



National Gas Amendment (Compensation and dispute resolution frameworks) Rule 2024 No. 2

The Australian Energy Market Commission makes the following Rule under the National Gas Law to the extent applied by:

- (a) the *National Gas (South Australia) Act 2008* of South Australia;
- (b) the *National Gas (ACT) Act 2008* of the Australian Capital Territory;
- (c) the *National Gas (New South Wales) Act 2008* of New South Wales;
- (d) the *National Gas (Queensland) Act 2008* of Queensland;
- (e) the *National Gas (Tasmania) Act 2008* of Tasmania;
- (f) the *National Gas (Victoria) Act 2008* of Victoria;
- (g) the *National Gas (Northern Territory) Act 2008* of the Northern Territory;
- (h) the *National Gas Access (WA) Act 2009* of Western Australia; and
- (i) the *Australian Energy Market Act 2004* of the Commonwealth.

Anna Collyer
Chairperson
Australian Energy Market Commission

National Gas Amendment (Compensation and dispute resolution frameworks) Rule 2024 No. 2

1 Title of Rule

This Rule is the *National Gas Amendment (Compensation and dispute resolution frameworks) Rule 2024 No. 2*.

2 Commencement

Schedule 1 of this Rule commences operation on 31 July 2024.

Schedule 2 of this Rule commences operation on 21 March 2024.

3 Amendment to the National Gas Rules

The National Gas Rules are amended as set out in Schedule 1.

4 Savings and Transitional Amendment to the National Gas Rules

The National Gas Rules are amended as set out in Schedule 2.

Schedule 1 Amendment to the National Gas Rules

(Clause 3)

[1] Part 15C Dispute resolution

In the heading of Part 15C, after "Dispute resolution" insert "and compensation claims".

[2] Rule 135F Definitions

In rule 135F, insert the following definitions in alphabetical order:

claimant, in relation to a compensation claim, means the person making the claim for compensation.

compensation claim means any of the following:

- (a) a claim for compensation under rule 344 or 350 of Part 19, notified to AEMO under rule 237(1);
- (b) a claim for compensation under rule 433 of Part 20, notified to AEMO under rule 465(1);
- (c) a claim for compensation under Division 6 of Part 27, notified to AEMO in a notice of claim under rule 705.

compensation claim event means the event or circumstance, or series of related events or circumstances, that gives rise to a compensation claim.

compensation process costs has the meaning given in rule 135JJ(2).

independent expert means a person appointed pursuant to rule 135JE to determine a compensation claim.

[3] Rule 135F Definitions

In rule 135F, in the definition of "relevant dispute or rule dispute", omit paragraph (b) and substitute:

- (b) a matter that is under some other provision of these rules or the Procedures to be determined under this Part, but does not include a compensation claim.

[4] Rule 135FA General Principles

In subrule 135FA(1), after "Dispute resolution processes" insert "and compensation claim processes".

[5] Rule 135FA General Principles

Omit subrule 135FA(2) and substitute:

- (2) In any dispute resolution process or compensation claim process under this Part:
 - (a) account must be taken of the skills and knowledge required for resolution or determination of the matter; and
 - (b) the rules of natural justice are to be observed.

[6] Rule 135FB Resolution of relevant dispute not to extend to imposition of sanctions

Omit rule 135FB, including the heading, and substitute:

135FB This Part not to extend to imposition of sanctions

- (1) This Part is directed at resolving relevant disputes and determining compensation claims and not at imposing sanctions for breach of these rules or the Procedures.
- (2) The *NGL* governs actions for breach of these rules or the Procedures.

[7] Division 4 Miscellaneous

In the heading of Division 4 of Part 15C, after "Miscellaneous" insert "matters relating to dispute resolution".

[8] Rule 135J Legal Representation

In rule 135J(1), omit "proceedings" and substitute "dispute resolution proceedings".

[9] Division 5 Expert determination of compensation claims

After Division 4 of Part 15C insert a new Division 5:

Division 5 Expert determination of compensation claims

135JD Administration and guidance by AEMO

- (1) AEMO must determine the terms of appointment of an independent expert. The terms of appointment must provide for the independent expert to:
 - (a) make a determination in accordance with this Division and Division 6 and other provisions of the rules and Procedures applicable to the compensation claim; and
 - (b) enter into, and deliver, a confidentiality deed for the benefit of each claimant in a form developed by AEMO pursuant to subrule (2),

but otherwise are at the discretion of AEMO.

