

National Gas Rules

Group A (Relevant extracts of Parts 1 to 15)

This document shows changes to the relevant parts of the National Gas Rules (NGR) made by the AEMC's recommended draft rules under its final report on the Review into extending the regulatory frameworks to hydrogen and renewable gases. The changes are shown in a modified version of the NGR that incorporates:

- all changes made to the NGR as at 8 September 2022 including rules that have been made as at 8 September 2022 but have not yet commenced; and
- changes made by the consultation versions of the rules for Regulatory Sandboxing and Pipeline Regulations. These consultation versions are available on the Energy Ministers' website: Energy Ministers publications | energy.gov.au

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Part 1 Preliminary

1 Citation

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

2 Commencement

[Deleted]

3 Interpretation

(1) 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 commencement of the last revision of the access arrangement and the revision commencement date for the access arrangement;
- (e) if the access arrangement has been revised but further revision prior to its expiry is not contemplated – the period between revision commencement date 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) an 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.

access contract means a contract between a user or a prospective user and a service provider under which the service provider provides or will provide a pipeline service to the user or prospective user.

access dispute notice means a notice relating to an access dispute given under section 152 of the NGL and as provided by Part 12 of these rules.

access information standard means the access information standard under rule 101(2).

access negotiation information means, in relation to a party to negotiations under Part 11 or the determination of an access dispute under Part 12, the following information of the party:

- (a) *access offer information*; and
- (b) any other information that the party may seek to rely on for the determination of an access dispute in relation to the subject matter of the negotiations,

including information prepared for the party such as expert reports and consultant reports, data sets, models and other documents or materials.

access offer information means information relevant to the principles and other matters in rules 113Y and 113Z and includes:

- (a) information about the method used to determine the price in an access offer and the inputs used in the calculation of the price; and
- (b) information regarding the costs associated with the provision of a pipeline service sought by a prospective user.

allowed imputation credits for a regulatory year of an *access arrangement period* for an applicable access arrangement means the value of imputation credits stated, or calculated in the way stated, in the *applicable rate of return instrument*;

allowed rate of return for a regulatory year of an *access arrangement period* for an applicable access arrangement means the rate of return calculated in the way stated in the *applicable rate of return instrument*;

applicable rate of return instrument for a regulatory year of an *access arrangement period* for an applicable access arrangement means the rate of return instrument in force when the AER makes the applicable access arrangement decision.

blending limit means, in relation to a gas blend, an upper limit on the percentage by volume of a primary gas that may form part of the gas blend.

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.

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 ~~covered gas~~natural gas is delivered by means of a pipeline and includes a location to which ~~natural gas~~covered 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*.

eligibility requirements means the requirements specified in rule 135MC that the AER must have regard to when considering whether to grant a trial waiver.

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

exempt seller has the meaning given in section 2(1) of the *NERL*.

existing access contract means, at any time, an *access contract* in force at that time, even if the service term for one or more pipeline services provided under the *access contract* has not commenced.

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.

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

information includes data.

information requirements means the information that is required to be contained in an application for a *trial waiver* in accordance with rule 135M(2).

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.

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. **NER** means the National Electricity Rules.

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*.

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

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

reference service proposal means, in *respect* of a scheme pipeline service provider, the proposal submitted under rule 47A.

reference tariff variation mechanism – See rules 92 and 97.

regulatory obligation or requirement:

(a) in relation to a service provider for a scheme pipeline, has the meaning given in section 6 of the *NGL*; and

(b) in relation to a service provider for a non-scheme pipeline, has the meaning given in subrule (1A).

related body corporate means in relation to a body corporate, a body corporate that is related to the first-mentioned body by virtue of the *Corporations Act 2001* (Cth).

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.

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~~covered gas~~ is injected, or from which natural gas~~covered gas~~ is delivered.

single user pipeline – see subrule (2)(b).

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

supplier curtailment methodology means, in relation to a pipeline, a methodology that:

(a) describes the circumstances in which the service provider may curtail the injection of covered gas by a facility producing covered gas, a storage facility or a blend processing facility connected to the pipeline; and

(b) establishes a process for the curtailment of injections of covered gas by those facilities.

Note:

For example, the circumstances in which a service provider may curtail the injection of covered gas might include where curtailment is required to mitigate or avoid a situation which may threaten the reliability of gas supply or public safety.

third party access pipeline – see subrule (2)(a).

trial project has the meaning given in section 2 of the *NGL*.

trial project confidential information means information regarding a *trial project* and submitted to:

- (a) the AER in, or in connection with, an application for a *trial waiver*; or
- (b) the AEMC in, or in connection with, a request for the making of a *trial Rule*, which is identified by the applicant as being confidential.

Trial Projects Guidelines means guidelines of that name made and published by the AER under the *NER*.

trial Rule has the meaning given in section 290 of the *NGL*.

trial waiver has the meaning given in section 30W of the *NGL*.

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

(1A) A regulatory obligation or requirement is:

(a) in relation to the provision of a pipeline service by a service provider:

- (i) a pipeline safety duty; or
- (ii) a pipeline reliability standard; or
- (iii) a pipeline service standard; or

(b) an obligation or requirement under:

- (i) the *Law*; or
- (ii) the *NERL* or the *NERR*; or
- (iii) an Act of a participating jurisdiction, or any instrument made or issued under or for the purposes of that Act, that levies or imposes a tax or other levy that is payable by a service provider; or
- (iv) an Act of a participating jurisdiction, or any instrument made or issued under or for the purposes of that Act, that regulates the use of land in a participating jurisdiction by a service provider; or
- (v) an Act of a participating jurisdiction or any instrument made or issued under or for the purposes of that Act that relates to the protection of the environment; or
- (vi) an Act of a participating jurisdiction, or any instrument made or issued under or for the purposes of that Act (other than national gas legislation or an Act of a participating jurisdiction or an Act or instrument referred to in subparagraphs (ii) to (v)), that materially affects the provision, by a service provider, of pipeline services,

but does not include an obligation or requirement to pay a fine, penalty or compensation:

(c) for a breach of:

- (i) a pipeline safety duty; or
- (ii) a pipeline reliability standard; or
- (iii) a pipeline service standard; or

(d) under the *Law*, the *NERL* or the *NERR* or an Act or an instrument referred to in subrule (b)(ii) to (vi).

- (2) For the purposes of these rules:
- (a) a pipeline is a third party access pipeline if any pipeline services provided by means of the pipeline are provided, directly or indirectly, to any person other than:
 - (i) the service provider for the pipeline;
 - (ii) a related body corporate of the service provider for the pipeline; or
 - (iii) a joint venture in which the service provider for the pipeline or a related body corporate of the service provider is a joint venture participant; and
 - (b) a pipeline is a single user pipeline if:
 - (i) the pipeline is a third party access pipeline; and
 - (ii) all pipeline services provided by means of the pipeline are provided to a single user, taking into account pipeline services provided both directly and indirectly by the service provider.
- (3) For the purpose of these rules, the circumstances in which a service provider provides a pipeline service to a user indirectly include where:
- (a) an associate of the service provider provides the pipeline service to the user; and
 - (b) the pipeline service is bundled with the supply of ~~natural gas~~covered gas.

