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the Environment and Water

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Dear Ms Collyer

Submission of Rule Change Request: Extension of Bulletin Board medium-term capacity reporting requirements for planned supply & delivery infrastructure closures

As you would be aware, on 8 December 2023, Energy Ministers agreed to progress Stage 2 of the reforms to the east coast gas system reliability and supply adequacy framework. These reforms build on Stage 1 which was implemented in May 2023.

The Stage 2 reforms are being progressed as four separate but interrelated rule change requests. On 16 April 2024 Energy Senior Officials agreed to lodging the first of these rule change requests.

On behalf of Energy Senior Officials, I submit the Extension of Bulletin Board medium-term capacity reporting requirements for planned supply & delivery infrastructure closures rule change request.

Officials have, and are continuing to, work closely with the AEMC other market bodies and industry on the Stage 2 reforms. I thank the AEMC for our ongoing close collaborative relationship.

I endorse this rule change request and ask the AEMC to progress with their initiation.

Yours sincerely,

A blue ink handwritten signature, appearing to read 'Simon Duggan', with a long horizontal flourish extending to the right.

Simon Duggan
Deputy Secretary, Department of Climate Change, Energy, Environment and Water
Chair of the Energy Senior Officials Group

29 April 24

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OFFICIAL

Rule change request

Extension of Bulletin Board medium-term capacity reporting requirements for planned supply & delivery infrastructure closures

Rule change proponent

Energy Senior Officials on behalf of the Energy Ministers' Sub-Group

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1 Introduction and Summary

1.1 Background

The demand-supply balance in the east coast gas system has tightened over the last five years and the market has become more susceptible to reliability and supply adequacy risks.

This susceptibility was evident in the east coast gas system in winter 2022, when significant challenges were experienced highlighting the inadequacy of tools to monitor and manage supply adequacy threats.

Forecasts prepared by both the Australian Competition and Consumer Commission (ACCC) and the Australian Energy Market Operator (AEMO) in 2022 suggested conditions could deteriorate further in 2023 and over the medium to longer term.¹ AEMO's 2023 Gas Statement of Opportunities (GSOO) continues to identify a risk of shortfalls on very high demand days in southern states from 2024-26². In its most recent Gas Inquiry interim report, the ACCC noted the east coast gas system should have sufficient supply until 2028, the southern states on the other hand are expected to 'dip into a shortfall from 2024 and remain in a finely balanced surplus in 2025 and 2026 before declining into a shortfall from 2027 onwards'.³

1.1.1 Reliability and Supply Adequacy Framework reforms

Given the risks facing the market and the potential impact on the energy market transition, on 12 August 2022, Energy Ministers directed jurisdictional energy officials (Officials) to develop a reliability and supply adequacy framework (RSA framework) that can be used to identify and respond to threats, better manage periods of volatility, and support a more secure, resilient, and flexible east coast gas system.⁴

The RSA framework has been developed in two stages:

- **Stage 1** of the framework was implemented ahead of winter 2023; expanding AEMO's powers under the National Gas Law (NGL) to better monitor and communicate threats to the reliability and/or supply adequacy of the market, and if necessary, respond to any such threats.⁵
- **Stage 2** builds on Stage 1 by focusing on those elements of the framework that will help guide how AEMO uses its new powers. It will also facilitate timely and efficient market-led responses by providing market participants with greater predictability and transparency.

¹ ACCC, Gas Inquiry interim report, July 2022 and AEMO, Gas Supply and System Adequacy Risks, July 2022.

² AEMO, Gas Statement of Opportunities, March 2023.

³ ACCC, Gas inquiry December 2023 interim report, 15 December 2023, p44.

⁴ Energy Ministers, Priority reforms for a more secure, resilient and flexible east coast gas market, 12 August 2022.

⁵ Further detail on [Stage 1 of the RSA framework development](#).

In June 2023, Officials released a consultation paper on the potential Stage 2 reforms and undertook extensive stakeholder engagement that included workshops and meetings over a six-week period.⁶ In total, 27 formal submissions were received from stakeholders across the gas supply chain including producers, pipeline and storage facility owners, gas fired generators and retailers, gas users, other peak bodies, the Australian Energy Regulator, and the ACCC.

