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Australian Energy Market Commission

## **RULE DETERMINATION**

# NATIONAL GAS AMENDMENT (STTM INTERFACE PROTOCOL) RULE 2019

### **PROPONENT**

Australian Energy Market Operator

21 NOVEMBER 2019

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# RULE

## INQUIRIES

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## ABOUT THE AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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## SUMMARY

- 1 The Australian Energy Market Commission (AEMC or Commission) has made a rule that streamlines the process of consultation required to make changes to the Short Term Trading Market Interface Protocol (STTM Interface Protocol).
- 2 As a result, the Australian Energy Market Operator (AEMO) will be able to carry out consultations on related changes to the STTM Interface Protocol and STTM Procedures under one process. The use of one process will improve the effectiveness and efficiency of consultation and reduce the administrative burden on AEMO and market participants when considering changes to the STTM Interface Protocol and STTM Procedures. Any resulting cost savings will ultimately be passed onto consumers.
- 3 The Commission expects that the new consultation requirements will still enable market participants to engage with AEMO effectively in its decision-making process without the need to engage in duplicative processes over a longer period.
- 4 The Commission assessed the rule change request under an expedited rule change process on the basis that it was a request for a non-controversial rule.
- 5 The rule will commence operation on 28 November 2019.

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# 1 AEMO'S RULE CHANGE REQUEST

## 1.1 The rule change request

On 31 July 2019, the Australian Energy Market Operator (AEMO) made a request to the Australian Energy Market Commission (AEMC or Commission) to make a rule regarding processes of consultation for the Short Term Trading Market Interface Protocol (STTM Interface Protocol) to use the consultation process for changes to the STTM Procedures. This would enable consultation on related changes to be carried out under one process.

The AEMC considered the rule change as being non-controversial, and as a result, it was assessed under an expedited rule change process.<sup>1</sup> No requests objecting to an expedited rule change process were received.

## 1.2 Current arrangements

### 1.2.1 The short term trading market

The Short Term Trading Market (STTM) is a market for the trading of natural gas at the wholesale level at three defined hubs — Sydney, Adelaide and Brisbane. It is a balancing market where the market participants adjust their positions on a short term basis.

Based on scheduled withdrawals from users and offers by shippers to deliver gas, AEMO sets a day ahead clearing price at each hub. The market provides incentives for participants to schedule accurately through the use of deviation charges and payments.

The STTM co-exists with the existing operational arrangements of the relevant pipelines. These pipelines operate under a contract carriage model where market participants must separately contract for pipeline capacity (that is, capacity is not allocated through the market) to transport gas to end-users.

While AEMO operates the market, it has no involvement in how production facilities, transmission pipelines, storage facilities, and distribution pipelines are operated.

### 1.2.2 Governance of the STTM

The National Gas Law (NGL) sets the STTM framework and functions of AEMO in the STTM. Under the NGL, making the STTM Procedures is one of AEMO's STTM functions.<sup>2</sup>

Rules for participation in, and operation of, the STTM are set out in Part 20 of the National Gas Rules (NGR). Under the NGL and NGR, AEMO is responsible for making and amending the STTM Procedures, which cover matters of a technical and procedural nature relating to the STTM. This includes establishing the STTM Interface Protocol to govern the provision of communications in the market. Together, these instruments set the framework and rules for participation in, and operation of, the STTM at each location.

The process by which AEMO makes and amends the STTM Procedures is specified in Part 15B of the NGR.

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1 Section 304 of the NGL.

2 Section 91BRB of the NGL.

### 1.2.3 What is the STTM Interface Protocol?

In accordance with the NGR, AEMO must establish the STTM Interface Protocol which must describe the requirements of the provision of communications between market participants and also with AEMO in the STTM.<sup>3</sup> "Communication" is defined as "any information, notice, request, bid, offer, or other submission or communication to be given by AEMO or any other person under this Part".<sup>4</sup> The STTM Interface Protocol may specify details to be included in a communication, in addition to those specified in Part 20 of the NGR and in the STTM Procedures.<sup>5</sup>

All communications made under Part 20 of the NGR must comply with requirements of the STTM Interface Protocol, including the form, manner and timing by which communications are carried out, unless expressly stated otherwise by the NGR or if AEMO permits a communication made to it to be non-compliant. Non-compliant communications can also be rejected by AEMO.<sup>6</sup>

AEMO must amend the STTM Interface Protocol in accordance with the standard consultative procedure under rule 8 of the NGR or the expedited consultative procedure under rule 9 of the NGR.<sup>7</sup>

### 1.2.4 STTM Interface Protocol and Procedures consultation processes

While the STTM Interface Protocol and STTM Procedures both relate to the operation of the STTM, changes to these instruments are currently made through the use of different consultation processes.

