service provider must provide information to the AEMC for the pipeline register in the form and manner required by the AEMC and published under subrule (1).

Part 18 Natural Gas Services Bulletin Board

Division 1 Interpretation and application

141 Interpretation

(1) In this Part:

BB facility means a BB production facility, a BB pipeline or a BB storage facility.

BB information standard is defined in rule 164.

BB participant means a person that is registered by AEMO under this Part.

BB pipeline means a [a BB transmission pipeline that is a scheme pipeline and any other](#) BB transmission pipeline that meets the applicable reporting threshold.

BB production facility means a production facility that meets the applicable reporting threshold.

BB reporting entity means a facility operator registered under this Part as the BB reporting entity for one or more BB facilities.

BB shipper means a person who is, or has a right to be, provided with a service by means of a BB facility including a person who:

- (a) is a party to a contract with a facility operator for a BB facility under which the facility operator provides or intends to provide a service to that person by means of a BB facility;
- (b) has a right under an access determination to be provided with a pipeline service by means of a BB pipeline; or
- (c) a facility operator for a BB facility or any associate of a facility operator for a BB facility who uses or intends to use a service provided by means of the BB facility.

BB storage facility means a gas storage facility that meets the applicable reporting threshold.

BB storage provider means a facility operator for a BB storage facility.

BB terms of use means the terms and conditions on which BB users are granted access to the Bulletin Board and which are set out in the BB Procedures.

BB transmission pipeline means:

- (a) a pipeline that is a transmission pipeline; or
- (b) a pipeline that would be likely to be classified in accordance with the pipeline classification criterion as a transmission pipeline.

Note:

A gathering line is part of a gathering system and as such is excluded from the definition of BB transmission pipeline by reason of paragraph (f) of the definition of “pipeline” in section 2 of the *NGL*. A gathering line that collects coal seam methane will be similarly excluded.

BB user means:

- (a) a BB participant; and
- (b) any other person who accesses information on the Bulletin Board.

Bulletin Board means the Natural Gas Services Bulletin Board.

commissioned means:

- (a) for a BB facility that is not a pipeline, the date when the BB facility is first used on a commercial basis (whether for the benefit of a facility operator of the BB facility or for someone else); and
- (b) for a pipeline, the date the pipeline is commissioned as defined in the *NGL*.

daily capacity means:

- (a) for a production facility, the quantity of natural gas that can be injected into one or more pipelines from the facility on a gas day for the facility;
- (b) for a pipeline, for each direction in which natural gas can be transported on the pipeline, the quantity of natural gas that can be transported through the pipeline on a gas day for the pipeline in that direction;
- (c) for a gas storage facility, each of:
 - (i) the quantity of natural gas that can be withdrawn from the gas storage facility for injection into another facility on a gas day for the gas storage facility;
 - (ii) the quantity of natural gas that the gas storage facility can receive and process into storage on a gas day for the facility; and
 - (iii) the quantity of natural gas that the gas storage facility can hold in storage on a gas day for the facility.

daily flow data means, for a BB pipeline:

- (a) the quantity of natural gas that is metered as having been, or estimated in good faith by the pipeline operator to have been, injected at each receipt point on the pipeline on a gas day; and
- (b) the quantity of natural gas that is metered as having been, or estimated in good faith by the pipeline operator to have been, withdrawn at each delivery point on the pipeline on the gas day.

daily production data means:

- (a) for a BB production facility, the quantity of natural gas that is metered as having been, or estimated in good faith by the facility

operator to have been, injected into one or more pipelines from the production facility on a gas day;

- (b) for a BB storage facility:
 - (i) the quantity of natural gas that is metered as having been, or estimated in good faith by the BB storage provider to have been, withdrawn from the facility on a gas day; and
 - (ii) the quantity of natural gas that is metered as having been, or estimated in good faith by the BB storage provider to have been, injected into the facility on the gas day.

delivery point means a *delivery or receipt point* when it is used for withdrawal (that is, delivery) of natural gas from a pipeline.

detailed facility information has the meaning in rule 169(4).

distribution system means a system of distribution pipelines and associated equipment that supplies natural gas withdrawn from one or more BB pipelines to multiple end users, but excludes a transmission pipeline.

facility operator means for:

- (a) a BB production facility: each producer, user or non-scheme pipeline user who owns, operates or controls the BB production facility;
- (b) a BB transmission pipeline: each service provider or gas market operator for the BB transmission pipeline;
- (c) a BB storage facility: each storage provider for the BB storage facility.

facility operator group is defined in rule 152.

gas day means in respect of a BB facility, the 24 hour period for which nominations are provided, commencing at the time advised by the facility operator under rule 170.

gas storage facility means a facility for storing natural gas for injection into a pipeline.

gate station means a delivery point that serves a distribution system.

LCA flag for:

- (a) a BB pipeline for a gas day means a green, amber or red flag indicating the actual or expected capability of the BB pipeline to meet the aggregated nominations for withdrawals from the BB pipeline for that gas day based on the pipeline's linepack and capacity
- (b) [intentionally left blank].

Note:

The meaning of a green, amber or red flag is specified in the BB Procedures.

lateral gathering pipeline means a pipeline:

- (a) operated as part of an upstream producing operation; and

- (b) used principally to transport natural gas for injection into a BB facility operated as part of the upstream producing operation where that BB facility is not itself a lateral gathering pipeline.

material change means:

- (a) in respect of nameplate rating information for a BB facility, the information is no longer accurate due to changes in the capacity of the BB facility that are likely to impact the BB facility for more than one year;
- (b) [intentionally left blank];
- (c) in respect of a short term capacity outlook for a BB facility, a change to the short term capacity outlook that exceeds the greater of 10% of the nameplate rating of the BB facility and 30 TJ; and
- (d) in respect of information about nominated or forecast use of a service provided by means of a BB facility, a change to the nomination or forecast that exceeds the greater of 10% of the nameplate rating of the BB facility and 30 TJ.

medium term capacity outlook for a BB facility means information about matters expected to affect the daily capacity of the BB facility, for an outlook period of 12 months beyond the current short term capacity outlook provided by the relevant facility operator including the information required under rule 181.

nameplate rating has the meaning given in rule 141(2).

nomination means the natural gas quantities notified by a BB shipper to the relevant facility operator to specify the BB shipper's intended use of a service provided by means of a BB facility for a period of time.