- (2) AEMO must prepare, consult on and publish a form of confidentiality deed for the purposes of subrule (1)(b).
- (3) AEMO must publish guidance about the process for determination of compensation claims, which may include guidance about:
 - (a) the selection of independent experts and if applicable, the maintenance by AEMO of a pool of potential independent experts;
 - (b) how potential conflicts of interest will be managed; and
 - (c) giving notice of a claim, the claims process and indicative timetables.

135JE Nomination and appointment of an independent expert

- (1) Where AEMO is required pursuant to rule 237(2), 465(2) or 705(3) to appoint an independent expert to determine a compensation claim, AEMO must publish, and provide to the AER and each affected claimant, a notice of its proposed nominee as independent expert:
 - (a) within 15 business days of being notified of the compensation claim or, where rule 705(4) applies, within the time provided for in that rule; or
 - (b) if AEMO is nominating an independent expert in accordance with subrule (5) or (6)(b), as soon as reasonably practicable.
- (2) In nominating a person to act as independent expert, AEMO must have regard to the principle that to the extent reasonably practicable, related claims should be determined by the same independent expert as part of the same process.
- (3) An affected claimant may, within 3 business days after publication of the notice under subrule (1), notify the AER that it objects to the proposed independent expert determining the compensation claim on the ground that the independent expert has a potential conflict of interest. A notice under this subrule must include supporting information to explain the objection.
- (4) If the AER receives any objection under subrule (3), the AER must give AEMO a copy of the objection and any supporting information.
- (5) If AEMO is notified by the AER under subrule (4) of an objection, AEMO may, in its absolute discretion, and in accordance with subrule (1), nominate a different person to act as the independent expert for the compensation claim of the affected claimant and, if there are related claims, the related claims or any of them.
- (6) If the AER receives objections under subrule (3) from more than 25% of the affected claimants and the AER is satisfied that the independent expert has a potential conflict of interest:

- (a) the person is not eligible to act as the independent expert in relation to the relevant compensation claims; and
 - (b) if paragraph (a) applies, AEMO must nominate, in accordance with subrule (1), another person to be the independent expert to determine the relevant compensation claims.
- (7) AEMO must appoint the independent expert within 5 business days after the time for notifying an objection under subrule (3) has expired or, where the AER receives any objections under subrule (3), as soon as practicable after the objections have been dealt with.

- (8) In this rule:

affected claimant means a claimant for a compensation claim to which a notice under subrule (1) applies;

potential conflict of interest means an interest that may compromise, or would reasonably be seen to compromise, an independent expert's impartiality in relation to a compensation claim;

related claims means compensation claims that arise from a single compensation claim event or out of a series of compensation claim events that, in AEMO's reasonable opinion, are related.

135JF Information to be provided by AEMO for compensation claims

- (1) AEMO must, as soon as practicable following appointment of the independent expert, provide to the independent expert the claimant's *contact details*, a copy of the compensation claim and any submissions or other information provided by the claimant to AEMO for the claim.
- (2) AEMO must, as soon as practicable after receipt of a request from an independent expert, provide the independent expert and the claimant with the market data requested by the independent expert for the determination of a compensation claim.
- (3) In this rule, **market data** means information and data in AEMO's possession relating to a compensation claim event but does not include protected information or any other information in respect of which AEMO owes an obligation of confidentiality.
- (4) Nothing in this Part prevents AEMO from providing to the independent expert and the claimant any other information that AEMO considers appropriate relating to a compensation claim or a compensation claim event.

135JG Procedures for assessment of compensation claims

- (1) The independent expert is responsible for independently investigating, analysing and determining a compensation claim in accordance with this

Division, Division 6 and the rules and Procedures applicable to the compensation claim.