On 8 December 2023, Commonwealth, state and territory Energy Ministers agreed to progress Stage 2 of the RSA framework reforms to support a more secure, resilient, and flexible east coast gas system. Energy Ministers agreed to progress the following measures:

- (1) a reliability standard that can be used to objectively identify reliability and supply adequacy threats and guide responses to such threats
- (2) additional monitoring and communication tools that can be used to support more timely and efficient responses by market participants to any arising threats, including—
 - (a) a short-term and medium-term projected assessment of system adequacy (PASA)
 - (b) an advance notice of closure requirement for gas supply infrastructure⁷, and
 - (c) an objective threat signalling mechanism
- (3) additional reliability and supply adequacy management tools, including a supplier of last resort mechanism and an administered demand response mechanism, that will enable AEMO to manage any threats more effectively, and
- (4) improved alignment of the RSA Framework with the Gas Statement of Opportunities (GSOO) and Victorian Gas Planning Report (VGPR) and, where appropriate, the National Electricity Market (NEM) forecasting tools.

Together, the Stage 1 and Stage 2 reforms are intended to enhance the timeliness and efficiency with which market participants can respond to reliability and supply adequacy threats, by:

- providing market participants with greater visibility over intra-year reliability and supply adequacy in the short to medium term, allowing threats to be objectively identified and communicated to participants, who in turn will have the opportunity to respond prior to the need for any intervention by AEMO;
- operating in a transparent and predictable manner through clear objectives, rules and guidance for market participants and market bodies; and
- providing an appropriate level of accountability for AEMO when exercising its reliability and supply adequacy functions.

⁶ Further detail on Stage 2 of the RSA framework development and the public submissions that were received in response to the consultation paper.

⁷ In the June 2023 consultation paper, this framework element was referred to as an ‘advanced notice of closure’ requirement. This name mirrored the term used for a similar requirement in the NEM, which applies to electricity generators only. While the consultation paper made clear this requirement would apply to all the infrastructure involved in the supply and delivery of natural gas, it would appear from a number of stakeholder responses that they assumed it would apply in the equivalent manner to the NEM, that is to upstream gas production only. To avoid this confusion, Officials have renamed the measure to ‘Extension of Bulletin Board medium-term capacity reporting requirements for planned supply and delivery infrastructure closures’, which better describes the obligation.

This rule change request seeks to implement item (2)(b) above, through an extension of the medium-term capacity outlook in the rules pertaining to the Natural Gas Services Bulletin Board⁸ (the Bulletin Board) to capture planned closures of gas supply and delivery infrastructure, including gas production, transmission pipelines, compression, and storage facilities.

1.1.2 Why a rule change request?

In Stage 1, the NGL was amended to enable those elements of the RSA framework that were being contemplated in Stage 2, to be implemented through changes to the National Gas Rules (NGR). Energy Ministers have therefore agreed that the Stage 2 framework elements should be progressed through the Australian Energy Market Commission's (AEMC) standard rule change process.

The Stage 2 reforms are expected to be progressively implemented between 2025 and 2026, pending the outcome of the AEMC's final determinations on the various relevant rule change requests.

This rule change request is the first of a set of rule change requests relating to the Stage 2 reforms. It seeks to amend the medium-term capacity outlook in the rules pertaining to the Bulletin Board to capture planned closures of gas supply and delivery infrastructure. Appendix 1 provides an overview of the RSA Framework and linkages with this rule change request.

1.2 Description of the proposed rule

The proposed rule would extend the medium-term capacity reporting requirements in Part 18 of the NGR to require the reporting of planned closures of supply and delivery infrastructure at least 36 months prior to closure. The proposed rule would apply to operators of production, pipeline, compression, and storage facility infrastructure that meet the Bulletin Board reporting threshold (i.e. by having a nameplate capacity rating equal to or more than 10 TJ per day). It would also utilise the existing information standard (s 165(1) of the NGR) and the immunity in s 226(1) of the NGL to avoid unintended consequences and ensure those acting in good faith are not penalised should a closure occur in less than 36 months due to unanticipated matters.