NT application date means the date falling 90 days after the date on which the first NT interconnector is commissioned.

NT interconnector means a transmission pipeline capable of transporting natural gas between a location in the Northern Territory and a location in Queensland, New South Wales or South Australia and that is not a remote pipeline.

Part 18 replacement date means the date on which the rule by which this definition was inserted in the National Gas Rules came into effect.

pipeline operator means a facility operator for a BB pipeline.

primary pipeline capacity means firm capacity on a BB pipeline that is sold by a pipeline operator to a BB shipper, giving the buyer the right to transport an agreed quantity of natural gas on that pipeline for an agreed period.

production facility means a facility at which natural gas is produced so that it is in a form suitable for injection into one or more BB pipelines.

production facility operator means a facility operator for a BB production facility.

receipt point means a *delivery or receipt point* when it is used for injection (i.e. receipt) of natural gas into a pipeline.

registered BB shipper means a BB shipper registered with AEMO under Subdivision 3.5 of Division 3.

remote BB facility means a BB facility that is or is connected to a remote pipeline.

remote pipeline means a transmission pipeline that:

- (a) is not an STTM facility or part of a declared transmission system;
- (b) is not a pipeline on which natural gas sold through the gas trading exchange may be physically delivered or received or through which such natural gas may be transported; and
- (c) is not connected directly or indirectly to a pipeline satisfying paragraph (a) or (b) of this definition.

reporting threshold means:

- (a) in relation to a production facility: that the nameplate rating of the production facility is, or (in the case of a proposed production facility) will be, equal to or more than 10 TJ of natural gas per day;
- (b) in relation to a pipeline: that the nameplate rating of the pipeline is, or (in the case of a proposed pipeline) will be, equal to or more than 10 TJ of natural gas per day;
- (c) in relation to a gas storage facility: that the production nameplate rating of the gas storage facility is, (or in the case of a proposed gas storage facility) will be, equal to or more than 10 TJ of natural gas per day.

responsible facility operator is defined in rule 152.

secondary capacity trading platform means a computer system-supported electronic trading platform that assists buyers and sellers to trade secondary pipeline capacity; but does not include a gas trading exchange that is operated by AEMO, or by another person that AEMO has appointed in accordance with rule 535.

secondary pipeline capacity means capacity on a BB pipeline that is available for sale by a person other than a facility operator of the BB pipeline, giving the buyer the right to transport an agreed quantity of natural gas on that pipeline for an agreed period.

secondary trade data for a BB pipeline means information related to the sale of secondary pipeline capacity derived from a secondary capacity trading platform and collated in accordance with any requirements specified in the BB Procedures.

short term capacity outlook means:

- (a) for a BB facility, on any gas day, the facility operator's good faith estimate of the daily capacity of the BB facility for each of gas days D+1 to D+7;

(b) [intentionally left blank].

STTM facility is defined in Part 20.

TJ means terajoule.

uncontracted primary pipeline capacity means primary pipeline capacity that a pipeline operator has available for sale or that it will have available for sale.

uncontracted storage capacity means in respect of a BB storage facility the combination of:

- (a) the capacity in the BB storage facility;
- (b) the capacity for injection of gas into the BB storage facility; and
- (c) the capacity for withdrawal of gas from the BB storage facility

that a BB storage provider has available for sale or that it will have available for sale.

(2) In this Part the term **nameplate rating**:

(a) when used in the context of:

- (i) a production facility; or
- (ii) a transmission pipeline,

means the maximum daily capacity of the facility under normal operating conditions;

(b) when used in the context of a gas storage facility means each of:

- (i) the maximum quantity of natural gas that can be withdrawn from the gas storage facility for injection into another facility on a gas day under normal operating conditions (the **production nameplate rating**);
- (ii) the maximum quantity of natural gas that the gas storage facility can receive and process into storage on a gas day under normal operating conditions (the **refill nameplate rating**); and
- (iii) the maximum quantity of natural gas that the gas storage facility can hold in storage under normal operating conditions (the **storage nameplate rating**);

(c) when used in the context of a gate station means the maximum quantity of natural gas that can be transported through that gate station on a gas day under normal operating conditions.

(3) In this Part a reference to a quantity of natural gas is to an energy quantity (expressed in whole TJ), rather than a volumetric or other quantity.

(4) In this Part, in relation to a BB reporting entity, a reference to “its” BB facility is a reference to each BB facility for which it is registered as the BB reporting entity.

(5) In this Part, a reference to:

- (a) gas day D is a reference to whichever gas day is designated by the relevant rule;
- (b) gas day D-n is a reference to the gas day occurring n gas days before gas day D; and
- (c) gas day D+n is a reference to the gas day occurring n gas days after gas day D.

142 This Part does not apply in Western Australia

This Part does not apply in Western Australia until the day fixed in an order under section 20A of the National Gas Access (Western Australia) Law within the meaning of the *National Gas Access (WA) Act 2009* of Western Australia.

143 Application to BB facilities located in the Northern Territory

- (1) Until the NT application date, this Part does not apply to:
 - (a) a BB facility in the Northern Territory commissioned on or before the NT application date;
 - (b) [intentionally left blank]
 - (c) [intentionally left blank].
- (2) Until the NT application date, this Part does not apply to:
 - (a) a person in the capacity of facility operator of a BB facility mentioned in subrule (1);
 - (b) [intentionally left blank].
- (3) On and from the NT application date, this Part applies to BB facilities mentioned in subrule (1) and the facility operators mentioned in subrule (2) in the capacity mentioned in that subrule as if each reference in Division 3 to the Part 18 replacement date were a reference to the NT application date.

