

OFFICIAL

Making of the National Gas Rules

National Gas Law – Section 294FE

I, Tom Koutsantonis, Minister for Energy and Mining for the Crown in right of the State of South Australia, as the Minister administering the *National Gas (South Australia) Act 2008* of South Australia, hereby make the National Gas Amendment (Wholesale Market Monitoring) Rule 2024 under section 294FE of the National Gas Law on the unanimous recommendation of the Ministers of the participating jurisdictions sitting as the Ministerial Council on Energy for the purposes of that section.

This Rule has been signed by me for the purposes of identification as the National Gas Amendment (Wholesale Market Monitoring) Rule 2024 and commences operation on 23 May 2024.



Hon Tom Koutsantonis MP
Minister for Energy and Mining

9 May 2024

1 Title of Rule

This Rule is the *National Gas Amendment (Wholesale Market Monitoring) Rule 2024*.

2 Commencement

This Rule commences operation on the date or dates stated in the notice published under section 294FE(5) of the National Gas Law.

3 Amendment of National Gas Rules

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

Schedule 1 Amendment to the National Gas Rules

[1] Rule 3(1)

After the definition of "Law", insert:

MMIO means a market monitoring information order made by the AER under section 30AL of the NGL.

[2] Rule 3(1)

After the definition of "upstream location", insert:

Wholesale market monitoring guidelines means the guidelines made by the AER under section 30AT of the NGL.

[3] New rules 138C, 138D and 138E

After rule 138B, insert:

138C Wholesale market monitoring guidelines (Section 30AT of the NGL)

(1) Before making or amending *wholesale market monitoring guidelines*, the AER must consult in accordance with the consultation procedure set out in this rule.

Initial consultation

(2) The AER must publish a consultation paper on its website with:

- (a) an explanatory statement that sets out particulars of the proposed guidelines, the issues involved and options to address them, if applicable;
- (b) an invitation to make written submissions on the consultation paper; and
- (c) a due date for written submissions, which must be no earlier than 25 business days from the date of the consultation paper.

Consultation on draft guidelines

(3) No later than 50 business days after the due date for submission under subrule (2)(c), the AER must publish on its website:

- (a) draft *wholesale market monitoring guidelines*;
- (b) an explanatory statement setting out the reasons for its approach;
- (c) subject to confidentiality obligations, submissions received by the due date;
- (d) summaries of material issues raised in submissions received by the due date and the AER's response to those issues;
- (e) an invitation to make written submissions on the draft guidelines; and
- (f) a due date for written submissions, which must be no earlier than 25 business days after the date of the draft guidelines.

Publication of final guidelines

(4) No later than 50 business days after the due date for submissions under subrule (3)(f), the AER must publish on its website:

- (a) final *wholesale market monitoring guidelines*;
- (b) an explanatory statement setting out the reasons for its approach;
- (c) subject to confidentiality obligations, submissions received by the due date;
- (d) summaries of material issues raised in submissions received by the due date and the AER's response to those issues; and
- (e) the date on which the final guidelines are to take effect.

Individual meetings and additional consultation

(5) At any time in a period in which an interested party may make written submissions, an interested party may request a meeting with the AER to discuss the wholesale market monitoring guidelines.

(6) For the avoidance of doubt, the AER may conduct other forms of consultation including publishing issues or discussion papers, establishing and seeking input from working groups or advisory panels, and holding conferences, workshops, meetings or information sessions.

Extension of time

(7) The AER may extend the time limit for publishing draft or final guidelines under subrule (3) or (4), by publishing a notice before the expiry of the relevant time limit, if the AER considers an extension is necessary because:

- (a) the consultation involves issues of unusual complexity or difficulty; or
- (b) there is a material change in circumstances.

Minor or administrative amendments

(8) The AER may make minor or administrative amendments to the *wholesale market monitoring guidelines* without complying with the consultation requirements of this rule.

138D Market monitoring information order (Section 30AM of the NGL)

(1) Before making a *MMIO*, the AER must consult in accordance with the consultation procedure set out in this rule.

(2) The AER must publish on its website:

- (a) a draft *MMIO*;
- (b) an invitation to make written submissions on the draft; and
- (c) a due date for written submissions, which must be no earlier than 30 business days after publication of the draft.

(3) No later than 80 business days after the due date for submissions under subrule (2)(c), the AER must publish on its website:

- (a) the final *MMIO*;
- (b) subject to confidentiality obligations, submissions received by the due date; and
- (c) a statement of the reasons for the final *MMIO* (including a summary of each material issue raised in submissions received by the due date and the AER's response to those issues).

138E NGL) Urgent market monitoring information order (Section 30AM of the

(1) Before making a *MMIO* that is specified as urgent under section 30AI of the *NGL*, the AER must consult in accordance with the consultation procedure set out in this rule.

(2) The AER must publish on its website:

- (a) a draft urgent *MMIO*;
- (b) an explanatory statement setting out the reasons the AER believes access to the relevant information is time critical;
- (c) an invitation to make written submissions on the draft; and
- (d) a due date for written submissions, which must be no earlier than 5 business days after the date of publication.

(3) Following the conclusion of the AER's consideration of all submissions received by the due date under subrule (2)(d), the AER must publish on its website:

- (a) the final *MMIO*;
- (b) subject to confidentiality obligations, submissions received by the due date; and
- (c) a statement of the reasons for the final *MMIO*.

[4] New Schedule 8

After Schedule 7, insert:

Schedule 8 Transitional arrangements related to the *National Energy Laws Amendment (Wholesale Market Monitoring) Act 2023*

1 Wholesale market monitoring guidelines

(1) For the purposes of rule 138C, consultation undertaken by the AER in relation to the *wholesale market monitoring guidelines* before the commencement day is taken to have been undertaken in accordance with the procedure under rule 138C.

(2) In this rule:

commencement day means the day on which the *National Energy Laws Amendment (Wholesale Market Monitoring) Act 2023* commences.