1.3 Rule-making requirements

The subject matter on which the AEMC can make rules are set out in section 74 and Schedule 1 of the NGL. Of particular relevance to this rule change request are:

- Section 74(1) of the NGL, which allows the AEMC to make rules for, or with respect to:
 - the collection, use, disclosure, copying, recording, management and publication of information in relation to the natural gas industry (s. 74(1)(a)(iii))
 - the reliability or adequacy of the supply of natural gas within the east coast gas system (s. 74(1)(a)(viiia)).
- Section 74(2) of the NGL, which allows the AEMC to make rules for or with respect to any matter specified in Schedule 1. Relevantly, Schedule 1 specifies the following matters:

⁸ On proclamation of the Statutes Amendment (National Energy Laws) (Other Gases) Act 2023, a reference to the Natural Gas Services Bulletin Board, will be taken to be a reference to the Gas Bulletin Board.

- the Bulletin Board, including, but not limited to:
 - the kinds of information that may or must be given to AEMO, who must give AEMO the information, the circumstances in which the information may or must be given, and the procedure for giving the information (item 80)
 - the kinds of information that may or must be included on the Bulletin Board (item 81).
- the provision of information to AEMO in relation to its east coast gas system reliability and supply adequacy functions, who must give AEMO the information, the circumstances in which the information may or must be given and the way in which the information may or must be given, including a way set out in the Procedures (item 55ZE).

In accordance with section 291(1) of the NGL, the AEMC may only make a rule if it is satisfied the rule will, or is likely to, contribute to the achievement of the National Gas Objective (NGO). Chapter 4 of this rule change request sets out how the proposed rule is expected to contribute to the NGO.

A request for the making of a rule must address the matters set out in regulation 13 of the National Gas Regulations (Regulations), including setting out the expected benefits and costs of the proposed rule change and the potential impacts of the change on those likely to be affected.

1.4 Structure of this rule change request

In keeping with the requirements set out in the NGL and regulation 13 of the Regulations, the remainder of this rule change request is structured as follows:

- Section 2 outlines the nature and scope of the issue the rule change is intended to address and how the proposed rule would address the identified issue⁹
- Section 3 contains a description of the proposed change and the rules that would be affected by the proposed rule change¹⁰
- Section 4 explains how the proposed rule change will or is likely to contribute to the achievement of the NGO¹¹
- Section 5 sets out the expected benefits and costs of the proposed change and the potential impacts it may have on those that are likely to be affected by the rule change.¹²

1.5 References to natural gas, covered gases and gas

The national gas regulatory framework has recently been extended to hydrogen and renewable gases. Previously, the NGL and the National Energy Retail Law (NERL) referred only to ‘natural gas’.

Following proclamation of the *Statutes Amendment (National Energy Laws) (Other Gases) Act 2023* on 7 March 2024, all references to ‘natural gas’ in the NGL have been changed to ‘covered gas’. The

⁹ *National Gas (South Australia) Regulations* reg 13(1)(c).

¹⁰ *National Gas (South Australia) Regulation* reg 13(1)(b).

¹¹ *National Gas (South Australia) Regulations* reg 13(1)(d).

¹² *National Gas (South Australia) Regulations* reg 13(1)(e).

term 'covered gas' means a primary gas (i.e. natural gas, hydrogen, biomethane, synthetic methane, a substance prescribed by the Regulations or by a local regulation in a participating jurisdiction) or a blend or primary gases.

For the purposes of this rule change request, all references to natural gas and gas can be taken to be a reference to 'covered gas'.

2 Statement of issues

2.1 Problem identified with the current rules

The energy transition will change the role of natural gas in the energy mix and could trigger the closure of some natural gas supply and delivery infrastructure. While this has not been an issue historically in the east coast gas system, the size and scope of the energy transition will require a proactive regulatory approach to ensure any reliability and supply adequacy risks associated with the closure of such infrastructure are signalled early to the market.

The closure of infrastructure critical to the supply and delivery of gas, including production, transmission pipeline, compression and/or storage facilities, without sufficient notice could have a material impact on the reliability of supply of the east coast gas system. It could also limit the ability of market participants to respond in an informed and efficient manner to any threats associated with the closure.