144 Application to remote BB facilities

- (1) This Part does not apply in respect of:
 - (a) a remote BB facility, for so long as the BB facility is a remote BB facility; or
 - (b) a person in the capacity of facility operator of a remote BB facility, for so long as the BB facility is a remote BB facility.
- (2) This Part applies to a former remote BB facility and a person in the capacity of facility operator of a former remote BB facility as if each reference in Division 3 to the Part 18 replacement date were a reference to the date on which the former remote BB facility ceased to be a remote BB facility.

Division 2 Bulletin Board

145 Purpose of the Bulletin Board

The purpose of the Bulletin Board is to make information available to BB users to facilitate:

- (a) trade in natural gas and natural gas services; ~~and~~
- (b) informed and efficient decisions in relation to the provision and use of natural gas and natural gas services; ~~and~~
- (c) negotiations for access to BB pipelines.

146 Maintaining the Bulletin Board

AEMO must maintain the Bulletin Board in accordance with the *NGL*, the Rules and the BB Procedures.

147 AEMO to maintain BB Register

- (1) AEMO must establish and maintain a register, in the form specified in the BB Procedures, that includes particulars of each:
 - (a) facility operator for each BB facility; and
 - (b) BB facility and its BB reporting entity.
- (2) AEMO must publish the register on the Bulletin Board.
- (3) AEMO must publish a notice on the Bulletin Board of any of the following changes to the register as soon as practicable after it becomes aware of the change:
 - (a) a facility operator is included in the register or removed from the register;
 - (b) a BB facility is included in the register or removed from the register;
 - (c) a change to the identity of the BB reporting entity for a BB facility.
- (4) AEMO must publish a notice on the Bulletin Board of the NT application date as soon as practicable after it becomes aware of the date.

148 Information on compliance

AEMO must, in accordance with any memorandum of understanding established between AEMO and the AER, notify the AER of any breaches, or possible breaches, of this Part that AEMO becomes aware of.

149 Biennial reports

- (1) AEMO must, in consultation with BB users, the AER and the AEMC, prepare a report about the Bulletin Board at least every two years containing the information referred to in subrule (2).
- (2) Reports under subrule (1) must include:

- (a) a summary of AEMO's program of work to maintain the Bulletin Board over the review period and on a forward looking basis;
 - (b) performance and usage statistics;
 - (c) any recommendations for change; and
 - (d) other information that AEMO considers relevant.
- (3) AEMO must publish each report under subrule (1) on its website.

Division 3 Register and registration

Subdivision 3.1 Registration of facility operators and BB facilities

150 Registration obligations of facility operators

- (1) A facility operator who is not already registered under this Part as a facility operator must apply to AEMO to register under this Part in that capacity.
- (2) An application under subrule (1) must be made no later than:
 - (a) in the case of a person who is a facility operator on the Part 18 replacement date: 20 business days after the Part 18 replacement date; and
 - (b) otherwise, 20 business days after the person first becomes a facility operator.

151 Obligation to register BB facilities

- (1) The facility operator for a BB facility must apply to AEMO to:
 - (a) register the BB facility under this Part, if the BB facility is not already registered under this Part; and
 - (b) be registered under this Part as the BB reporting entity for the BB facility.
- (2) An application under subrule (1) must be made no later than:
 - (a) in the case of a BB facility commissioned on or before the Part 18 replacement date: 20 business days after the Part 18 replacement date; and
 - (b) otherwise, 20 business days before the date the BB facility is commissioned.

152 Registration by members of facility operator groups

- (1) If there is more than one facility operator for a BB facility, each facility operator for the BB facility is taken to be a member of a **facility operator group** for that BB facility (the **relevant BB facility**).

- (2) The members of a facility operator group may appoint one of the members in writing to be the **responsible facility operator** for the relevant BB facility for the purposes of this Part.
- (3) A responsible facility operator may apply on behalf of another member of its facility operator group to register that other member under this Part in the capacity of facility operator if the responsible facility operator has the written permission of that member of the facility operator group to do so.

Note:

All members of a facility operator group must apply to register under this Part in the capacity of facility operator. This subrule (3) allows the responsible facility operator to submit an application for a facility operator who is not otherwise registered.

- (4) The responsible facility operator of a facility operator group may apply on behalf of itself and all other members of the facility operator group to:
 - (a) register the relevant BB facility under this Part; and
 - (b) register the responsible facility operator under this Part as the BB reporting entity for the relevant BB facility.
- (5) An application for registration under this Part made by a facility operator in the capacity of responsible facility operator of a facility operator group must contain the information about the facility operator group specified in the BB Procedures.
- (6) If a responsible facility operator has registered as the BB reporting entity for the relevant BB facility, so long as that registration remains in effect:
 - (a) each other member of the facility operator group is exempt from the requirement to register the relevant BB facility and to register as the BB reporting entity for the relevant BB facility;
 - (b) the responsible facility operator is the BB reporting entity for the relevant BB facility;
 - (c) the responsible facility operator must update the information about the facility operator group provided under subrule (5) if there is any change;
 - (d) AEMO may fulfil any of AEMO's obligations under this Part to the members of the facility operator group by performing those obligations in relation to the responsible facility operator; and
 - (e) each member of the facility operator group must procure and where necessary must facilitate, the compliance of the responsible facility operator with its obligations under this Part.

Subdivision 3.2 [Intentionally left blank]

153 [Intentionally left blank.]

154 [Intentionally left blank.]

155 [Intentionally left blank.]

Subdivision 3.3 Change of operator and early registration

156 Change of operator

- (1) If the identity of the facility operator for a BB facility registered under this Part changes:
 - (a) the outgoing facility operator must notify AEMO of the change; and
 - (b) the new facility operator must apply to register under this Part as the BB reporting entity for the BB facility.
- (2) [Intentionally left blank.]
- (3) If the identity of the responsible facility operator for a BB facility changes:
 - (a) the outgoing responsible facility operator must notify AEMO of the change; and
 - (b) the new responsible facility operator must apply to register under this Part as the new BB reporting entity for the BB facility.
- (4) A notice under subrule (1) or (3) must be given no later than 5 business days after the change takes effect.
- (5) An application for registration referred to in subrule (1) or (3) must be made no later than 5 business days after the change takes effect.