- (2) Subject to this Division, an independent expert determines the process and timetable it will adopt in performing its role.
- (3) Promptly following its appointment, an independent expert must:
 - (a) notify to the claimant and AEMO the process and timetable determined by the independent expert for the determination of the claim; and
 - (b) request the claimant to provide written submissions and any documentary evidence or other evidentiary material on which it relies in relation to its claim, within the time specified in the notice.
- (4) An independent expert may amend a process and timetable previously notified under subrule (3) by notice to the claimant and AEMO.
- (5) A process and timetable determined by the independent expert:
 - (a) must be consistent with the timeframes specified in rule 135JH; and
 - (b) may allow for the timeframes specified in rules 135JH(1) and (3) to be extended:
 - (i) for any period during which the independent expert is waiting for information from the claimant or AEMO that has not been provided within the time specified for provision of the information by the independent expert; or
 - (ii) where the independent expert reasonably considers that the issues relevant to the compensation claim are of sufficient complexity or difficulty or there is a material change in circumstances such that it is necessary to extend the relevant timeframes.
- (6) If an independent expert requires information or documentary evidence other than that included in or provided with a claimant's compensation claim or in response to a notice under subrule (3), the independent expert must request the claimant in writing to provide the information required.
- (7) If a claimant has not provided information requested by an independent expert under subrule (6) within 10 business days of the date of the request, then the independent expert, acting reasonably, is entitled to make such assumptions concerning that information as the independent expert thinks appropriate.
- (8) If the independent expert requires advice on a matter outside its expertise to enable it to determine a compensation claim, the independent expert may:

- (a) appoint a suitably qualified person to provide advice to it on the matter in question; and
 - (b) provide information relating to the compensation claim to the person appointed, if the person provides a confidentiality undertaking in a form consistent with the form of the confidentiality deed provided by the independent expert in accordance with rule 135JD(1)(b).
- (9) A claimant must do all things reasonably necessary for the proper, expeditious and cost-effective assessment and determination of its claim.

135JH Draft and final report and determination

- (1) An independent expert must within 30 business days of the independent expert's appointment under rule 135JE(7):
- (a) prepare, and provide to AEMO for publication by AEMO, a draft report setting out:
 - (i) for all compensation claims that it has been appointed to determine, the total amount of compensation payable and, where applicable, the other matters required to be determined in accordance with the Part under which the compensation claims are made; and
 - (ii) the methodology and assumptions, if any, used by the independent expert to make its determinations;
 - (b) prepare, and provide to each claimant and AEMO, its draft determination of the claimant's claim, including details of the calculation used to determine the amount of compensation; and
 - (c) prepare, and provide to AEMO for publication by AEMO, a notice inviting public submissions on the draft report and submissions from each claimant on the draft determination of its claim, by a date specified in the notice, which must not be earlier than 10 business days after the notice under subrule (1)(b).
- (2) Before making its final determinations, the independent expert must, if requested to do so by a claimant, meet within 15 business days of the notice under subrule (1)(b) with representatives of the claimant to discuss any queries the claimant has in relation to the draft report or the draft determination applicable to it.
- (3) Within 20 business days of the end of the consultation period specified in the notice published under subrule (1)(c), the independent expert must, in respect of the compensation claims referred to it:
- (a) prepare its final report, and provide its final report to AEMO for publication by AEMO;

of compensation claims under these rules unless the act or omission is done or made in bad faith.

135JJ Costs of a compensation claim

- (1) A claimant must bear its own costs of a compensation claim.
- (2) The costs of the independent expert and AEMO in relation to a compensation claim (**compensation process costs**) are to be borne as provided for in the provisions of the Part under which the compensation claim is made, unless the independent expert allocates some or all of the compensation process costs to the claimant under subrule (3).
- (3) Subject to anything to the contrary in the provisions of the Part under which a compensation claim is made, an independent expert may, as part of its determination, allocate some or all of the compensation process costs to the claimant if the independent expert is satisfied that:
 - (a) the claimant unreasonably prolonged the compensation claims process; or
 - (b) there is some other good reason to alter the allocation of compensation process costs.
- (4) If compensation process costs are allocated to a claimant under subrule (3), AEMO must issue a tax invoice to the claimant for the relevant amount with a due date for payment of not less than 10 business days.
- (5) A claimant must pay to AEMO the amount specified in a tax invoice issued under subrule (4) by the due date for payment.