Note—

Section 2 of the *NGL* defines associate, user and supply.

Note—

Unless the contrary intention appears, words and expressions used in a rule have the same meaning as they have, from time to time, in the *NGL*, or relevant provisions of the *NGL* under or for the purposes of which the rule is made or is in force. See clause 13 of Schedule 2 of the *NGL*.

Part 4 Regulatory determinations and elections

Division 1 Scheme pipeline determinations

16 Notice to service provider and provision of information

- (1) If the AER:
 - (a) receives an application for a scheme pipeline determination; or
 - (b) proposes to make a scheme pipeline determination on its own initiative,the AER must notify the service provider for the pipeline to which the application or proposal relates that the application has been received or that the proposal is under consideration (as the case may be).
- (2) The service provider must, at the request of the AER, give the AER any of the following information in relation to the pipeline (insofar as may be relevant and requested by the AER in the particular case):
 - (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 covered~~ gas is, or is to be, injected into the pipeline; and
 - (d) an indication of any other sources of energy available to consumers of gas from the pipeline; and
 - (e) the identity of the parties with an interest in the pipeline and the nature and extent of each interest; and
 - (f) 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 *serving* any one or more of the same locations or the same geographical area; and

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- (g) an estimate of the annual cost to the service provider of regulation as a scheme pipeline and as a non-scheme pipeline; and
 - (h) any other information that the AER considers relevant to the consideration of the application.
- (3) A service provider who receives a request under subrule (2) must provide the relevant information within a period specified by the AER.
- (4) If the service provider does not provide the information requested under subrule (2) the AER may:
- (a) draw such adverse inferences from the failure to comply as the circumstances justify; and
 - (b) proceed to make a scheme pipeline determination in relation to the pipeline on the basis of such information as the AER considers relevant.
- (5) Information in the nature of an estimate provided under this rule must be supported by a statement of the facts and assumptions on which the estimate is based.

Division 3 Scheme pipeline revocation determinations

21 Provision of information

- (1) This rule applies if the AER:
- (a) receives an application for a scheme pipeline revocation determination; or
 - (b) proposes to make a scheme pipeline revocation determination on its own initiative.
- (2) If the application is made by the service provider, the application must be accompanied by the information specified by subrule (4) in relation to the pipeline to which the application relates (insofar as may be relevant).
- (3) If the application is made by a person other than the service provider or the AER is acting on its own initiative:
- (a) the AER must notify the service provider that the application has been received or that the proposal is under consideration (as the case may be); and
 - (b) the service provider must, at the request of the AER, give the AER the information specified by subrule (4) in relation to the pipeline to which the application or proposal relates.
- (4) The following information is specified:
- (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; and
 - (ii) all pipelines that currently serve the same locations; and

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- (iii) all pipelines of which the service provider is aware 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-covered~~ gas is, or is to be, injected into the pipeline; and
 - (d) an indication of any other sources of energy available to consumers of gas from the pipeline of which the service provider is aware; and
 - (e) the identity of the parties with an interest in the pipeline and the nature and extent of each interest; and
 - (f) 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, supplier or end user 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 serving any one or more of the same locations or the same geographical area; and
 - (g) an estimate of the annual cost to the service provider of regulation as a scheme pipeline and as a non-scheme pipeline; and
 - (h) any other information that the AER considers relevant to the consideration of the application.
- (5) A service provider who receives a request under subrule (3)(b) must provide the relevant information within a period specified by the AER.
- (6) If the service provider does not provide the information requested under subrule (3)(b) within the period specified by the AER, the AER may proceed to make a scheme pipeline revocation determination in relation to the pipeline on the basis of such information as the AER considers relevant.
- (7) Information in the nature of a forecast or estimate must be supported by a statement of the basis of the forecast or estimate.
- (8) 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.

Division 4 Greenfields pipelines incentives

Subdivision 1 Greenfields incentive determinations

24 Pipeline description (Section 100(2)(c) of NGL)

- (1) A description for a proposed transmission pipeline for which a greenfields incentive determination is sought must contain the following information:
 - (a) a description sufficient to identify the pipeline and its route; and
 - (b) the end points of the trunk of the pipeline (i.e. the points defining the extremities, where the trunk begins and ends); and
 - (c) if a lateral forms part of the pipeline – the point where the lateral interconnects with the trunk and the end point of the lateral; and
 - (d) the range of diameters for the principal pipes (including laterals); and
 - (e) an estimate of the pipeline's capacity and an estimate of the extent to which the pipeline's capacity is likely to be utilised by the applicant or associates of the applicant; and
 - (f) a website address at which a map of the route of the pipeline may be inspected.

- (2) A description for a proposed distribution pipeline for which a greenfields incentive determination is sought must contain the following information:
 - (a) a description sufficient to identify the pipeline and its route; and
 - (b) the geographical area to be served by the pipeline; and
 - (c) the points at which ~~natural~~covered gas is to be injected into the pipeline; and
 - (d) an estimate of the pipeline's capacity and an estimate of the extent to which the pipeline's capacity is likely to be utilised by the applicant or associates of the applicant; and
 - (e) a website address at which a map of the route of the pipeline may be inspected.

25 Application for greenfields incentive determination (Section 100(2) of NGL)

- (1) An application for a greenfields incentive determination must be made in writing and include the following:
 - (a) the name and contact details of the applicant; and
 - (b) a statement of the basis on which the project for the construction of the pipeline is to be regarded as a greenfields pipeline project; and
 - (c) a statement of expenditure already made on the construction of the pipeline and an estimate of the expenditure yet to be made; and
 - (d) a statement of the services to be provided by means of the pipeline; and

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- (e) a statement of the locations to be served by the pipeline and, in relation to each downstream location, a statement of other sources of ~~natural covered~~ gas available at the relevant location; and
 - (f) a statement of any existing pipelines, and any proposed pipelines of which the applicant is aware, that serve (or will serve) any of the same locations or that pass (or will pass) within 100 km of any of the same locations; and
 - (g) where relevant, an estimate of the:
 - ~~(i) , an estimate of the~~ reserves of natural gas available at any upstream location to be served by the pipeline and an estimate of the rate of production from that location; ~~and~~
 - (ii) feedstock used to create a primary gas (other than natural gas) at any upstream location to be served by the pipeline and an estimate of the rate of production from that location; and
 - (h) in relation to the proposed operative period of the determination, an estimate of expected demand at each downstream location to be served by the pipeline including, for each location, a description of the expected customer base and an indication of the revenue expected from each location; and
 - (i) the identity of all parties with an interest in the proposed pipeline and the nature and extent of each interest; and
 - (j) 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, supplier or end user in any of the locations 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 serving any one or more of the same locations; and
 - (k) a statement of whether it would be feasible to expand the capacity of the pipeline and, if so, an explanation of how the capacity might be expanded and an estimate of the cost; and
 - (l) an estimate of the annual cost to the service provider of regulation as a scheme pipeline and as a non-scheme pipeline; and
 - (m) any information the applicant considers relevant to the application of the principles set out in section 112 of the NGL; and
 - (n) any other information on which the applicant relies in support of the application.
- (2) Information in the nature of a forecast or estimate must be supported by a statement of the basis of the forecast or estimate.
- (3) 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.
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Part 5 Ring fencing

Division 1 Additional ring fencing requirements

30 Imposition of additional ring fencing requirement (Section 143 of the NGL)

A proposal by the AER to impose an additional ring fencing requirement under section 143 of the *NGL* is to be dealt with in accordance with the *expedited consultative procedure*.