Note:

The registered BB reporting entity remains responsible for the provision of information under this Part until the new registration takes effect.

- (6) Subrule (1) does not apply to a change in the identity of a facility operator in its capacity as a member of a facility operator group for a BB facility registered under this Part.

157 Change to facility operator group

- (1) If there is a change to the identity of the members of the facility operator group for a BB facility registered under this Part, the responsible facility operator must notify AEMO of the change.
- (2) [Intentionally left blank.]
- (3) A notice under subrule (1) must be given no later than 5 business days after the change takes effect.

158 Early registration application

- (1) An application to register under this Part may be made:
 - (a) by a person who intends to become a facility operator;
 - (b) in respect of a proposed BB facility; or
 - (c) by a person intending to register as the BB reporting entity for a BB facility.
- (2) If an application provided for in subrule (1) is made in accordance with the requirements of this Part, the registration the subject of the application will take effect from the time determined by AEMO in accordance with the BB Procedures.

Subdivision 3.4 Application process

159 Applications for registration

- (1) An application for registration under this Part must:
 - (a) be in the form specified by AEMO on the Bulletin Board; and
 - (b) contain the information specified by AEMO on the Bulletin Board.
- (2) AEMO may notify an applicant for registration within 5 business days if AEMO considers the application is incomplete or requires clarification.
- (3) If a notice is given under subrule (2) the applicant must, within 5 business days of the notice, provide to AEMO the information required to complete or clarify the application.

160 AEMO to register applicants and their facilities

- (1) AEMO must register an applicant under this Part as facility operator if the applicant has applied for registration in that capacity in accordance with rule 159.
- (2) AEMO must register a BB facility the subject of an application under this Part if an application for registration of the BB facility has been made in accordance with rule 159.
- (3) AEMO must register an applicant under this Part as the BB reporting entity for a BB facility if the applicant has applied for registration in that capacity in accordance with rule 159.
- (4) Where an application for registration is made by an intending operator or intending BB reporting entity or in respect of a proposed BB facility pursuant to rule 158, AEMO may defer the time at which registration takes effect to the time determined by AEMO in accordance with the BB Procedures.

161 Revocation of registration

- (1) A BB participant must apply to AEMO to revoke its registration under this Part if the BB participant is no longer required by this Part to be registered.
- (2) A BB participant must apply to AEMO to revoke the registration under this Part of its BB facility if the BB facility is no longer required by this Part to be registered.
- (3) An application under subrule (1) or (2) must:
 - (a) be in the form specified by AEMO on the Bulletin Board; and
 - (b) contain the information specified by AEMO on the Bulletin Board.
- (4) AEMO must revoke the registration the subject of an application under subrule (1) or (2) if AEMO is satisfied based on the information in the application that the operator or facility is no longer required by this Part to be registered.
- (5) AEMO must revoke the registration of a facility operator as the BB reporting entity for a BB facility when:
 - (a) AEMO has been given a notice under rule 156; and
 - (b) an application has been made to register a new BB reporting entity for the BB facility and the registration has taken effect.

Subdivision 3.5 BB shipper registration and contact details

162 BB shipper registration

- (1) A BB shipper may apply to AEMO to register in that capacity under this Part.
- (2) A registered BB shipper may apply to AEMO to have its registration under this Part revoked.
- (3) An application under subrule (1) or subrule (2) must be in the form and contain the information specified by AEMO on the Bulletin Board.
- (4) AEMO must register a BB shipper or revoke the registration of a registered BB shipper under this Subdivision if the applicant has applied for that registration or revocation in accordance with subrule (3).

163 Provision of contact details

- (1) Each BB participant and each user and non-scheme pipeline user that is a BB shipper must provide AEMO with *contact details* for posting on the Bulletin Board.
- (2) Any other person may provide AEMO with *contact details* for posting on the Bulletin Board.

- (3) *Contact details* provided pursuant to subrule (1) must be provided to AEMO on registration (in the case of a BB participant) and within 20 business days of becoming a BB shipper (in the case of a user or non-scheme pipeline user).
- (4) A person who has provided *contact details* pursuant to subrule (1) or (2) must tell AEMO as soon as reasonably practicable of any changes to those details.
- (5) The BB Procedures may specify the form and content of the *contact details* required or provided pursuant to this rule.

Subdivision 3.6 Exemptions from Division 5

164 Availability and effect of exemptions

- (1) AEMO may grant an exemption from the obligation to provide information under Division 5 in relation to a BB facility where the BB facility is a lateral gathering pipeline and where AEMO is satisfied in its discretion that the information relating to that BB facility is not material having regard to the purpose of the Bulletin Board in rule 145.
- (2) AEMO may grant an exemption from the obligation to provide information under one or more provisions in Division 5 in relation to a BB facility where AEMO is satisfied in its discretion that the information relating to that BB facility will be provided to AEMO by another person under this Part.
- (3) The BB reporting entity for a BB facility the subject of an exemption under subrule (1) is not required to report under Division 5 in relation to the BB facility for so long as the exemption continues.
- (4) The BB reporting entity for a BB facility the subject of an exemption under subrule (2) is not required to report in relation to the BB facility under the provisions in Division 5 to which the exemption applies for so long as the exemption continues.
- (5) The BB reporting entity for a BB facility may apply to AEMO for an exemption under subrule (1) or (2) for the BB facility. The application must be in the form and contain the information specified in the BB Procedures and the applicant must provide to AEMO any further information reasonably requested by AEMO to determine the application.
- (6) AEMO must use reasonable endeavours to determine an application under subrule (5) within 20 business days of all the information requested by AEMO being provided to it.
- (7) An exemption under subrule (1) or (2) must be in writing.
- (8) AEMO may revoke an exemption under subrule (1) or (2) at any time by giving not less than 20 days' notice to the BB reporting entity for the BB

facility if AEMO is satisfied in all the circumstances that the exemption should be revoked.