135JK Review of compensation claim determinations

- (1) A claimant, the AER, AEMO or a person required, or who may be required, to pay money to AEMO in relation to a compensation claim may apply to a Court for review of a determination of an independent expert on a question of law if the Court grants leave.
- (2) The Court must not grant leave unless it is satisfied:
 - (a) that the question is one which the independent expert was asked to determine; and
 - (b) that, on the basis of the findings of fact in the determination:
 - (i) the determination of the independent expert on the question is obviously wrong; or
 - (ii) the question is one of general public importance and the determination of the independent expert is at least open to serious doubt; and

- (c) that it is just and proper in all the circumstances for the Court to determine the question.
- (3) An application for leave under subrule (1) must identify the question of law to be determined and state the grounds on which it is alleged that leave should be granted.
- (4) An application may not be made under this rule after 20 business days have elapsed from the date on which the final report of the independent expert was published.
- (5) On the determination of a review under this rule the Court may by order:
 - (a) confirm the determination; or
 - (b) vary the determination; or
 - (c) remit the determination, together with the Court's opinion on the question of law which was the subject of the review, to the independent expert for reconsideration or, where a new independent expert has been appointed, to that independent expert for consideration; or
 - (d) set aside the determination in whole or in part.
- (6) The Court must not exercise its power to set aside the determination, in whole or in part, unless it is satisfied that it would be inappropriate to remit the matters in question to the independent expert for reconsideration.
- (7) Where the determination is remitted under subrule (5)(c), the independent expert must, unless the order otherwise directs, make the determination within 50 business days after the date of the order.
- (8) The Court may make any leave which it grants under subrule (1) subject to the applicant complying with any conditions it considers appropriate.
- (9) Where the determination of an independent expert is varied on review under this rule, the determination as varied has effect (except for the purposes of this rule) as if it were the determination of the independent expert.

[11] Rule 200 Definitions

In rule 200, insert the following definition in alphabetical order:

compensation determination process means the process in Divisions 5 and 6 of Part 15C for the determination of compensation claims by an independent expert.

[12] Rule 237 Participant Compensation Claims

Omit rule 237, including the heading, and substitute:

237 Participant Compensation Claims

- (1) A Registered participant who wishes to make a claim under rule 344 (intervention) or 350 (administered price cap) must submit notice of its claim to AEMO within 10 business days following the issue of the final statement for that gas day in which the Registered participant made the injection of gas referred to in the claim.
- (2) If a valid notice of claim is given to AEMO under subrule (1) and is not withdrawn, AEMO must, within the time provided for in Part 15C, appoint an independent expert to determine the claim in accordance with this rule, rule 238 and the compensation determination process.
- (3) A Registered participant may withdraw a compensation claim at any time before the date for provision of written submissions by the claimant specified in the notice under rule 135JG(3)(b).
- (4) The cost of the independent expert on a compensation claim under subrule (1) are to be borne by AEMO unless the independent expert reallocates those costs, or a proportion of those costs, to the claimant on the ground that the claimant has unreasonably prolonged the proceedings or there is some other good reason to alter the allocation of those costs.
- (5) AEMO must make Procedures (**compensation procedures**) that describe the principles and methodology upon which compensation amounts are to be determined under rule 238.

[13] Rule 238 Determination and payment of compensation claims

Omit rule 238, including the heading, and substitute:

238 Determination and payment of compensation claims

- (1) The independent expert appointed to determine a compensation claim under rule 237 must make a determination, consistent with the compensation procedures, on:
 - (a) amounts of compensation to be paid by AEMO to a Registered participant in respect of claims made by that Registered participant under rule 344 or 350; and
 - (b) amounts to be paid to AEMO by Market Participants and the declared transmission system service provider to fund compensation payment amounts determined under paragraph (a)
- (2) The total of amounts determined by the independent expert under subrule (1)(b) must equal the total of amounts determined by it under subrule (1)(a).

- (3) If the independent expert makes a determination that compensation should be paid to a Registered participant, AEMO must pay that Registered participant those amounts and must advise the Registered participant as soon as practicable of the determination and of the date AEMO intends to make the payment.
- (4) AEMO must pay interest on the amounts determined in accordance with subrule (1)(a) at the interest rate from the day following the date of the next payment of settlement amounts made under rule 247 following the determination of the independent expert to the date when AEMO actually pays the Registered participant the amount of the compensation determined. Interest is to be calculated as simple interest on a daily basis.
- (5) If the independent expert determines that an amount is payable in respect of compensation claimed by a Registered participant in accordance with rule 344 or 350, then AEMO is entitled to recover those payments in accordance with this rule and each Market Participant and the declared transmission system service provider must pay to AEMO an amount determined in accordance with this rule.
- (6) Market Participants and the declared transmission system service provider must pay interest on amounts determined in accordance with subrule (1)(b) at the interest rate from the day following the date of the next payment of settlement amounts following the determination of the independent expert to the date when the Market Participant or the declared transmission system service provider actually pays the amount to AEMO. Interest is to be calculated as simple interest on a daily basis.