Division 2 Associate contracts

31 ~~Intentionally left blank~~ Definitions

In this Division:

associate contract information means, in relation to an associate contract, the following information:

- (a) a description of the relationship of the associate to the service provider;
- (b) a description of the business operated by the associate; and
- (c) a statement from the service provider of the reasons it considers the contract or variation:
 - (i) does not have the purpose, and is unlikely to have the effect, of substantially lessening competition in a market for covered gas services; and
 - (ii) is not inconsistent with the competitive parity rule.

competitive parity rule has the meaning given in section 148(2) of the *NGL*.

excluded associate contract means, for a service provider:

- (a) for a scheme pipeline – a contract for the provision of a pipeline service at the reference tariff and on the standing terms published under rule 101C;
- (b) for a non-scheme pipeline – a contract for the provision of a pipeline service on the standing terms that apply to the pipeline service published under rule 101C; or
- (c) an associate contract in respect of which the service provider has made an application under rule 32(1).

related business has the meaning given in section 137 of the *NGL*.

specified associate contract means any associate contract between a service provider and an associate that carries on a related business, other than an excluded associate contract.

32 Approval of associate contracts etc (Sections 147 and 148 of the NGL)

- (1) A service provider may apply to the AER for approval of:
 - (a) an associate contract or a proposed associate contract; or
 - (b) a proposed variation of an approved associate contract.

(1A) Subject to subrule (1B), an application under subrule (1) must include associate contract information.

(1B) If the service provider considers the associate contract or variation:

(a) has the purpose, or is likely to have the effect, of substantially lessening competition in a market for covered gas services; or

(b) is inconsistent with the competitive parity rule,

the notice under subrule (1) must include:

(c) a description of the relationship of the associate to the service provider;

(d) a description of the business operated by the associate; and

(e) a statement from the service provider with the reasons for its view, including why the public benefit that would result from the associate contract or variation would outweigh any resulting public detriment.

- (2) The AER must, on application under subrule (1), approve a contract or the variation of a contract if ~~the~~the service provider has demonstrated to the reasonable satisfaction of the AER is satisfied that the contract or variation:
 - (a) does not have the purpose, and is unlikely to have the effect, of substantially lessening competition in a market for ~~natural~~covered gas services; and
 - (b) is not inconsistent with the competitive parity rule.

Note:

The comparative parity rule is stated in section 148(2) of the NGL.

- (3) If the AER is not satisfied that a contract, or the variation of a contract, should be approved under subrule (2), the AER may, subject to subrule (3A), nevertheless approve the contract or variation if satisfied that the resulting public benefit would outweigh any resulting public detriment.

(3A) The AER must proceed in accordance with the standard consultative procedure before making a decision under subrule (3).

- (4) An approval under this rule may be subject to conditions the AER considers appropriate including (for example) conditions:
 - (a) limiting the duration of the approval or providing that the approval will lapse on a material change of circumstances; and
 - (b) imposing reporting requirements on the service provider.

- (5) Unless subrule (3A) or subrule (6) apply, the AER must make a *decision* on an application under this rule within 40 business days after the date the AER receives the application under subrule (1).
- (6) If within during the period specified in subrule (5) the AER notifies the service provider that it requires additional information from the service provider to consider an application under this rule (**information request**), the AER must make a *decision* on the relevant application within the period equal to:
- (a) 40 business days; plus
 - (b) the number of business days in the period commencing on the day on which the information request was made and ending on the day on which the AER receives the information requested from the service provider.
- ~~(5) If the AER fails to make a *decision* on an application under this rule within 20 business days after receiving it, the AER is taken to have approved the relevant contract or variation unconditionally.~~
- (7) Unless subrule (3A) applies, if the AER makes a *decision*:
- (a) to approve an associate contract or variation to an associate contract under this rule it must publish its *decision* as soon as practicable after the contract is notified to the AER under rule 33;
 - (b) not to approve an associate contract or variation to an associate contract under this rule, it must *publish* its decision as soon as practicable after the decision is made.

Note

When the AER is making a *decision* under subrule (3), subrule (3A) requires it to follow the *standard consultative procedure*. Under the *standard consultative procedure*, the AER is required to publish the making of its final *decision*.

32A Advance notice of specified associate contracts

- (1) A service provider must, no later than 20 business days prior to entering into, or varying, a specified associate contract, give the AER written notice in accordance with this rule that it proposes to enter into the contract or variation.

Note

The AEMC proposes to recommend that this subrule is classified as a tier 2 civil penalty provision under the National Gas (South Australia) Regulations. (See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

Note:

The AEMC proposes to recommend that this subrule 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.

- (2) A notice under subrule (1) must include:
- (a) the associate contract information, and

- (b) a description of the key terms of the contract or variation, or the form of the contract or variation of the contract, that the service provider proposes to enter into.
- (3) A service provider incurs, by complying with this rule, no liability for breach of contract, breach of confidence, or any other civil wrong.

33 Notification of associate contracts

- (1) A service provider must, within 5 business days after entering into, or varying, an associate contract ~~(whether approved or not)~~, give the AER written notice of the contract or variation together with:
- (a) -a copy of the contract (or the contract as varied); and
- (b) in the case of a contract or variation that has not been approved under rule 32 or notified under rule 32A, associate contract information; and
- (c) in the case of a contract or variation that has been approved under rule 32 or notified under rule 32A, a statement describing any changes to the information provided in the application or notification to the AER under those rules.

Note

This subrule is classified as a tier 2 civil penalty provision under the National Gas (South Australia) Regulations. (See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

Note:

This subrule 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.

- (2) A service provider incurs, by complying with this rule, no liability for breach of contract, breach of confidence, or any other civil wrong.

Division 3 Exemptions from minimum ring fencing requirements (Section 148A(1) of NGL)

34 Exemptions from minimum ring fencing requirements ~~(Section 148A of NGL)~~

- (1) A service provider may apply to the AER for an exemption from one or more of the requirements under section 139, 140, 141, 147 or 148 of the NGL.
- (2) The AER must deal with such an application in accordance with the *expedited ~~consultation~~ consultative procedure*.

Note:

Under rule 35, the AER must consider whether conditions should be imposed on exemptions granted under this rule.