Division 4 Information standard and related obligations

165 Standard for information or data given under this Part or the BB Procedures

- (1) A BB reporting entity required by a provision of this Part or the BB Procedures to give information or data to AEMO must:
 - (a) prepare and submit that information or data; and
 - (b) if applicable, maintain any equipment from which that information or data is derived,

in accordance with the BB information standard.

Note:

Section 223 of the *NGL* requires a person of the kind mentioned in the section who has possession or control of information in relation to natural gas services to give AEMO the information if the person is required to do so under the Rules. Section 223 is classified as a civil penalty provision.

- (2) The **BB information standard** means the practices, methods and acts that would reasonably be expected from an experienced and competent person engaged in the ownership, operation or control of a BB facility in Australia of that type acting with all due skill, diligence, prudence and foresight and in compliance with all applicable legislation (including these rules), authorisations and industry codes of practice.
- (3) Where this Part or the BB Procedures requires a BB reporting entity to update information or data provided to AEMO, the BB reporting entity must:
 - (a) do so each time facts or circumstances arise that require the information or data to be updated; and
 - (b) notify the updated information or data to AEMO as soon as practicable after the person becomes aware of the facts or circumstances that require the information or data to be updated and within any applicable timeframe specified in the BB Procedures.
- (4) A BB reporting entity required by a provision of this Part or the BB Procedures to update information or data provided to AEMO must:
 - (a) prepare and submit that updated information or data; and
 - (b) if applicable, maintain any equipment from which the updated information or data is derived,in accordance with the BB information standard.
- (5) AEMO is not required to verify the accuracy of information or data provided to AEMO under this Part.

166 Information to be provided in accordance with the BB Procedures

- (1) Where this Part requires a BB reporting entity to provide information to AEMO, the information must be provided by the BB reporting entity by the time specified in the BB Procedures.

Note:

Section 223 of the *NGL* requires the information referred to in the section to be given to AEMO in accordance with the Rules. Section 223 is classified as a civil penalty provision.

- (2) Where this Part requires a BB reporting entity to provide information to AEMO, the information must be provided by the BB reporting entity in the manner and form specified in, and otherwise in accordance with, the BB Procedures.

Note:

Section 223 of the *NGL* requires the information referred to in the section to be given to AEMO in accordance with the Rules. Section 223 is classified as a civil penalty provision.

- (3) The BB Procedures may require information about a gas day referred to in Subdivision 5.4 or Subdivision 5.5 of Division 5 to be provided in advance of that gas day.
- (4) A BB participant that provides comments in the free text facility on the Bulletin Board must comply with any restrictions specified in the BB Procedures relating to the use of the free text facility.

167 Use of default values

- (1) Where provided for in this Part, the BB Procedures may provide for:
 - (a) a BB reporting entity to be exempt from the obligation to provide an item of information under this Part in respect of a BB facility in specified circumstances; and
 - (b) the default value that will be used in place of the relevant item of information.
- (2) The obligations under this Part to update information apply to default values determined under the BB Procedures as if the BB reporting entity had provided the information to AEMO.

Division 5 Information to be provided by BB reporting entities

Subdivision 5.1 Nameplate ratings and detailed facility information

168 Nameplate rating information

- (1) A BB reporting entity must provide to AEMO:

- (a) the nameplate rating of each of its BB facilities; and
 - (b) information about any planned permanent capacity reduction or expansion due to modification of the BB facility, the nameplate rating that is expected to result and the time the modification is expected to take effect.
- (2) In addition to the information under subrule (1), a BB reporting entity for a BB pipeline must provide to AEMO:
- (a) the nameplate rating for each gate station owned, controlled or operated by the BB reporting entity and connected to the BB pipeline;
 - (b) for each gate station connected to the BB pipeline which is not owned, controlled or operated by the BB reporting entity:
 - (i) the name of the person who owns, controls or operates the gate station; and
 - (ii) the nameplate rating of the gate station if that nameplate rating has been provided to a facility operator for the BB pipeline by the person who owns, controls or operates the gate station; and
 - (c) information about any planned permanent capacity reduction or expansion due to modification of each such gate station, the nameplate rating that is expected to result and the time the modification is expected to take effect.
- (3) The BB reporting entity must provide the information specified in subrule (1) and (where applicable) subrule (2) to AEMO:
- (a) on registration of the BB facility; and
 - (b) annually, by the date specified in the BB Procedures.
- (4) A BB reporting entity must update the information provided under subrule (1) for its BB facility if there is a material change.
- (5) A BB reporting entity for a BB pipeline must update the information provided under subrule (2)(a) or (2)(b) for the BB pipeline if that information is no longer accurate.

169 Detailed facility information for all BB facilities

- (1) A BB reporting entity must provide to AEMO the detailed facility information for each of its BB facilities.
- (2) The BB reporting entity must provide the detailed facility information specified in subrule (1) to AEMO on registration.
- (3) A BB reporting entity must update the detailed facility information provided under subrule (1) for its BB facility if the information is no longer accurate.
- (4) In this rule the term **detailed facility information**:

- (a) when used in the context of a BB transmission pipeline, means:
 - (i) all *receipt or delivery points* on that pipeline and any production facilities, gas storage facilities or transmission pipelines to which those *receipt or delivery points* connect; and
 - (ii) all gate stations on that pipeline;
- (b) when used in the context of:
 - (i) a production facility; or
 - (ii) a gas storage facility,means each pipeline to which the BB facility is connected and the *receipt or delivery points* at which the BB facility is connected.