[14] Rule 364 Definitions

In rule 364, insert the following definition in alphabetical order:

compensation determination process means the process in Divisions 5 and 6 of Part 15C for the determination of compensation claims by an independent expert.

[15] Rule 465 Claims relating to administered market states

Omit rule 465, including the heading, and substitute:

465 Claims relating to administered market states

- (1) A Trading Participant may make a claim for loss under rule 433 by giving notice to AEMO within 10 business days after the issue of the final statement or a revised statement for the gas day on which the Trading Participant supplied the quantity of natural gas (including contingency gas) referred to in the claim.

- (2) If a valid notice of claim is given to AEMO under subrule (1) and is not withdrawn:
 - (a) if AEMO is satisfied that the claim is not controversial, AEMO may, with the agreement of the claimant, determine the claim and the other matters required under rule 466; or
 - (b) if AEMO decides not to make a determination under paragraph (a) or the claimant does not agree to AEMO's proposed determination, AEMO must, within the time provided for in Part 15C, appoint an independent expert to determine the claim in accordance with this rule, rule 466 and the compensation determination process.
- (3) The Trading Participant may withdraw a claim at any time before the date for provision of written submissions by the claimant specified in the notice under rule 135JG(3)(b).
- (4) An independent expert appointed to determine a claim must determine:
 - (a) whether it is appropriate in all the circumstances for a payment to be made in respect of the Trading Participant's claim; and
 - (b) if so, the appropriate amount of that payment.
- (5) A determination in respect of a claim must be consistent with rules 466(1) and (2).
- (6) The cost of the independent expert on a compensation claim under subrule (1) are to be borne by AEMO unless the independent expert reallocates those costs, or a proportion of those costs, to the claimant on the ground that the claimant has unreasonably prolonged the proceedings or there is some other good reason to alter the allocation of those costs.

[16] Rule 466 Determination and payment of claims

Omit rule 466, including the heading, and substitute:

466 Determination and payment of claims

- (1) A determination in respect of a claim under rule 433 must specify:
 - (a) the amount (if any) to be paid by AEMO to a Trading Participant; and
 - (b) the amounts to be paid to AEMO by one or more Trading Participants to fund the amount determined under paragraph (a); and
 - (c) how, and in what circumstances, the amounts specified under paragraphs (a) and (b) are to be adjusted if there is a change to the allocation data on which the determination of those amounts was based.

- (2) The STTM Procedures must specify the basis and method for determining amounts under subrule (1), in accordance with the following principles:
 - (a) the amount payable to a Trading Participant must be no more than is necessary to compensate that Trading Participant for the provable loss incurred by it as a direct result of the circumstances described in rule 433; and
 - (b) no amount is payable under this rule for:
 - (i) loss of profit; or
 - (ii) indirect or consequential costs or losses; or
 - (iii) opportunity cost or losses; and
 - (c) if reasonably practical, the amount payable must be recovered from Trading Participants in the proportions in which they caused or contributed to the event or circumstances giving rise to the claim; and
 - (d) the total of all amounts determined under subrule (1)(b) must equal the amount determined under subrule (1)(a).
- (3) If an amount is determined to be payable to a Trading Participant under this rule:
 - (a) AEMO must pay that amount to the Trading Participant and must advise the Trading Participant as soon as practicable of the date AEMO intends to pay the Trading Participant; and
 - (b) AEMO is entitled to recover that amount from Trading Participants and each Trading Participant must pay to AEMO an amount determined under subrule (1)(b).
- (4) Interest is payable on amounts determined in accordance with subrule (1)(a) or (b), at the interest rate, calculated as simple interest on a daily basis, for the period commencing on the day after the next payment date under rule 470 occurring after the determination and ending on the date of payment of the relevant amount.