- (3) An exemption is to be granted from section 139 of the NGL if the AER is satisfied, on the application of the service provider, that:

- (a) either:
 - (i) the relevant pipeline is not a significant part of the pipeline system for any participating jurisdiction; or
 - (ii) the service provider does not have a significant interest in the relevant pipeline and does not actively participate in the management or operation of the pipeline; and
 - (b) the cost of compliance with the relevant requirement for the service provider and its associates would outweigh the public benefit resulting from compliance; and
 - (c) the service provider has, by arrangement with the AER, established internal controls ~~within the service provider's business~~ that substantially replicate, ~~in the AER's opinion, the effect that would be achieved if the related business were divested to a separate entity and dealings between the service provider and the entity were subject to~~ the controls that would applicable-apply to associate contracts if the related business was carried on by an associate of the service provider.
- (4) An exemption is to be granted from section 140 or section 141 of the *NGL* if the AER is satisfied that the cost of compliance with the relevant requirement for the service provider and its associates would outweigh the public benefit resulting from compliance.
- (5) If compliance with a relevant requirement would, in the AER's opinion, lead to increased competition in a market, the AER must, in carrying out an assessment under subrule (3)(b) or subrule (4), disregard costs associated with losses arising from increased competition in upstream or downstream markets.

(6) A service provider granted an exemption under this rule must notify the AER without delay if circumstances change such that the service provider no longer qualifies for the exemption.

Note:

The AEMC proposes to recommend that this subrule is classified as a tier 2 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

35 Exemption conditions (Section 148A(2) of NGL)

(1) Before granting an exemption under rule 34, the AER must consider whether to impose conditions on the exemption.

Note:

For example, the AER may consider imposing conditions:

- (a) of the type referred to in section 148A(3) of the *NGL*;
- (b) that the exemption will expire, or be subject to review by the AER, on a specified date; or
- (c) limiting the scope of the exemption (for example, by providing that the exemption only applies to a specified type of related business).

(2) A service provider granted an exemption under rule 34 must comply with any conditions of the exemption.

Note:

The AEMC proposes to recommend that this subrule is classified as a tier 2 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

- (3) The AER may on the application of the relevant service provider or on its own initiative vary the conditions of an exemption.
- (4) Subject to rule 35F, the AER must deal with variations to exemption conditions under subrule (3) in accordance with the *expedited consultative procedure*.
- (5) A variation to the conditions of an exemption takes effect on the date specified by the AER in its decision to grant the variation.

35A Revocation

- (1) The AER must revoke an exemption granted under rule 34 where, in the AER's reasonable opinion, the relevant exemption criteria in rule 34 are no longer satisfied.
- (2) The AER may revoke an exemption on its own initiative or on application made by any person.
- (3) The AER must deal with the revocation of an exemption under subrule (1) in accordance with the *expedited consultative procedure*.
- (4) A revocation of an exemption takes effect on the date specified by the AER in its decision to revoke the exemption.

Division 4 Exemptions for certain pipelines

3535B General exemption Exemptions for certain pipelines

- (1) This rule applies to a pipeline for which an exemption has been granted under Category 1 in Part 10 Division 2 Subdivision 2 of these rules.
- (2) The service provider for a pipeline to which this rule applies is exempt from:
 - (a) the requirement under section 139 of the *NGL*; and
 - (b) a requirement under section 140 of the *NGL*; and
 - (c) the requirement under section 141 of the *NGL*; and
 - (d) a requirement under section 147 of the *NGL*; and
 - (e) a requirement under section 148 of the *NGL*.

Division 5 Ring fencing decision guide and register

35C Definitions

- (1)—In this Division, **ring fencing decisions** means the following *decisions*:
- (a) ring fencing decisions as defined in the *NGL*;

- (b) a variation of the exemption conditions under rule 35; and
- (c) a decision to revoke an exemption under rule 35A.

Note:

Under the NGL, ring fencing decision means a decision to impose additional ring-fencing requirements under section 143(1) of the NGL, associate contract decisions and exemptions from minimum ring fencing requirements.

35D Ring fencing decision guide

- (1) The AER must publish and maintain a ring fencing decision guide.
- (2) The guide must provide persons who may apply for or be subject to ring fencing decisions under this Part, and other interested persons, with guidance in relation to:
 - (a) the functions and powers of the AER to make ring fencing decisions;
 - (b) the process to be followed by persons when making an application or notification under this Part;
 - (c) the information the AER will require from service providers in relation to ring fencing decisions;
 - (d) the process that the AER will follow when making ring fencing decisions; and
 - (e) any other matter relating to this Part that the AER considers appropriate to include in the guide.
- (3) The AER may, in its discretion, develop and publish and may from time to time amend, other non-binding guides relating to this Part.

35E Register of ring fencing decisions

The AER must establish, publish and maintain a register of ring fencing decisions.

Division 6 Variations of decisions for material error or deficiency

35F Variations and revocations of decisions for material error or deficiency

Despite any provision in this Part, the AER may vary or revoke a *decision* referred to in paragraphs (a) and (b) of rule 35C following consultation with the service provider and any other persons with whom it considers consultation appropriate if the variation or revocation is necessary in order to address 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; or
- (c) a defect in form.

Part 6 Pipeline interconnection principles

37 Right to interconnect

A person has a right to connect a facility to a pipeline where:

- (a) it is technically feasible and consistent with the safe and reliable operation of the pipeline and the safe and reliable supply of covered gas to end users; and
- (b) the person is prepared to fund the costs associated with making the interconnection.

38 Interconnection processes and costs

- (1) The party seeking to establish the interconnection (the interconnecting party) has the option to construct, operate and maintain the interconnection at its own cost, or to have the existing service provider do so (subject to rule 37).
- (2) If the interconnecting party develops the interconnection, it must do so in accordance with good industry practice and comply with all standards and legislation that relate to the establishment and on-going operation of the interconnection and with any reasonable technical, safety and reliability requirements requested by the existing service provider.
- (3) If the existing service provider develops the interconnection, the interconnection fee that it charges to the interconnecting party must be based on the directly attributable cost of:
 - (a) -constructing, operating and maintaining the interconnection; and
 - (b) where gas is to be injected at the interconnection point, installing, operating and maintaining metering and gas quality monitoring equipment required to be installed as a result of the interconnection (if applicable),including so as to achieve a rate of return calculated in accordance with
 - (~~fc~~) for an interconnection with a scheme pipeline – the *applicable rate of return instrument*; and
 - (~~gd~~) for an interconnection with a non-scheme pipeline – a commercial rate of return that reflects the pricing principles set out in rule 113Z(4).
- (4) Without limiting any other provision, the existing service provider must ensure that there is sufficient information available to the interconnecting party to enable it to assess the likely availability of capacity to or from the interconnection point.

Part 7 Prohibition against increasing charges to subsidise particular development

39A Exemption (Section 136A(3) of NGL)

- (1) A service provider may apply to the AER for an exemption from complying with section 136A(2) of the NGL.
- (2) An application under this rule must:
 - (a) be in writing; and
 - (b) identify the pipeline to which the application relates; and
 - (c) provide a description of the extension or expansion of capacity that is being undertaken; and
 - (d) demonstrate that one or both of the exemption criteria specified in subrule (3) are satisfied; and
 - (e) include any other information and materials on which the applicant relies in support of the application.
- (3) The following exemption criteria are specified:
 - (a) the overall economic value of the expenditure on the extension or expansion is positive and no other person is competing to meet the demand for pipeline services that would be met by undertaking the extension or expansion;
 - (b) the extension or expansion is necessary:
 - (i) to maintain or improve the safety of pipeline services; or
 - (ii) to maintain or improve the integrity of pipeline services; or
 - (iii) to comply with a ~~regulatory obligation or requirement~~regulatory obligation or requirement; or
 - (iv) to maintain the service provider's capacity to meet existing levels of demand for services.