170 Gas day start times for all BB facilities

- (1) A BB reporting entity must provide to AEMO the time at which the gas day starts for each of its BB facilities (e.g. 6am EST).
- (2) If the start time for the gas day for a BB facility provided to AEMO under subrule (1) changes, the BB reporting entity must notify AEMO of the updated information as soon as practicable.

Subdivision 5.2 [Intentionally left blank]

171 [Intentionally left blank.]

Subdivision 5.3 Pipeline and storage capacity bookings

172 Information about BB shippers with primary pipeline capacity

- (1) A BB reporting entity must, for each of its BB pipelines, provide to AEMO a list of BB shippers who have contracted primary pipeline capacity on the BB pipeline.
- (2) A BB reporting entity must update the information provided under subrule (1) for its BB pipeline if the information is no longer accurate.
- (3) Subrule (1) does not apply to a BB reporting entity in its capacity as the BB reporting entity for a declared transmission system.

173 [Intentionally left blank.]

174 Secondary trade data for BB pipelines

- (1) A BB reporting entity must provide to AEMO the secondary trade data for each of its BB pipelines that is:
 - (a) listed on a secondary capacity trading platform that the BB reporting entity or a member of the facility operator group for the relevant BB facility owns, operates or controls; or

- (b) listed on a secondary capacity trading platform and the BB reporting entity or a member of a facility operator group for the relevant BB facility is provided with the secondary trade data by the person who owns, operates or controls the secondary capacity trading platform.

Note:

Under rule 152(6)(e), each member of a facility operator group must procure and where necessary must facilitate, the compliance of the responsible facility operator with its obligations under this Part.

- (2) The BB reporting entity must provide the information specified in subrule (1) to AEMO each week for the immediately preceding week.

175 12 month outlook of uncontracted primary pipeline capacity

- (1) A BB reporting entity must provide to AEMO, for each of its BB pipelines, an outlook of uncontracted primary pipeline capacity on the BB pipeline for each of the next 12 months.
- (2) The BB reporting entity must provide the information specified in subrule (1) to AEMO each month, by the date determined under the BB Procedures.
- (3) Subrule (1) does not apply to a BB reporting entity in its capacity as the BB reporting entity for a declared transmission system.

176 [Intentionally left blank.]

177 12 month outlook of uncontracted storage capacity

- (1) A BB reporting entity must provide to AEMO, for each of its BB storage facilities, an outlook of uncontracted storage capacity in the BB storage facility for each of the next ~~12~~36 months.
- (2) The BB reporting entity must provide the information referred to in subrule (1) to AEMO each month, by the date determined under the BB Procedures.

Subdivision 5.4 Short term and medium term capacity outlooks

178 Short term capacity outlooks for BB facilities

- (1) A BB reporting entity must provide to AEMO a short term capacity outlook for each of its BB facilities.
- (2) The BB reporting entity must provide the information specified in subrule (1) to AEMO each gas day, except in circumstances where, in accordance with rule 167, the BB Procedures permit the BB reporting entity to rely on an exemption and the use of default values for a gas day.
- (3) A BB reporting entity must update the information it has provided under subrule (1) for a gas day if there is a material change and must do so as soon as practicable in accordance with rule 165(3).

179 Linepack/capacity adequacy indicator for all BB pipelines

- (1) A BB reporting entity must provide to AEMO the LCA flag for each of its BB pipelines.
- (2) The BB reporting entity must provide the LCA flag in respect of each gas day D for gas days D to D+2, except in circumstances where, in accordance with rule 167, the BB Procedures permit the BB reporting entity to rely on an exemption and the use of default values for a gas day.
- (3) A BB reporting entity must update the current LCA flag for a BB pipeline for a gas day if at any time the LCA flag for the gas day no longer reflects the actual or expected capability of the BB pipeline to meet the aggregated nominations for withdrawals from the BB pipeline on that gas day.

180 [Intentionally left blank.]

181 Medium term capacity outlooks for BB facilities

- (1) A BB reporting entity must provide to AEMO a medium term capacity outlook for each of its BB facilities.
- (2) The BB reporting entity must provide the information referred to in subrule (1) to AEMO on each day that the information is provided to BB shippers by a facility operator for the BB facility, except in circumstances where, in accordance with rule 167, the BB Procedures permit the BB reporting entity to rely on an exemption and the use of default values for a gas day.
- (3) A medium term capacity outlook provided to AEMO in accordance with this rule must identify the BB facility to which the outlook relates and must contain the following information:
 - (a) the expected start and end dates of the matters expected to affect the daily capacity of the BB facility;
 - (b) a description of the matters expected to affect the daily capacity of the BB facility; and
 - (c) the expected daily capacity of the BB facility during the period it is affected by the matters referred to in paragraphs (a) and (b).

Subdivision 5.5 Nominated and forecast use of storage and pipelines

182 Nominated and forecast use of BB storage facilities

- (1) Subject to subrule (2), a BB reporting entity must, in respect of each of its BB storage facilities, provide to AEMO in respect of each gas day D:
 - (a) the aggregate quantity of natural gas nominated by BB shippers to be injected into the BB storage facility for the gas day;
 - (b) the aggregate quantity of natural gas nominated by BB shippers to be withdrawn from the BB storage facility for the gas day;

- (c) the aggregate quantity of natural gas forecast by BB shippers to be injected into the BB storage facility for gas day D+1 to gas day D+6 if BB shippers using the BB storage facility have provided forecast quantities under contract or applicable market rules; and
 - (d) the aggregate quantity of natural gas forecast by BB shippers to be withdrawn from the BB storage facility for gas day D+1 to gas day D+6 if BB shippers using the BB storage facility have provided forecast quantities under contract or applicable market rules.
- (2) Subrule (1) does not apply to a BB storage facility which is used solely as part of a production facility.
 - (3) A BB reporting entity must update the information it has provided to AEMO under subrule (1) if there is a material change and must do so as soon as practicable in accordance with rule 165(3).