Rule 368(2) of the NGR states that AEMO may amend the STTM Protocol after consulting with specified groups of stakeholders including, trading participants, STTM facility operators, STTM distributors and allocation agents in accordance with the standard or expedited consultation procedures, which are set out in rules 8 and 9 of the NGR respectively.

Rules 135EE and 135EF in Part 15B of the NGR describe the ordinary and expedited processes for amending STTM Procedures. Part 15B sets out the processes for amending all Procedures under the NGR.<sup>8</sup>

The key differences between the two standard processes for consultation in relation to changes to each of the STTM Protocol and Procedures relate to requirements around the publication of notices. Specifically, consultation on the STTM Protocol under rule 8 of the NGR has the additional requirements for AEMO to publish a notice on its website and in a newspaper distributed through Australia, and invite written submissions to identify changes to the initial proposal. In contrast, the process for the STTM Procedures requires publication of a notice on AEMO's website only.

<sup>3</sup> Rule 368(1) of the NGR.

<sup>4</sup> Rule 368(6) of the NGR

<sup>5</sup> Rule 368(4) of the NGR.

<sup>6</sup> Rule 368(5) of the NGR.

<sup>7</sup> Rule 368(2) of the NGR.

<sup>8</sup> Rule 135E of the NGR.

The key difference between the two expedited processes relates to timing requirements around the publication of the final report. For the STTM Procedures, AEMO must, after the closing date for submissions, confirm, amend, defer or reject the proposal. In contrast, the change process for the STTM Interface Protocol requires AEMO to make a final decision within twenty business days after the end of the period for making submissions.

### 1.3 Rationale for the rule change request

AEMO stated that the different consultation processes currently required for changing the STTM Interface Protocol and STTM Procedures create duplication.<sup>9</sup> Its rule change request seeks to remove this duplication.

### 1.4 Solution proposed in the rule change request

AEMO proposed in its rule change request to remove the requirement to adhere to the standard consultative process when amending the STTM Interface Protocol under rules 8 and 9 of the NGR and replace it with a requirement to follow the consultation process for the STTM Procedures set out in Part 15B, rules 135EE and 135EF, of the NGR.

In suggesting that the consultation process for amendments to the Protocol and the Procedures be the same, AEMO anticipates that future consultations could be packaged together and conducted as one process.

AEMO noted that in changing the consultation process for the STTM Interface Protocol, the obligation to consult with the wider public (via a notice published in a nationally circulated newspaper) will no longer be required.<sup>10</sup> AEMO considered that the step is not currently adding value to the consultation process and, therefore, its removal is not expected to have any adverse consequences for the market. However, AEMO intends to continue to publish notices of consultation on its website and inform participants of consultations opening for comment via email.

In AEMO's view, these proposed amendments will allow for continued transparency within the market by providing a consistent consultation process for both the STTM Protocol and STTM Procedures. It also claimed that the proposed changes would reduce the administrative burden on AEMO and market participants, with cost savings ultimately being passed onto consumers.

AEMO has indicated that the proposed rule, if made, may see minor consequential changes to its internal business processes. The rule change request included suggested drafting of the proposed rule, which amended rule 368 of the NGR.

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<sup>9</sup> AEMO, rule change request, p. 4.

<sup>10</sup> AEMO, rule change request, p. 4.

## 1.5 The rule making process

On 26 September 2019, the Commission published a notice advising of its commencement of the rule making process and consultation in respect of the rule change request.<sup>11</sup> A consultation paper identifying specific issues for consultation was also published. Submissions closed on 24 October 2019. No submissions were received.

The Commission considered that the rule change request was a request for a non-controversial rule as defined in s. 290 of the NGL.