The NGR currently includes a range of monitoring and communication tools to help identify and signal supply threats to the east coast gas system, including:

- The GSOO and VGPR, which are longer term forecasting and planning tools that are prepared by AEMO annually¹³ and provide a static point in time assessment of the adequacy (or otherwise) of supply and the infrastructure involved in the supply of gas to meet forecast east coast demand and to signal where investment may be required.¹⁴
- The Bulletin Board, which is a website operated by AEMO that contains a mix of short and medium term market and system information for a range of facilities involved in the supply, delivery and use of gas in the east coast that can be used to inform shorter term decisions by market participants (see Part 18).
 - A requirement to report nameplate rating information¹⁵ for Bulletin Board facilities (BB facilities) and information about any planned permanent capacity reduction due to modification of the BB facility (rule 168(1)).
- The new Part 27 information disclosure and communication tools, which have been implemented in Stage 1 to enable AEMO to monitor the reliability and adequacy of supply in the east coast over a rolling 7-day and 6-month outlook period and to communicate any threats it identifies to the market.

¹³ While the NGR only requires the VGPR to be published every 2 years, AEMO has published the VGPR annually.

¹⁴ Note while AEMO can publish a 'supplement' to the GSOO within the year (rule 135KD of the NGR), it is only required to do so if 'significant and verifiable new information relevant to the gas statement of opportunities is brought to AEMO's attention'. Depending on the infrastructure that is to be closed, it is uncertain whether this test would be met and that any changes that occur within the year would not be signalled to the market until the next GSOO is published. In this regard, it is worth noting that over the last 5 years, AEMO has only published one intra-year update to the GSOO.

¹⁵ Nameplate rating is defined as the maximum daily capacity under normal operating conditions and is the intended maximum output of the facility (AEMO BB Procedures, June 2023, 3.5(b)).

AEMO also publishes an annual winter readiness plan for the Victorian Declared Wholesale Gas Market.

Importantly, none of these monitoring and communication tools currently provide market participants with information on planned closures of supply and delivery infrastructure on anything more than an annual basis, if reported at all.

For instance, while AEMO may obtain information on planned reductions in capacity or retirements of supply and delivery infrastructure through its GSOO and VGPR process, there is no requirement for it to publish this information. Even if there was a requirement, the GSOO and VGPR are published on an annual basis. Annual updates of closures are unlikely to provide market participants sufficient notice to make informed and efficient decisions on how to respond to the reliability and supply adequacy risks associated with such closures.

In relation to rule 168 – Nameplate rating information, BB reporting entities must provide to AEMO the nameplate rating of each of its BB facilities annually. A BB reporting entity must update the information provided under rule 168 if there is a material change in a nameplate rating, or if the information is no longer accurate.¹⁶ Planned permanent capacity reductions must be reported, but this currently only applies to capacity reductions ‘due to modification of the BB facility’.¹⁷ However, it is possible a closure may arise for reasons other than a modification of the BB facility, there is therefore a potential gap in reporting of closures.

In the case of the Bulletin Board, while BB reporting entities are required by the medium-term capacity outlook provisions in rule 181 to report on factors that may affect the capacity (including maintenance and planned reductions and expansions of capacity) for a 24-month outlook period, they are not explicitly required to provide information about a planned closure. While it has been suggested that this could be inferred from the information reported on planned reductions in capacity, there are limitations with this approach.

The first limitation is that rule 181 does not require BB facility operators to clearly state if a reduction in the facility’s capacity to zero is only temporary or due to permanent closure. That is, while rule 181(3) does require the start and end dates of any matters expected to affect daily capacity, and a description of the matters expected to affect daily capacity to be reported, the description is left to the operator to determine, which means it may not always be clear if a reduction in the facility’s capacity to zero is due to a temporary issue or a permanent ‘closure’.

The second and more fundamental limitation is that the medium-term capacity outlook is limited to a 24-month outlook period (rule 141) and there is no requirement for closures to be reported on if they are planned to fall outside of that window. However, it is generally accepted, and was noted through consultation on the Stage 2 reforms, that new gas supply and infrastructure projects can take 3-5 years from inception to commissioning. This means there is insufficient lead time provided through the current medium-term capacity outlook reporting to allow market participants to respond to a closure without risking supply and price shocks for energy consumers.