[17] Rule 500 Time limits

In subrule 500(2), omit "(except under rule 465)".

[18] Rule 703 Definitions

In rule 703, omit the definition of "Adviser".

[19] Rule 703 Definitions

In rule 703, insert the following definitions in alphabetical order:

claims threshold – see rule 704(5).

compensation determination process means the process in Divisions 5 and 6 of Part 15C for the determination of compensation claims.

compensation funding amount – see rule 707(6).

compensation process costs means the costs of the independent expert and AEMO under the compensation determination process.

gas demand means gas taken from a pipeline forming part of the east coast gas system for:

- (a) consumption purposes;
- (b) an LNG export facility; or
- (c) any other purpose, including storage, specified in the Procedures, in circumstances where the withdrawal of that gas has the potential to impact the supply demand balance in the east coast gas system during the period of an identified risk or threat.

independent expert means an independent expert appointed under rule 135JE.

liable relevant entities – see rule 707(5)(b).

LNG export facility has the same meaning as in Part 18.

notice of claim – see rule 705(1).

related claims – see rule 135JE(8).

[20] Rule 704 Entitlement to compensate

Omit rule 704, including the heading, and substitute:

704 Entitlement to compensation

- (1) A relevant entity may, in accordance with rule 705, make a claim for compensation under this rule for the following direct costs incurred by the relevant entity as a direct result of AEMO issuing an east coast gas system direction, if the amount of the claim exceeds the applicable claims threshold:
 - (a) for a relevant entity subject to a direction that requires the relevant entity to provide a natural gas service—the direct costs associated with the supply of the natural gas service;
 - (b) for a relevant entity deprived of a natural gas service in relation to which the relevant entity had a contractual or other legal right—the direct costs associated with the deprivation of that service, but only if the relevant entity remains liable for the payment of the direct costs under the relevant contract or otherwise by law.
- (2) The direct costs referred to in subrule (1)(a) or (b) (as applicable to the claim) must be determined by reference to the following:

- (a) prices in a market transaction for natural gas services to which the claimant was a party;
 - (b) prices in a contractual agreement for natural gas services to which the claimant was a party;
 - (c) if paragraph (a) or (b) does not apply, standing prices or benchmark rates as set out in the Procedures.
- (3) If the relevant east coast gas system direction required the relevant entity to provide a natural gas service using gas withdrawn from a storage facility, from storage in a pipeline or from linepack, the direct costs referred to in subrule (1)(a) or (b) (as applicable to the claim) must be determined by reference to the direct cost of replacing that gas in the relevant storage facility or pipeline and in accordance with subrule (2).
- (4) No amount is claimable under this rule for:
- (a) loss of profit; or
 - (b) indirect or consequential costs or losses; or
 - (c) opportunity cost or losses.
- (5) For subrule (1), the **claims threshold** is:
- (a) for a claim notified to AEMO under rule 705 in the period ending 31 December 2024: \$50,000; and
 - (b) for a claim notified to AEMO during any calendar year commencing after 31 December 2024: the adjusted amount for that year calculated under subrule (6).
- (6) The adjusted amount referred to in subrule (5)(b) for a calendar year is to be calculated by multiplying \$50,000 by the number determined using the following formula:
- $$\text{CPI}_n / \text{CPI}_o$$
- where:
- CPI_o is the Consumer Price Index number (All Groups, weighted average of eight capital cities) published by the Australian Bureau of Statistics for the quarter ended 31 December 2023; and
- CPI_n is the Consumer Price Index number (All Groups, weighted average of eight capital cities) last published by the Australian Bureau of Statistics for the quarter ended immediately before the start of the calendar year.

[21] Rule 705 Application of Part 15C

Omit rule 705, including the heading, and substitute:

705 Notice of claim

- (1) As soon as practicable after the completion (as determined by AEMO, acting reasonably) of actions required to be taken as a direct result of an east coast gas system direction, AEMO must publish a notice requesting relevant entities that wish to claim compensation under this Division in respect of that east coast gas system direction to submit a notice in accordance with this rule of any claim for compensation under rule 704(1) (a **notice of claim**).
- (2) A relevant entity making a claim for compensation under rule 704(1) must:
 - (a) give its notice of claim to AEMO in accordance with the Procedures within 20 business days after the end of the month in which AEMO published the notice under subrule (1) for the relevant east coast gas system direction; and
 - (b) include with the notice of claim the information specified in the Procedures.
- (3) If a valid notice of claim is given to AEMO under subrule (2) and is not withdrawn, AEMO must, within the time provided for in Part 15C or subrule (4) if applicable, appoint an independent expert to determine the claim in accordance with this Division and the compensation determination process.
- (4) Where rule 704(3) applies to a compensation claim, for the purposes of rule 135JE(1)(a), AEMO must publish notice of its proposed nominee as independent expert within 15 business days of the date from which the claimant could reasonably be expected to provide details of its claim, which must be:
 - (a) determined by AEMO in consultation with the claimant; and
 - (b) not later than 6 months after the notice of claim is given.
- (5) A claimant may withdraw its notice of claim at any time before the date for provision of written submissions by the claimant specified in the notice under rule 135JG(3)(b).

[22] Rule 706 Process for determining compensation claims

Omit rule 706, including the heading, and substitute:

706 No exacerbation of direction costs

- (1) A relevant entity must not by any act or omission, either intentionally or recklessly, cause itself or another person to incur exacerbated direction costs, or contribute to itself or another person incurring exacerbated direction costs, in circumstances where the relevant entity is aware that the relevant east coast gas system direction has been given.

- (2) A relevant entity is not in breach of subrule (1) if the relevant entity:
 - (a) is seeking in good faith to comply with its legal obligations; or
 - (b) is making legitimate business decisions having regard to its legitimate business interests, determined without regard to the relevant east coast gas system direction.

- (3) In this rule:

direction costs means direct costs incurred as a direct result of AEMO issuing an east coast gas system direction and falling within paragraph (a) or (b) of rule 704(1); and

exacerbated direction costs means direction costs that exceed the upper end of the range of direction costs that could reasonably have been expected for supply of the relevant natural gas service in a workably competitive market for meeting the requirements of the east coast gas system direction.

[23] Rule 707 Determination and payment of compensation claims

Omit rule 707, including the heading, and substitute:

707 Determination and payment of compensation claims

- (1) The independent expert must, in accordance with the compensation determination process and this Division, make a determination on the amount of compensation to be paid by AEMO to the claimant.
- (2) For the purposes of subrule (1), the independent expert must determine to fully compensate the claimant for the direct costs specified in rule 704(1) unless:
 - (a) the claimant failed to take reasonable action to mitigate the costs for which compensation is being claimed; or
 - (b) the claimant received funds, payments, compensation or another financial benefit for undertaking the activity required by the direction or being deprived of the relevant service.
- (3) If subrule (2)(a) applies, the independent expert may reduce the amount of compensation by the amount the independent expert considers reasonable in the circumstances.
- (4) If subrule (2)(b) applies, the independent expert must reduce the amount of compensation by the total amount of any funds, payments, compensation or other financial benefits received by the claimant.
- (4A) A claimant must provide information to the independent expert in accordance with the compensation determination process to enable the independent expert to assess the matters in subrules (2) to (4).

- (5) If the independent expert determines that an amount of compensation must be paid to a claimant, AEMO must:
 - (a) calculate the compensation funding amount in accordance with subrule (6); and
 - (b) determine which relevant entities must fund the compensation funding amount (**liable relevant entities**) and their respective shares; and
 - (c) request payment of the applicable share from each liable relevant entity in accordance with the Procedures; and
 - (d) advise, as soon as practicable, the claimant of:
 - (i) the determination; and
 - (ii) the estimated date of payment; and
 - (e) after receiving payments of amounts requested under paragraph (c) from liable relevant entities, pay the amount to the claimant in accordance with the Procedures.
- (6) The **compensation funding amount** in respect of a determination is:
 - (a) the sum of the amounts determined by the independent expert under subrule (1) and the compensation process costs; less
 - (b) any part of the compensation process costs allocated to a claimant by the independent expert in accordance with rule 135JJ(3),and where an independent expert is appointed to determine related claims, AEMO may calculate a single compensation funding amount for all those claims.
- (7) A liable relevant entity that has received a request for payment under subrule (5)(c) must pay the amount requested to AEMO, in accordance with the Procedures.
- (8) AEMO may set off against amounts payable to a claimant any amount the claimant is required to pay AEMO pursuant to subrule (7) or rule 135JJ(5).
- (9) AEMO must make Procedures on the following:
 - (a) the methodology for determining payments to be requested from liable relevant entities under subrule (5) and the manner and form of payment;
 - (b) standing prices or benchmark rates for certain natural gas services; and
 - (c) the provision of information to AEMO to enable AEMO to calculate the payment to be requested from each liable relevant entity under subrule (5).