183 Nominated and forecast delivery information for BB pipelines

- (1) A BB reporting entity must, in respect of each of its BB pipelines (other than a BB pipeline forming part of a declared transmission system), provide to AEMO in respect of each gas day D:
 - (a) the nominations for injections into the BB pipeline for the gas day aggregated at each receipt point;
 - (b) the nominations for withdrawals from the BB pipeline for the gas day aggregated at each delivery point;
 - (c) the forecast injections into the BB pipeline for gas day D+1 to gas day D+6 aggregated at each receipt point if BB shippers on the BB pipeline have provided forecast receipt point nominations under contract or applicable market rules; and
 - (d) the forecast withdrawals from the BB pipeline for gas day D+1 to gas day D+6 aggregated at each delivery point if BB shippers on the BB pipeline have provided forecast delivery point nominations under contract or applicable market rules.
- (2) A BB reporting entity for a BB pipeline forming part of a declared transmission system must provide to AEMO in respect of each gas day D, for each controllable system point on, and connected to, the declared transmission system:
 - (a) the aggregated scheduled injections for the gas day;
 - (b) the aggregated scheduled withdrawals for the gas day;
 - (c) the forecast aggregated scheduled injections for gas days D+1 and D+2; and
 - (d) the forecast aggregated scheduled withdrawals for gas days D+1 and D+2.

- (3) In subrule (2) and this subrule (3), a **controllable system point** is a system point at which injections or withdrawals (or both) of controllable quantities may be made and the following terms have the meaning given in Part 19: controllable quantity, scheduled injection, scheduled withdrawal, system point.
- (4) For the avoidance of doubt the information provided under subrule (1) is to be based only on information provided by BB shippers and does not represent the BB reporting entity's forecast.
- (5) For the purposes of this rule, the BB Procedures may specify the default directions which are to be assigned to natural gas flows for each BB pipeline and the manner in which reverse flows of natural gas are to be treated.
- (6) The obligation of a BB reporting entity under subrule (1) or (2) to provide information is taken to be satisfied for a gas day in circumstances where, in accordance with rule 167, the BB Procedures permit the BB reporting entity to rely on an exemption and the use of default values for that gas day.
- (7) A BB reporting entity must update the information it has provided to AEMO under subrule (1) or (2) if there is a material change and must do so as soon as practicable in accordance with rule 165(3).

184 [Intentionally left blank.]

185 Nominated and forecast use of production facilities

- (1) A BB reporting entity must, in respect of each of its BB production facilities, provide to AEMO in respect of each gas day D:
 - (a) the aggregate nominations for injections into one or more BB pipelines from the production facility for the gas day; and
 - (b) the aggregate forecasts for nominations for injections into one or more BB pipelines from the production facility for gas day D+1 to gas day D+6, if BB shippers have provided forecast nominations under contract or applicable market rules.
- (2) For the avoidance of doubt the information provided under subrule (1) is only based on information provided by BB shippers and does not represent the BB reporting entity's forecast.
- (3) The obligation of a BB reporting entity under subrule (1) to provide information is taken to be satisfied for a gas day in circumstances where, in accordance with rule 167, the BB Procedures permit the BB reporting entity to rely on an exemption and the use of default values for that gas day.
- (4) A BB reporting entity must update the information it has provided to AEMO under subrule (1) if there is a material change and must do so as soon as practicable in accordance with rule 165(3).

Subdivision 5.6 Actual production and flow data

186 Basis of calculation

The information to be provided to AEMO under this subdivision is to be determined by the BB reporting entity on the basis of operational metering data or as specified in the rule under which the information is required to be provided.

Note:

The information provided to AEMO under this Subdivision is not intended to be of settlements quality.

187 Daily flow data for BB pipelines

- (1) Each gas day D a BB reporting entity must provide to AEMO the daily flow data for each of its BB pipelines (other than BB pipelines forming part of a declared transmission system) for gas day D-1.
- (2) Each gas day a BB reporting entity for a BB pipeline forming part of a declared transmission system must provide to AEMO the actual injections and withdrawals of natural gas at each receipt point, delivery point and transfer point on the declared transmission system on the basis of operational metering and as metered at any relevant connection point to the declared transmission system for gas day D-1.
- (3) In subrule (2), the following terms have the meaning given in Part 19: connection point, actual injection, delivery point, receipt point, system point and transfer point.
- (4) A BB reporting entity must update the information provided under subrule (1) or (2) for its BB pipeline if the information is no longer accurate.

188 Daily production and storage data

- (1) Each gas day D, a BB reporting entity must provide to AEMO:
 - (a) the daily production data for each of its BB production facilities for gas day D-1;
 - (b) the daily production data for each of its BB storage facilities for gas day D-1; and
 - (c) the actual quantity of natural gas held in each of its BB storage facilities at the end of gas day D-1.
- (2) A BB reporting entity must update the information provided under subrule (1) for its BB facility if the information is no longer accurate.

189 [Intentionally left blank.]

190 [Intentionally left blank.]

Division 6 Other information

191 BB Participants may indicate spare capacity available for purchase or capacity requirements

- (1) At any time, a BB participant may notify other BB users that it has spare capacity in a BB facility for purchase by providing details of the spare capacity to AEMO in the form required by the BB Procedures.
- (2) At any time, a BB participant may notify other BB users that it wishes to purchase spare capacity in a BB facility by providing details of the capacity it wishes to purchase to AEMO in the form required by the BB Procedures.
- (3) For the avoidance of doubt, a notice given under subrule (1) or (2) and posted on the Bulletin Board by AEMO is an invitation to treat and not an offer capable of acceptance by another person.

192 BB participants may indicate gas available for purchase or gas requirements

- (1) At any time, a BB participant may notify other BB users that it has natural gas available for purchase by providing details of the natural gas available for purchase to AEMO in the form required by the BB Procedures.
- (2) At any time, a BB participant may notify other BB users that it wishes to purchase natural gas by providing details of the natural gas it wishes to purchase to AEMO in the form required by the BB Procedures.
- (3) For the avoidance of doubt, a notice given under subrule (1) or (2) and posted on the Bulletin Board by AEMO is an invitation to treat and not an offer capable of acceptance by another person.