¹⁶ NGR r 168(4).

¹⁷ NGR r 168(1)(b).

The approach to closures in the east coast gas system differs from that used in the NEM, where generators are required to provide at least 3.5 years notice of a planned closure. This requirement was implemented in the NEM in 2019 to proactively address the threats associated with the closure of generators, by providing market participants with greater transparency of planned closures and more time to factor this into their contracting, investment, and operational decisions.¹⁸

The absence of a similar requirement for gas production, transmission, compression and storage facilities in the east coast to report on planned closures could limit the ability of market participants to respond in a timely, informed, and efficient manner to any reliability or supply adequacy threats that may be associated with the closures.

While it is difficult to quantify the effects of this problem with the current rules, in the near to medium term, it can be expected to adversely affect the efficient operation of the market and the efficiency with which gas, supply and delivery infrastructure and other resources are allocated. There may also be impacts on the NEM and electricity supply to the extent that gas supply may impact on the operation of gas powered generators (GPG).

The problems noted above limit the ability of market participants to plan efficiently to meet future gas demand and to respond in a timely, informed, and efficient manner to changing conditions. Which may, in turn, result in inefficient decisions being made about the operation, use of and investment in gas supply and delivery infrastructure and the use of alternative energy sources (e.g. electricity), because these decisions are made on the basis of incomplete, inaccurate, or asymmetric information.

The inability of the market to respond in a timely, informed and efficient manner to such closures could also pose a threat to the reliability and adequacy of supply. This could, in turn, result in greater reliance having to be placed on AEMO to address reliability and supply adequacy threats using more interventionist tools, such as directions or the proposed supplier of last resort arrangements. While these tools have an important role to play in the RSA framework, it is generally accepted that a market-led response (informed in this case by timely information on planned closures of supply and delivery infrastructure) will lead to a more efficient outcome than intervention by AEMO.

2.2 Options considered to address the identified problem

2.2.1 Stakeholder consultation

As part of the consultation on Stage 2 of the RSA framework, Officials sought feedback on a potential advance notice of closure for supply and delivery infrastructure and the form it might take.

This feedback, which is summarised in Box 1, has helped to inform the identification and evaluation of the following options to address the problem with the current rules:

¹⁸ AEMC, National Electricity Amendment (Generator three year notice of closure) Rule 2019, Rule determination, 8 November 2018

Option 1: Amend the GSOO provisions in Part 15D of the NGR and VGPR provisions in Part 19 of the NGR to require AEMO to report on planned closures of supply and delivery infrastructure with at least 3 years notice.

Option 2: Amend the Bulletin Board medium term capacity outlook provisions in Part 18 of the NGR to require supply and delivery infrastructure operators to report on planned permanent closures with at least three years notice.

Option 3: Include a new part in the rules that requires a notice of closure of supply infrastructure and largely mirrors the requirements in the NEM.

Box 1 Stakeholder consultation and feedback

Stakeholders provided mixed views on an advance notice of closure requirement, with roughly equal support for and against this requirement amongst those that expressed a view on it. Those supporting its implementation stated that it would provide more timely information and enable more effective market-led responses. Those opposed to its implementation suggested there were material differences between factors driving closures in gas and electricity – particularly for production where there is unlikely to be a single closure date. Several stakeholders also suggested it was unnecessary as inferences about closures could be drawn from other public sources.

While most stakeholders were silent on the design options, those that did comment agreed it should apply to supply and delivery infrastructure. A small number also suggested it apply to large users.

Stakeholders suggested a range of advance notice periods ranging from 2 years to 3.5 years with a median of 3 years. Elsewhere in their submissions, stakeholders noted that a minimum period of 3–5 years to implement a new supply or delivery infrastructure project, from inception to commissioning.

Stakeholders also expressed mixed views on penalties for failing to report on planned closures. Those supporting penalties noted it would provide an incentive for clearer planning and reporting and suggested an exemption framework could be used where there were genuine unplanned closures within the reporting window. Those who did not support penalties stated supply and delivery infrastructure operators should not be held accountable if good faith estimates about their operations do not eventuate.