Accordingly, the Commission commenced an expedited rule change process, subject to any written requests not to do so. The closing date for receipt of written requests was 10 October 2019.

No requests objecting to an expedited rule change process were received. Accordingly, the rule change request was considered under an expedited process.<sup>12</sup>

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<sup>11</sup> This notice was published under s. 303 of the National Gas Law (NGL).

<sup>12</sup> Section 290 of the NGL.

## 2 FINAL RULE DETERMINATION

### 2.1 The Commission's final rule determination

The Commission's final rule determination is to make the final rule as proposed by AEMO. A description of the rule is in section 2.4. It will commence on 28 November 2019.

The Commission's reasons for making this final rule determination are set out in section 2.5.

This chapter outlines:

- the rule making test for changes to the NGR
- the assessment framework for considering the rule change request
- an outline of the final rule
- the Commission's consideration of the final rule against the national gas objective

Further information on the legal requirements for making this final rule determination is set out in Appendix A.

### 2.2 Rule making test

#### 2.2.1 Achieving the NGO

The Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national gas objective (NGO).<sup>13</sup>

The NGO is:<sup>14</sup>

to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, safety, reliability and security of supply of natural gas.

### 2.3 Assessment framework

In assessing the rule change request against the NGO the Commission has considered the following principles:

- **Efficiency and impact on costs:** The Commission has considered whether streamlining the STTM Procedure and STTM Interface Protocol consultation processes will reduce the administrative burden on AEMO and market participants.
- **Regulatory and resourcing burden:** The Commission has considered whether the proposed rule will produce benefits to AEMO and market participants that exceed the costs of implementation incurred by AEMO and market participants.
- **Effective consultation:** The Commission has considered whether consolidating the consultation processes will enable market participants to engage with AEMO effectively in its decision-making process.

<sup>13</sup> Section 291(1) of the NGL.

<sup>14</sup> Section 23 of the NGL.

## 2.4 Outline of the rule

The final rule made by the Commission is published with this final rule determination. The final rule:

- removes the requirement in rule 368(2) of the NGR for AEMO to follow the standard and expedited consultation processes, as outlined in rules 8 and 9 of the NGR respectively, when amending the STTM Interface Protocol, and
- instead, requires AEMO to make amendments to the STTM Interface Protocol, and consult on such amendments, in accordance with rules 135ED to 135EG.

In addition to these amendments, the final rule also inserts the following new subrules:

- 368(2)(a) to clarify that references to Procedures in rules 135ED to 135EF are to be read as references to the STTM interface protocol; and
- 368(2)(b) to clarify that the references to 'any other person', 'Registered participants and other interested persons' and 'Registered participants or BB participants' are each to be read as references to 'Trading Participants, STTM facility operators, STTM distributors and allocation agents'.

The addition of subrules (2)(a) and (2)(b) are to clarify that for the purpose of rule 368, 'Trading Participants, STTM facility operators, STTM distributors and allocation agents' will be caught by the definitions in rules 135ED to 135EG, which currently do not specifically include these parties.

## 2.5 Summary of reasons

The final rule made by the Commission is published with this final rule determination. The final rule is that the administrative consultation process required to be undertaken by AEMO for amendments to the STTM Interface Protocol and STTM Procedures will be the same.

The final rule is largely the same as the proposed rule. The final rule achieves the same objective as the proposed rule, which is to align the consultation processes for the STTM Interface Protocol with the STTM Procedures. However, the final rule clarifies that consultation on the STTM Interface Protocol will continue to require the engagement of specific parties, including Trading Participants, STTM facility operators, STTM distributors and allocation agents, which may not have otherwise been captured by the wording in rules 135ED to 135EF and to ensure that AEMO has the ability to extend the consultation dates (if required) in accordance with rule 135EG.

Having regard to the issues raised in the rule change request, the Commission is satisfied that the final rule will, or is likely to, contribute to the achievement of the NGO because it:

- improves the effectiveness and efficiency of consultation processes
- reduces the regulatory and administrative burden on AEMO and market participants.

### **2.5.1 Improve the effectiveness of the consultation process**

The Commission considers that the final rule will improve the effectiveness and efficiency of the consultation carried out in order to make changes to the STTM Interface Protocol and STTM Procedures.