Part 8 Access arrangements for scheme pipelines

Division 4 Access arrangements – general requirements

48 Requirements for access arrangement (and access arrangement proposal)

- (1) An 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
 - (a1) set out the information specified in subrule 101B(2)(g); and
 - (b) describe all of the pipeline services that the service provider can reasonably provide 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 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
 - (g1) set out the *supplier curtailment methodology*; and
 - (h) state the terms and conditions for changing receipt and delivery points; and
 - (i) state the *review submission date* and the revision commencement date.
- (2) This rule extends to an *access arrangement proposal* consisting of a proposed access arrangement.

Division 5 Review of certain access arrangements

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-covered gas through the pipeline.
 - 2 A competing source of natural-covered gas becomes available to customers served by the pipeline.
 - 3 A significant extension, expansion or interconnection occurs.
- (3) The AER may require the inclusion in an access arrangement of trigger events and may specify the nature of the trigger events to be included.

Part 9 Price and revenue regulation for scheme pipelines

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 an *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) [Deleted];

- (g) the *allowed rate of return* for each regulatory year of the *access arrangement period*;
 - (h) the estimated cost of corporate income tax calculated in accordance with rule 87A, including the *allowed 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*;
 - (n) the information specified in subrule 101B(2)(h).
- (2) The *access arrangement information* for an *access arrangement variation proposal* related to an 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 an *access arrangement proposal* must be provided using the financial models.

Division 4 The Capital base

82 Capital contributions ~~by users~~ to new capital expenditure

- (1) A ~~user may make a capital contribution towards a~~ service provider's may receive a capital contribution towards the service provider’s capital expenditure.
- (2) If a service provider receives a capital contribution towards its cCapital expenditure, the 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) Despite subrule (2), The the AER may approve the rolling of capital expenditure (including a capital contribution made by a user, received by the service provider 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.

- (4) A service provider must inform the AER if it receives concessional finance from a government or government agency (**government funding body**) and provide the following information to the AER:
- (a) the name of the government funding body that provided the concessional finance and contact details for that body;
 - (b) a description of the amount and type of concessional finance provided;
 - (c) a copy of the agreement between the government funding body and the service provider that sets out the terms on which the concessional finance was provided;
 - (d) a description of the capital expenditure in relation to which the concessional finance was provided; and
 - (e) a statement from the service provider as to whether the government funding body intended that some or all of the value of the concessional finance be treated as a capital contribution.
- (5) If notified under subrule (4), the AER must consult with the service provider and the government funding body.
- (6) In consulting with the government funding body under subrule (5), the AER must, without limitation, seek submissions or comments from the government funding body on whether:
- (a) the government funding body intended that some or all of the value of the concessional finance be treated as a capital contribution; and
 - (b) if so, what proportion of the value of the concessional finance the government funding body considers should be treated as a capital contribution.
- (7) If following consultation under subrule (5), the AER is satisfied that the government funding body intended that some or all of the value of the concessional finance be treated as a capital contribution, the AER must:
- (a) treat some or all of the value of the concessional finance provided by the government funding body to a service provider in the same way as a capital contribution under subrules (1) to (3); and
 - (b) determine the value of that concessional finance as if it had it been provided to the service provider in the form of a capital contribution.
- (8) The AER must make a determination under subrule (6) having regard to:
- (a) the information provided by the service provider under subrule (4);
 - (b) any information provided by the government funding body; and

(c) any other information the AER considers relevant.

(9) For the purpose of this rule 82:

(a) **concessional finance** means below market rate finance provided for investment in specific capital expenditure; and

(b) **treated as a capital contribution** means that the some or all of the value of the concessional finance would not be rolled into the capital base for a pipeline, thereby preventing the service provider from benefiting, through increased revenue, from some or all of the value of the concessional finance.

Part 10 Prescribed transparency information

Division 1 Preliminary

100—Definitions and interpretation

(1) In this Part:

application date, in relation to a pipeline, means the date on which the 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.

daily flow data means, for a large distribution pipeline:

- (a) the quantity of ~~natural~~ gas that is metered as having been, or estimated by the service provider 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 by the service provider to have been, withdrawn at each delivery point on the pipeline on the gas day.

financial information, historical demand information and cost allocation methodology means the information published under rule 101D.

further investigations means investigations to determine the terms and conditions for provision of a pipeline service sought by a user or prospective user in a manner that is technically feasible and consistent with the safe and reliable operation of the pipeline.

gas means covered gas.

Gas Bulletin Board means, as applicable:

- (a) the ~~Natural Gas Services~~Gas Bulletin Board established under Part 18 of these rules; or
- (b) the gas bulletin board established under the *Gas Services Information Act 2012* of Western Australia.

gas day means in respect of a pipeline, the 24 hour period for which nominations for use of pipeline services on the pipeline are provided or if no such nomination period applies to the pipeline, the 24 hour period commencing at 6:00 am Australian eastern standard time. Hourly flow data means, for a large distribution pipeline:

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

gas supply facility means a facility producing gas, a storage facility or a blend processing facility.

large distribution pipeline means a distribution pipeline or part of a distribution pipeline that is a scheme pipeline and has a maximum daily capacity under normal operating conditions greater than or equal to 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.

nameplate rating means, for each direction in which ~~natural~~ gas can be transported on a pipeline, the maximum quantity of ~~natural~~ gas that can be transported through the pipeline on a gas day for the pipeline in that direction under normal operating conditions.

pipeline information means the information described in rule 101B(2).

pipeline information disclosure guidelines means the guidelines published by the AER under rule 103 as amended from time to time.

pipeline service information means the information described in rule 101B(3).

service and access information means the information described in rule 101B(1).

service availability information means the information described in rule 101B(5).

service term, in relation to a pipeline service provided to a user under an access contract, means the period during which the pipeline service is available to the user under that access contract.

service usage information means the information described in rule 101B(4).

standing terms means:

- (a) for a scheme pipeline:
 - (i) the applicable access arrangement for reference services approved by the AER; and
 - (ii) the information required to be published under rule 101C for non-reference services and rebateable services;
- (b) for a non-scheme pipeline, the information required to be published under rule 101C.

terms and conditions includes price and non-price terms and conditions.

- (2) For the purposes of this Part, a pipeline service on a pipeline includes a service provided by means of the pipeline and a service ancillary to the provision of a service provided by means of the pipeline.
- (3) For the purposes of this Part, a pipeline service is to be treated as distinct from another pipeline service having regard to matters including service type (for example, forward haul, backhaul, park and loan) and the priority of the service relative to other pipeline services of the same type.
- (4) For the purposes of this Part, in relation to a user or prospective user, a pipeline service is also to be treated as distinct from another pipeline service having regard to the service term and the capacity sought by the prospective user.

Division 2 Obligations on service providers

Subdivision 1 Information disclosure requirements

101B Service and access information

- (1) The service and access information comprises:
 - (a) the pipeline information described in subrule (2); and
 - (b) the pipeline service information described in subrule (3); and
 - (c) the service usage information described in subrule (4); and
 - (d) the service availability information described in subrule (5).