Several stakeholders noted the proposed changes could potentially be implemented through changes to the existing medium term capacity outlook reporting on the Bulletin Board or through the GSOO.

2.2.2 Identified options

While stakeholders had mixed views on the benefits of reporting on planned closures, Energy Ministers have agreed to progress this reform because it will provide more transparency and enable more timely and efficient market-led responses to reliability or supply adequacy threats posed by

closures. This reform is also consistent with the AEMC’s 2018 decision to implement a similar notice of closure requirement on generators in the NEM through changes to the NER. In that case the AEMC noted the advance notice of closure requirement was important for transparency, predictability, efficiency of investment, and reliability.¹⁹

Three potential options have been identified to implement such a requirement in the NGR, which have been informed by stakeholder feedback.

Option 1: Amend the GSOO reporting requirements

Some stakeholders suggested that planned closures could be reported through the GSOO.

Under this option, the GSOO provisions in Part 15D of the NGR would need to be amended to require AEMO to report on planned closures of supply and delivery infrastructure with at least 36 months’ notice.

As noted in section 2.1, the main limitation with this option is that the GSOO is only published annually (in March), which will limit the ability of market participants to respond in a timely and efficient manner to any planned closures.²⁰ For instance, if a producer decided in April 2024 that it would close its production facility in 3 years’ time, market participants may only become aware of this in March 2025, giving them just 2 years to respond to the planned closure. This may, in turn, limit the options available to the market participants (including the options to reduce demand, switch to alternative energy sources or underwrite the development of new supply projects) and/or lead to threats to the reliability or adequacy of supply that must be addressed through more interventionist and less efficient means.

Option 2 – Amend the Bulletin Board Medium-term capacity reporting requirements

A number of stakeholders suggested that planned closures could be reported as part of the medium-term capacity outlook reporting requirements in the Bulletin Board.

Under this option, the Bulletin Board medium term capacity outlook provisions in Part 18 of the NGR, which currently require reporting over a 24 month outlook period, could be amended to require supply and delivery infrastructure operators to report on planned closures with at least 36 months’ notice. A notice period of 36 months aligns with stakeholder feedback, including feedback observing that gas infrastructure projects require 3-5 years lead time.

¹⁹ AEMC, National Electricity Amendment (Generator three year notice of closure) Rule 2019, Rule determination, 8 November 2018.

²⁰ Note that while AEMO can publish a ‘supplement’ to the GSOO within the year, it is only required to do so if ‘significant and verifiable new information relevant to the gas statement of opportunities is brought to AEMO’s attention’. Depending on the infrastructure that is to be closed, it is quite possible that this test would not be met and that any changes that occur within the year would not be signalled to the market until the next GSOO is published. In this regard, it is worth noting that over the last 5 years, AEMO has only published one intra-year update to the GSOO.

The main benefits of this option are that the Bulletin Board has an existing reporting and penalty framework that can be utilised. It would also provide for information on planned closures to be published in a timely and readily accessible manner.

Implementing this requirement through the Bulletin Board would also benefit supply and delivery infrastructure operators, because they are familiar with the existing reporting framework and have existing systems in place to meet their Bulletin Board reporting obligations. It would also avoid the need to develop and maintain a separate reporting platform.

Option 3 – Mirror the NEM notice of closure framework

Under the National Energy Rules (NER), operators must provide notice of an intention to cease to supply or acquire electricity or trade directly in the market (clause 2.10.1 of the NER). The NER provides for a range of conditions that must be met by operators including:

- closures must be notified for both generating units closing entirely or in relation to one of more connection points
- a notified closure date must be no earlier than 42 months from the date of the notice (Tier 1 civil penalty applies)
- provision to provide an amended closure date that is no earlier than 42 months from the date of the amended notice is provided to AEMO
- operators can apply to the Australian Energy Regulator (AER) for an exemption to the requirement to notify a closure no earlier than 42 months.

While elements of the existing notice of closure framework in the NEM may warrant consideration, this option is quite complex and rigid and would require a large number of changes to be made to the NGR and governance arrangements to implement—including providing the AER a new role in assessing exemption applications. It will also require new reporting systems to be implemented by reporting entities.