The rule will allow AEMO to use a consistent and well-established process to make changes to the STTM Protocol and Procedures. This is expected to support market participants to engage in consultations by providing a clear and singular pathway to participation in consultations. As a result, the rule is expected to provide transparency in the management of information during the consultation process and improve access to decision-making processes.

Ultimately, market participants and AEMO will now be able to consider changes to the STTM Procedures and Protocol during the same consultation process, resulting in increased effectiveness of consultation and decision-making processes.

### **2.5.2 Reduces the regulatory and administrative burden on AEMO and market participants**

The final rule is expected to deliver administrative efficiencies in the process of consultation as it will avoid duplication in consultation processes on the part of AEMO and market participants. In particular, allowing AEMO to consolidate the consultation processes will remove time and resourcing burdens on participants and AEMO.

In addition, removing the requirement for AEMO to publish a notice in nationally circulated newspaper and invite written submissions to identify changes to the initial proposal, separately to consultations on Procedures, will lower the costs for AEMO to carry out consultation.

As AEMO intends to continue to publish notices of consultation on its website and inform participants of consultations opening for comment via email, the removal of the requirement to publish a newspaper notice is not anticipated to impact participant's ability to engage in the consultation process. This change should enhance the use of AEMO's resources in notifying and carrying out consultations, which is in the long-term interest of gas consumers.

The costs of changes to AEMO's internal business processes to give effect to the rule change are unlikely to be material.

### **2.5.3 Conclusions**

The Commission concludes that consolidating the consultation processes for the STTM Procedures and STTM Interface Protocol will improve the effectiveness and efficiency of the consultation process, with little to no administrative or cost burden. Therefore, the final rule may lower the overall cost in the administration of consultation processes and is consistent with promoting the effective delivery of gas services in the long-term interests of consumers.

## ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO Commission	Australian Energy Market Operator See AEMC
NGL	National Gas Law
NGR	National Gas Rules
NGO	National gas objective
STTM	Short Term Trading Market

## A LEGAL REQUIREMENTS UNDER THE NGL

This appendix sets out the relevant legal requirements under the NGL for the AEMC to make this final rule determination.

### A.1 Final rule determination

In accordance with s. 311 of the NGL the Commission has made this final rule determination in relation to the rule proposed by the rule change proponent, AEMO.

The Commission's reasons for making this final rule determination are set out in section 2.5.

A copy of the final rule is published with this final rule determination. The rule is described in section 2.4.

### A.2 Power to make the rule

The Commission is satisfied that the final rule falls within the subject matter about which the Commission may make rules. The final rule falls within s. 74 of the NGL as it relates to AEMO's STTM functions and the operation of a short term trading market of an adoptive jurisdiction.<sup>15</sup> Further, the final rule falls within the matters set out in Schedule 1 to the NGL as it relates to AEMO's STTM functions.<sup>16</sup>

### A.3 Commission's considerations

In assessing the rule change request the Commission considered:

- its powers under the NGL to make the rule
- the rule change request
- the Commission's analysis as to the ways in which the proposed rule will or is likely to, contribute to the NGO.

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change request.<sup>17</sup>

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of Australian Energy Market Operator (AEMO)'s declared system functions.<sup>18</sup> The final rule is compatible with AEMO's declared system functions because it does not affect AEMO's ability to perform its obligations.

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<sup>15</sup> Section 74(1)(a)(va) of the NGL.

<sup>16</sup> Item 55C, Schedule 1 of the NGL.

<sup>17</sup> Under s. 73 of the NGL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated council is now called the COAG Energy Council.

<sup>18</sup> Section 295(4) of the NGL.

## A.4 Civil penalties

The Commission cannot create new civil penalty provisions. However, it may, jointly with the Australian Energy Regulator, recommend to the COAG Energy Council that new or existing provisions of the NGR be classified as civil penalty provisions.

The final rule does not amend any clauses that are currently classified as civil penalty provisions under the NGL or National Gas (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the final rule be classified as civil penalty provisions.

## A.5 Conduct provisions

The Commission cannot create new conduct provisions. However, it may recommend to the COAG Energy Council that new or existing provisions of the NGR be classified as conduct provisions.

The final rule does not amend any rules that are currently classified as conduct provisions under the NGL or National Gas (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the final rule be classified as conduct provisions.