- (2) The pipeline information in respect of a pipeline comprises:
 - (a) the classification of the pipeline as a transmission pipeline or a distribution pipeline; and
 - (b) for a transmission pipeline:
 - (i) the pipeline's nameplate rating; and
 - (ii) the details of all receipt or delivery points on the pipeline and key facilities to which those receipt or delivery points connect including, in respect of each gas supply facility that is connected at a receipt point on the pipeline:
 - (A) the location of the facility; and
 - (B) the type of the facility; and
 - (C) the type of gas injected into the pipeline by the facility; and

Note
The type of gas may be a primary gas (for example, biomethane) or a gas blend made up of two or more primary gases (for example, a blend of natural gas and hydrogen).

 - (D) the gas specification that applies at the receipt point at which the facility is connected; and
 - (iii) a schematic map of the pipeline that shows the location on the pipeline of each receipt or delivery point and other key facilities; and
 - (c) for a distribution pipeline:
 - (i) subject to subrule (6), the quantity of ~~natural~~ gas that can be transported through each gate station on the distribution pipeline in any 24 hour period; and
 - (ii) the details of all points on the pipeline where ~~the service provider takes delivery of natural~~ gas is injected into the pipeline; and
 - (iii) if a gas supply facility is connected to a point specified under subrule (ii):
 - (A) the location of the facility; and

(B) the type of the facility; and

(C) the type of gas injected into the pipeline by the facility; and

Note

The type of gas may be a primary gas (for example, biomethane) or a gas blend made up of two or more primary gases (for example, a blend of natural gas and hydrogen).

(D) the gas specification that applies at the receipt point at which the facility is connected; and

(iv~~ii~~) a schematic map of the pipeline that shows the location on the pipeline of the points referred to in subparagraph (ii) and the geographic limits of the areas served by the pipeline; and

(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 provided by means of 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 provided by means of the pipeline which may include:

(i) queuing requirements; and

(ii) a receipt or delivery point change policy; and

(iii) a metering and measurement policy; and

(iv) for a distribution pipeline – a balancing policy; and

(f) the service provider's *supplier curtailment methodology*; and

(g) the type of gas transported through the pipeline including, if the gas transported is a gas blend:

(i) the primary gases that have been blended together to create the gas blend; and

(ii) whether the pipeline is subject to or applies a *blending limit* and, if so, that *blending limit*; and

(h) if the service provider is aware that the type of gas being transported through the pipeline is going to change in the future:

(i) the new type of gas that will be transported through the pipeline including, if the gas that will be transported is a gas blend:

(A) the primary gases that will be blended together to create the gas blend; and

(B) whether the pipeline will be subject to or will apply a *blending limit* and, if so, that *blending limit*; and

(ii) the date on which the change to the type of gas transported through the pipeline is expected to occur and, if the change will be for a fixed time period, the end date of that period; and

(iii) information about whether the new type of gas will be transported between all receipt points and delivery points on the pipeline or only a subset of delivery points and receipt points; and

- (iv) if the new type of gas will be transported between a subset of the receipt points and delivery points on the pipeline, a schematic map that shows the location on the pipeline of each delivery point that will be supplied with the gas; and
 - (v) information about whether the service provider has received approval from any jurisdictional safety and technical regulator to change the type of gas transported through the pipeline; and
 - (vi) if the type of gas transported through the pipeline is going to change on an on-going basis, information about whether the change is being made to comply with a regulatory obligation or requirement.
- (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:
 - (a) for a transmission pipeline:
 - (i) the total quantity of ~~natural~~ gas metered as having been injected into the pipeline during the month; and
 - (ii) the total quantity of ~~natural~~ gas metered as having been withdrawn from the pipeline during the month; and
 - (iii) the total quantity of ~~natural~~ gas scheduled for injection into the pipeline during the month (after taking into account rescheduling); and
 - (iv) the total quantity of ~~natural~~ gas scheduled for withdrawal from the pipeline during the month (after taking into account rescheduling); and
 - (v) of the scheduled quantities referred to in subparagraphs (c) and (d), the quantities attributable to each pipeline service on the pipeline as identified in the pipeline service information; and
 - (b) subject to subrule (6), for each entry and exit point on a large distribution pipeline that is owned, operated or controlled by the service provider or for which the service provider holds the information:
 - (i) daily flow data; and
 - (ii) where a meter is installed at the relevant entry or exist point, the hourly flow data; and
 - (iii) minimum inlet and minimum outlet pressures over each hour; and
 - (iv) a static table or chart showing the maximum flow rate of the entry or exit point against pressure.
- (5) The service availability information for a 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; and
 - (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; and
 - (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 subparagraphs (i) and (ii); and
 - (c) information on any other limitations on the availability of the pipeline services identified in the pipeline service information.
- (6) The service and access information for a pipeline does not include:
- (a) the information specified in subrule (2)(c)(i) if the nameplate rating for the relevant gate station is provided to AEMO by a BB reporting entity under rule 168; or
 - (b) the information specified in subrule (4)(b) if the relevant entry point is a gate station and daily flow data for that gate station is reported to AEMO by a BB reporting entity under rule 187.

Part 11 Access negotiation framework

105 Definitions and interpretation

- (1) In this Part:

access offer means an offer to provide access to a pipeline service that complies with rule 105D.

access request means a request referred to in rule 105C.

application date, in relation to a pipeline, means the date on which the 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.

disclose, in relation to confidential information, includes publishing or communicating or otherwise supplying the confidential information.

further investigations means investigations to determine the terms and conditions for provision of a pipeline service sought by a user or prospective user in a manner that is:

(a) -technically feasible and consistent with the safe and reliable operation of the pipeline; and

(b) if the pipeline service sought is the interconnection of a pipeline or other facility, the safe and reliable supply of gas to end users.

gas means covered gas.

service term, in relation to a pipeline service provided to a user under an access contract, means the period during which the pipeline service is available to the user under that access contract.

terms and conditions includes price and non-price terms and conditions.

- (2) For the purposes of this Part, a pipeline service on a pipeline includes a service provided by means of the pipeline and a service ancillary to the provision of a service provided by means of the pipeline.
- (3) For the purposes of this Part, a pipeline service is to be treated as distinct from another pipeline service having regard to matters including service type (for example, forward haul, park and loan) and the priority of the service relative to other pipeline services of the same type.
- (4) For the purposes of this Part, in relation to a user or prospective user, a pipeline service is also to be treated as distinct from another pipeline service having regard to the service term and the capacity sought by the user or prospective user.

105D Access offer

- (1) The service provider for a pipeline in receipt of an access request must prepare and make an access offer that complies with subrule (3) within the period determined under subrule (2).

Note:

It is proposed to classify this subrule as a civil penalty provision.

Note:

It is proposed to classify this subrule as a conduct provision under the National Gas (South Australia) Regulations.

- (2) The period for making an access offer under subrule (1) ends at the time agreed by the user or prospective user and the service provider or if no time is agreed between them:

- (a) unless paragraph (b) applies, 20 business days after receiving the access request or if applicable, the further information requested under subrule 105C(6); and
- (b) if the service provider is required to carry out further investigations in relation to the access request, 60 business days after receiving the access request or if applicable, after receiving the further information requested under subrule 105C(6).