- (10) Procedures made under subrule (9)(a) must:
- (a) explain how liable relevant entities are determined;
 - (b) explain how AEMO will calculate aggregate gas demand in a location, a liable relevant entity's share of gas demand in that location and the other matters referred to in subrule (11)(a); and
 - (c) provide for the share of gas demand of a retailer, or other person that sells gas, to include gas consumed by the person's customers to the extent that the quantity would not otherwise be included in the calculation of gas demand.
- (11) AEMO must have regard to the following in making Procedures under subrule (9):
- (a) for Procedures made under subrule (9)(a)—the principle that, to the extent reasonably practicable, a liable relevant entity's share of a compensation funding amount should be in proportion to its share of the aggregate gas demand of all liable relevant entities:
 - (i) in the location of the identified risk or threat having regard to any relevant risk or threat notice and any relevant east coast gas direction; and
 - (ii) in the relevant risk or threat period having regard to any relevant risk or threat notice and any relevant east coast gas direction; and
 - (b) for Procedures made under subrule (9)(b):
 - (i) for pipeline services—the standing prices published by pipeline service providers in accordance with Part 10; and
 - (ii) for storage and compression services—the standing prices published in accordance with Part 18A; and
 - (iii) for natural gas—the price for the sale of natural gas in gas markets or gas trading exchanges administered by AEMO.
- (12) In addition to the consultation otherwise required by these rules or the Procedures, AEMO must consult the following on the making of Procedures under this rule:
- (a) the AEMC;
 - (b) the AER.

Schedule 2 Savings and Transitional Amendment to the National Gas Rules

(Clause 4)

[1] Part 20 2024 transitional provisions

In Part 20 in Schedule 1, insert new Division 2:

Division 2 Transitional provisions consequent on the National Gas Amendment (Compensation and dispute resolution frameworks) Rule 2024

104 Definitions

For the purposes of this Part:

Amending Rule means the *National Gas Amendment (Compensation and dispute resolution frameworks) Rule 2024*.

commencement date means 31 July 2024, being the date of commencement of schedule 1 of the Amending Rule.

existing claim has the meaning in rule 105(1).

new rule 135JD means rule 135JD as in effect on and from the commencement date.

old rules means the National Gas Rules as in effect immediately before the commencement date.

relevant claim means a claim under any of the following provisions of the old rules:

- (a) a claim for compensation under rule 344 or 350 of Part 19 of the old rules, notified to AEMO under rule 237(1) of that Part before the commencement date;
- (b) a claim for compensation under rule 433 of Part 20 of the old rules, notified to AEMO under rule 465(1) of that Part before the commencement date;
- (c) a claim for compensation under Division 6 of Part 27 of the old rules, notified to AEMO under rule 704(1) of that Part before the commencement date.

105 Saving of existing claims

- (1) This rule applies to a relevant claim that was not finally dealt with or decided immediately before the commencement date (an **existing claim**).
- (2) An existing claim must be dealt with and decided under the old rules as if the old rules were still in force and despite the Amending Rule.

- (3) If an award of compensation is made with respect to an existing claim, AEMO must pay and may recover the compensation and any costs of the dispute resolution process that are required to be borne by AEMO in the manner provided for in the old rules as if the old rules were still in force and despite the Amending Rule.

106 Instruments made by AEMO

- (1) By the commencement date, AEMO must review, and where necessary update, the following instruments to take into account the Amending Rule:
 - (a) the STTM Procedures;
 - (b) the Wholesale Market Procedures; and
 - (c) the East Coast Gas System Procedures.
- (2) Amendments made in accordance with subrule (1) must take effect from the commencement date.
- (3) By the commencement date, AEMO must:
 - (a) prepare, consult on and publish a form of confidentiality deed in accordance with subrule (2) of new rule 135JD; and
 - (b) make and publish guidance in accordance with subrule (3) of new rule 135JD.