Division 7 Publication of information by AEMO

193 Publication of information by AEMO

Except where provided to the contrary in the Rules, information that AEMO is required to publish on the Bulletin Board under this Division 7, must be published by AEMO on the Bulletin Board in the time and manner specified in the BB Procedures.

194 Publication of information provided to AEMO under Division 5

- (1) Subject to subrule (2), AEMO must publish on the Bulletin Board the information provided to AEMO by BB reporting entities in accordance with the obligations of BB reporting entities under Division 5.
- (2) AEMO must not:
 - (a) publish on the Bulletin Board information about nominations and forecasts provided to AEMO under rule 183, unless the information is published in aggregated form in accordance with this rule; or
 - (b) publish information about actual flows for gas day D provided to AEMO under Subdivision 5.6 of Division 5 before gas day D+1.
- (3) AEMO must publish on the Bulletin Board in respect of each gas day D based on the information about nominations and forecasts provided to AEMO under rule 183:
 - (a) for BB pipelines, nominated injections and withdrawals of natural gas for the gas day aggregated in accordance with the aggregation method referred to in subrule (4); and
 - (b) for BB pipelines, forecast injections and withdrawals of natural gas for gas day D+1 to gas day D+6 aggregated in accordance with the aggregation method referred to in subrule (4).
- (4) AEMO must determine and may amend from time to time an aggregation method to be used by AEMO for subrule (3) which so far as practicable:
 - (a) makes the data provided to AEMO available to BB users only as a representation of the direction and quantity of gas flows in BB pipelines; and
 - (b) does not directly or indirectly disclose a nomination made by a market generating unit as defined in the National Electricity Rules.
- (5) AEMO must publish on the Bulletin Board an overview of the aggregation method used by AEMO for subrule (3).

195 Publication of representation of actual flows

- (1) In addition to AEMO's obligation under rule 194(1), AEMO must also publish on the Bulletin Board in respect of each gas day D, based on the data provided to AEMO under Subdivision 5.6 of Division 5:
 - (a) the daily flow data for each BB pipeline aggregated to provide a representation of the direction and quantity of gas flows in BB pipelines on the gas day; and
 - (b) data about demand for natural gas aggregated to provide a representation of demand in different locations within demand categories determined by AEMO.

- (2) AEMO must determine and may amend from time to time the aggregation methods used by AEMO for subrule (1) and must publish on the Bulletin Board an overview of the aggregation methods.

Division 8 Access to the Bulletin Board

196 BB users bound by terms of use

Each and every time a person accesses the Bulletin Board, that person is deemed to agree to the BB terms of use.

197 BB user requests access to archive information (Section 222 of the NGL)

- (1) A BB user may request AEMO to provide it with any information that was previously but is not, at the time of the request, published on the Bulletin Board.
- (2) If practicable, AEMO must provide the service requested under subrule (1) and, unless it determines otherwise, charge the BB user an information retrieval fee for providing the service.
- (3) For the purposes of subrule (2), AEMO must publish on the Bulletin Board a schedule of information retrieval fees which must be calculated on the basis of recovering only the costs incurred in processing requests.
- (4) AEMO may use the *expedited consultation procedure* or any other consultation procedure it determines is appropriate in all the circumstances (including but not limited to the *standard consultative procedure*) to consult with BB participants with respect to the formulation of the schedule of information retrieval fees.

Note:

See rules 8 & 9

Schedule 2 Amendment to the National Gas Rules

~~(Clause 4)~~

(Clause 4)

[1] Subrule 135CC(1) Components of participant fees

In subrule 135CC(1)(e), omit ".", substitute ";".

[2] Subrule 135CC(1) Components of participant fees

After subrule 135CC(1)(e), insert:

- (f) fees to recover AEMO's costs of operating and maintaining the Bulletin Board in accordance with Part 18.

[3] Subrule 135CC(2) Components of participant fees

Omit note 1, substitute "[Deleted]".

[4] Rule 141 Interpretation

In rule 141(1), omit the definitions "actual BB costs", "default interest rate", "interest rate", and "total estimated BB costs".

[5] Division 9 of Part 18 Cost recovery by AEMO in respect of access to the Bulletin Board (Section 222 of the NGL)

Omit the heading in Division 9 of Part 18, and substitute "[Deleted]".

[6] Rule 188 Calculation of BB operating costs

Omit rule 188, and the heading, and substitute "[Deleted]".

[7] Rule 189 Total estimated BB costs

Omit rule 189, and the heading, and substitute "[Deleted]".

[8] Rule 190 AEMO to maintain records of costs

Omit rule 190, and the heading, and substitute "[Deleted]".

[9] Rule 191 Basis for recovery of BB operating costs

Omit rule 191, and the heading, and substitute "[Deleted]".

[10] Rule 192 BB Procedures may specify certain matters with respect to the formulae in rules 189 and 191

Omit rule 192, and the heading, and substitute "[Deleted]".

[11] Rule 193 Recovery of BB operating costs

Omit rule 193, and the heading, and substitute "[Deleted]".

Schedule 3 Savings and Transitional Amendments to the National Gas Rules

~~(Clause 5)~~

(Clause 5)

[1] Schedule 1 Transitional Provisions

In Schedule 1, after Part 9, insert:

Part 10 Transitional provisions consequent on the National Gas Amendment (Improvements to Natural Gas Bulletin Board) Rule 2017 No 3

51 Definitions

For the purposes of this Part 10:

Amending Rule means the *National Gas Amendment (Improvements to Natural Gas Bulletin Board) Rule 2017 No 3*.

new Part 18 means Part 18 as amended by the Amending Rule.

new BB Procedures means BB Procedures developed and made for the purposes of new Part 18.

52 New BB Procedures

AEMO must in accordance with Part 15B develop and publish the new BB Procedures by 30 April 2018.

[END OF RULE AS MADE]