- (3) An access offer must:

- (a) set out the terms and conditions on which the service provider offers to make the pipeline service or pipeline services requested in the access request available to the user or prospective user;
- (b) contain the details of any works to be undertaken by the service provider and user or prospective user and any applicable technical and performance specifications; and
- (c) be in a form capable of acceptance by the user or prospective user so as to constitute a new *access contract* or form part of an *existing access contract*.

- (4) A service provider is not required to make an access offer under subrule (1) in relation to a pipeline service if:

- (a) the access request has been withdrawn;
- (b) the service provider has concluded that it is not:
- (i) technically feasible; or
 - (ii) consistent with the safe and reliable operation of the pipeline; or
consistent with the safe and reliable supply of gas to end users, where the pipeline service sought is the interconnection of a pipeline or other facility,

to provide the pipeline service requested by the user or prospective user, having used all reasonable efforts to accommodate the reasonable requirements of the user or prospective user; or

- (c) the provision of the pipeline service requested by the user or prospective user would require the extension of the service provider's pipeline.
- (5) If a service provider does not make an access offer for the reason specified in subrule (4)(b), the service provider must give the user or prospective user:
 - (a) 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 pipeline service at some time in the future – details (which must be as specific as the circumstances reasonably allow) of when the requested pipeline service is likely to become available.

Part 12 Access disputes

Division 7 Access determinations

Subdivision 1 Determination of access disputes generally

113V Matters that may be included in a determination

- (1) For section 160(3) of the *NGL*, but subject to any relevant provision of the *NGL* and this rule, an access determination may contain provisions for or with respect to any matter the subject of the access dispute.
- (2) Without limiting subrule (1), an access determination may:
 - (a) require the service provider for a pipeline to provide access to a pipeline service; and
 - (b) specify the price and other terms and conditions on which the user or prospective user must be given access to the pipeline service; and
 - (c) require the service provider to permit another facility to be connected to the scheme pipeline; and
 - (d) subject to subrules (5) and (6), require the service provider to carry out, either alone or in combination:
 - (i) an expansion of the capacity of a pipeline;
 - (ii) a conversion of a pipeline to a bi-directional pipeline;
 - (iii) the development of a new *receipt or delivery point*;
 - (iv) an expansion of an existing *receipt or delivery point*; or
 - (v) an interconnection with another pipeline or other facility; and
 - (d) specify conditions to be satisfied before access to a pipeline service commences.
- (3) An access determination may require access to be provided for a service term different to that sought by the user or prospective user but must otherwise be made in relation to the pipeline service or services sought by the user or prospective user.
- (4) An access determination does not have to require the service provider to provide access to the pipeline service or services sought by the user or prospective user or any pipeline service.
- (5) An access determination must not require the service provider to provide a pipeline service or carry out any of the activities referred to in subrule (2)(c) or (d) unless the provision of the pipeline service or activity is:
 - (a) technically feasible; ~~and~~
 - (b) consistent with the safe and reliable operation of the pipeline; and

- (c) if the pipeline service sought is the interconnection of a pipeline or other facility, consistent with the safe and reliable supply of gas to end users.
- (6) An access determination must not, unless the service provider agrees, require the service provider to:
- (a) extend the geographical range of a pipeline; or
 - (b) carry out any of the activities referred to in subrule (2)(c) or (d) unless the user or prospective user funds the activity in its entirety; or
 - (c) fund (in whole or in part) any of the activities referred to in subrule (2)(c) or (d).
- (7) Subrule (6)(c) applies subject to any provision made in the applicable access arrangement for the provision of funding for an extension, or expansion of capacity, of the pipeline.
- (8) An access determination must not provide for a user or prospective user to acquire an interest in a pipeline by funding an expansion of the capacity of the pipeline unless the service provider agrees.

Subdivision 2 Matters to be taken into account for access disputes

113Z Principles for non-scheme pipelines

- (1) This rule specifies principles in relation to non-scheme pipelines for the purposes of section 161 of the *NGL*.
- (2) The following matters are specified as principles:
- (a) the principle that access to pipeline services provided by means of a pipeline must be at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market; and
 - (b) the pricing principles; and
 - (c) the operational and technical requirements necessary for the safe and reliable operation of the pipeline; and
 - (d) the prohibition that applies under section 136A(2) of the *NGL* (if that provision applies in the particular case).
- (3) Without derogating from subrule (2), the arbitrator may also take into account the following matters:
- (a) the legitimate business interests of the service provider; and
 - (b) the interests of all persons who have rights to use the pipeline; and
 - (c) the value to the service provider of any extension or expansion of the pipeline the cost of which is borne by another person; and
 - (d) the value to the service provider of interconnections to the pipeline the cost of which is borne by another person.

- (4) The pricing principles are:
- (a) the price for access to a pipeline service on a non-scheme pipeline should reflect the cost of providing that service, including:
 - (i) -a commercial rate of return that is commensurate with the prevailing conditions in the market for funds and reflects the risks the service provider faces in providing the pipeline service; and
 - (ii) the costs the service provider incurs in complying with a regulatory obligation or requirement; and
 - (b) when applying the principle in paragraph (a) to a pipeline service that when used affects the capacity of the non-scheme pipeline available for other pipeline services and is priced at a premium or a discount to the price for a firm haulage service on the relevant non-scheme pipeline – the premium or discount must:
 - (i) take into account any opportunity cost or benefit to the service provider of providing the pipeline service, having regard to any effect on the cost of providing firm haulage services or the capacity of the non-scheme pipeline; and
 - (ii) be consistent with the price for the pipeline service providing a reasonable contribution to joint and common costs; and
 - (c) if a greenfields incentive determination applies to the pipeline and specifies pipeline services and prices under rule 29(2) – the price for access to that pipeline service should reflect the price, and any related price escalation mechanism, specified in the greenfields incentive determination.
- (5) For the purposes of subrule (4)(a):
- (a) the value of any assets used in the provision of the pipeline service must be determined using asset valuation techniques consistent with the objective of facilitating access to pipeline services provided by means of non-scheme pipelines on reasonable terms, which is taken to mean at prices and on other terms and conditions that, so far as practicable, reflect the outcomes of a workably competitive market; and
 - (b) unless inconsistent with paragraph (a), the value of any assets used in the provision of the pipeline service is to be calculated as:
 - (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) the return of capital recovered since the commissioning of the pipeline; and

- (iv) the value of pipeline assets disposed of since the commissioning of the pipeline.

Part 12A Gas connection for retail customers

Division 1 Definitions

119A Definitions

In this Part:

basic connection service means a service involved in providing a connection between a distribution pipeline and a *retail customer's* premises where:

- (a) the provision of the service involves minimal or no extension to, or augmentation of, the distribution pipeline; and
- (b) a model standing offer has been approved by the AER for providing that service as a basic connection service.

connection means a physical link between a distribution pipeline and a *retail customer's* premises to allow the flow of ~~natural~~ gas.

connection alteration means an alteration to an existing connection including an addition, upgrade, extension, expansion, augmentation or any other kind of alteration.

connection applicant means an applicant for a connection service of 1 of the following categories:

- (a) *retail customer*;
- (b) *retailer* or other person acting on behalf of a *retail customer*;
- (c) real estate developer.

connection application means an application under rule 119R.

connection assets means the components of a distribution pipeline which are used to provide connection services.

connection charge means a charge imposed by a *distributor* for a connection service.

connection charges criteria – see rule 119M.

connection contract means a contract formed by the making and acceptance of a connection offer.

connection offer means an offer by a *distributor* to enter into a connection contract with:

- (a) a *retail customer*; or
- (b) a real estate developer.

connection service means either or both of the following:

- (a) a service relating to a new connection for premises;
- (b) a service relating to a connection alteration for premises.

contestable – a service is contestable if the *laws* of the participating jurisdiction in which the service is to be provided permit the service to be provided by more than one supplier as a contestable service or on a competitive basis.

customer connection contract – see section 67 of the *NERL*.

distribution pipeline means:

- (a) a scheme pipeline that is classified as a distribution pipeline; or
- (b) a non-scheme pipeline for which a nominated *distributor* has been nominated to provide customer connection services.

distributor means:

- (a) for a distribution pipeline that is a scheme pipeline– a service provider within the meaning of the *Law* who owns, operates or controls the pipeline; or
- (b) for a distribution pipeline that is a non-scheme pipeline– a nominated *distributor* nominated to provide customer connection services in respect of the pipeline.

enquiry means a preliminary enquiry under rule 119Q.

gas means covered gas.

model standing offer means a document approved by the AER as a model standing offer to provide basic connection services (see rule 119D) or as a model standing offer to provide standard connection services (see rule 119F).

negotiated connection contract—see rule 119I.

new connection means a connection established or to be established, in accordance with this Part and applicable *energy laws*, where there is no existing connection.

nominated distributor – see section 8A of the *NGL*.

real estate developer means a person who carries out a real estate development.

real estate development means the commercial development of land including its development in 1 or more of the following ways:

- (a) subdivision;
- (b) the construction of commercial or industrial premises (or both);
- (c) the construction of multiple new residential premises.

standard connection service means a connection service (other than a basic connection service) for a particular class of connection applicant and for which a model standing offer has been approved by the AER.

supply service means a service (other than a connection service) relating to the supply of ~~natural~~ gas.

Division 3 Negotiated connection

119K Negotiation framework

- (1) The following rules (collectively described as the **negotiation framework**) govern negotiations between a *distributor* and a connection applicant:

- (a) each party must negotiate in good faith;
- (b) the connection applicant must, at the request of the *distributor*, provide the *distributor* with information it reasonably requires in order to negotiate on an informed basis;

Note

The information might (for example) include estimates of average and maximum demand for ~~natural~~ gas to be supplied through the connection.

- (c) the *distributor* must provide the connection applicant with information the connection applicant reasonably requires in order to negotiate on an informed basis including:
 - (i) an estimate of the amount to be charged by the *distributor* for assessment of the application and the making of a connection offer for a negotiated connection contract; and
 - (ii) an estimate of connection charges; and
 - (iii) a statement of the basis on which connection charges are calculated (which must be consistent with the connection charges criteria); and
 - (iv) a statement of the assumptions made by the *distributor* in applying the connection charges criteria; and
 - (v) if the connection applicant has elected to extend the negotiations to cover supply services—an estimate of any applicable charges for supply services and a statement of the basis of their calculation;

Note

The *distributor* might, according to the circumstances of a particular case, need to provide further information to ensure the connection applicant is properly informed – for example, information about:

- technical and safety requirements;
- the types of *connection* that are technically feasible;
- the capacity of the *distribution pipeline* at the proposed *connection point*;
- possible strategies to reduce the cost of the *connection*.

- (d) the *distributor* may consult with other users of the distribution pipeline who may be adversely affected by the proposed new connection or connection alteration;
- (e) in assessing the application, the *distributor* must determine:
 - (i) the technical requirements for the proposed new connection or connection alteration; and
 - (ii) the extent and costs of any necessary augmentation or extension; and
 - (iii) any possible material effect of the proposed connection or connection alteration on the capacity of the distribution pipeline (and any other distribution pipeline that might be affected) to meet existing and future demand;
- (f) the *distributor* must make reasonable endeavours to make a connection offer that complies with the connection applicant's reasonable requirements.

Example

Reasonable requirements as to the location of the proposed connection point.

- (2) The following supplementary rules apply:
 - (a) if a *distributor* requires information from a connection applicant in addition to the information provided in the application, a request for the additional information under subrule (1)(b) must (if practicable) be made within 20 business days after the *distributor* receives the relevant application;
 - (b) the *distributor* must provide the information required under subrule (1)(c) as soon as practicable after the *distributor* receives the connection applicant's application or, if the *distributor* requests additional information under subrule (1)(b), as soon as practicable after the *distributor* receives the relevant information.
- (3) Each party to the negotiations must maintain the confidentiality of confidential information disclosed by the other party in the course of the negotiations unless disclosure of the information is authorised:
 - (a) by the party to whom the duty of confidentiality is owed; or
 - (b) under:
 - (i) the *Law*; or
 - (ii) any other *law*.

Part 15 Pipeline register

133 Establishment and maintenance of register

- (1) The AEMC must establish and maintain a register (the **pipeline register**).
- (2) The pipeline 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 access law and Gas Code.
- (3) The pipeline register is to include for each pipeline:
 - (a) a description of the pipeline; and
 - (b) in the case of a scheme pipeline – historical information about extensions and capacity expansions occurring while the pipeline has been a scheme pipeline; and
 - (c) if relevant, the date of an election under rule 23; and
 - (d) the pipeline's classification and regulatory history; and
 - (e) the name of the service provider; and
 - (f) a link to a website at which:
 - (i) a description of the pipeline; and
 - (ii) information required to be published by the service provider in relation to the pipeline under Part 10 of these rules; and
 - (iii) the relevant user access guide (unless not required for the pipeline), may be found-; and
 - (g) the information specified in subrules 101B(2)(g) and (h).
- (4) The pipeline register is to include the text of current and former:
 - (a) greenfields incentive determinations; and
 - (b) scheme pipeline determinations; and
 - (c) scheme pipeline revocation determinations; and
 - (d) applicable access arrangements; and
 - (e) in the case of a scheme pipeline – access determinations; and
 - (f) exemption decisions made under Part 10 Division 2 Subdivision 2 of these rules; and
 - (g) the following information (being information that relates to matters existing before the designated day):
 - (i) greenfields pipeline incentives; and
 - (ii) tender approval decisions; and
 - (iii) coverage determinations; and
 - (iv) coverage revocation determinations; and

- (v) light regulation determinations; and
- (vi) applicable access arrangements; and
- (vii) access determinations; and
- (viii) exemption decisions made under Division 6 of Part 23 of these rules (as in force before the designated day); and

(h) ring fencing decisions (as defined in rule 35C).

- (5) In this rule:

designated day means the day on which Part 19 of Schedule 3 of the *NGL* (inserted into the *NGL* by the *National Energy Laws Amendment (Gas Pipelines) Act 2022*) came into operation.