Large users

A small number of stakeholders suggested if planned closures are to be reported upon, large users should also be subject to the requirement. It is worth noting a significant subsection of large users, GPGs, are already subject to this requirement in the NEM through the notice of closure requirements on generators. A need for the requirement to apply to other large user infrastructure is less clear at this stage. While large users may close their facilities, this is unlikely to pose a material risk to the reliability or adequacy of supply in the market, and could, in fact, improve reliability in the short-term. Therefore, Officials consider extending the requirement to large users is unnecessary.

2.3 Preferred approach

Of the identified options, Option 2 is preferred because it will provide the greatest transparency of planned closures, while also providing a relatively ‘light touch’ approach by using the existing Bulletin Board reporting and penalty framework. This will minimise costs and impacts on affected parties without compromising the benefits of the improved transparency of planned closures.

3 Proposed rule

3.1 Description of the proposed rule

To address the problems identified with the current rules and provide market participants with sufficient time to respond to planned closures of supply and delivery infrastructure, the proposed rule will amend provisions in Part 18 of the NGR to extend the medium-term capacity outlook reporting obligations to require BB facilities (excluding BB large user facilities) to report on planned closures at least 36 months prior to the planned closure date through the Bulletin Board.

Specifically, changes will need to be made to rule 181 and the definitions in rule 141. At a high level, these changes would involve the following:

- Rule 181—Medium term capacity outlooks for BB facilities excluding BB large user facilities:
 - Inclusion of a new requirement that operators of BB facilities (excluding BB large user facilities) must report on planned closures of their facilities at least 36 months prior to the planned closure date through the Bulletin Board (with information to be reported on the date of the planned closure). This requirement is intended to be separate to the existing requirement in rule 181 for BB facilities to report on the medium-term capacity outlook over a 24-month outlook period.
 - That is, BB facility operators will be expected to continue to report the existing information specified in rule 181 over a 24-month outlook period, while information on planned closures would be reported over a 36-month outlook period.
 - Inclusion of a requirement that any changes to the planned closure (including the timing of the planned closure) are to be reported as soon as practicable and in accordance with rule 165(3).
 - As with other Bulletin Board reporting requirements, this information would be subject to the BB information standard in rule 165 and the applicable penalty provisions.²¹
 - Consistent with the current application of rule 181, the requirement to report a closure should apply to facilities meeting the current definition of ‘BB facility’ in rule 141, except for a BB large user facility. That is, all production, transmission pipeline, compression and/or

²¹ The key penalty provisions include:

- Section 223 of the NGL, which sets out the obligation that persons have to give information to AEMO for use by AEMO in connection with the Bulletin Board if required to do so under the NGR and to do so in accordance with the NGR. This section of the NGL is classified as a Tier 2 civil penalty.
- Rule 165(1), which requires BB reporting entities that are required to give information or data to AEMO to prepare and submit that information or data in accordance with the BB information standard. This rule is classified as a Tier 1 civil penalty.
- Rule 165(4), which requires BB reporting entities that are required to update information or data to prepare and submit that information or data in accordance with the BB information standard. This rule is classified as a Tier 1 civil penalty.

storage facilities that meet the reporting threshold (i.e. facilities with a nameplate rating of 10 TJ/day or more) that are not otherwise exempt from reporting on the Bulletin Board.

- Rule 141—Interpretation
 - Create a definition for ‘closure’ with the effect that a closure is the cessation of the supply of natural gas or natural gas services by the BB facility.
 - This definition should capture permanent closures, including through decommissioning of assets, but should not capture changes in capacity due to maintenance, refurbishment, or other modifications.
 - A consequential amendment to the definition for ‘medium-term capacity outlook’ may be needed, to ensure the closure reporting timeframe of 36 months is reflected, although, as noted above, the intention is not to extend the reporting requirement for all other aspects of the medium-term capacity outlook.
- Inclusion in the Bulletin Board of a field clearly identifying if a permanent closure has been reported or a permanent closure date amended. Consideration could also be given by AEMO, as operator of the Bulletin Board, to flagging reported closures and amendments to reported closure dates, more broadly to market participants.
- If the BB Procedures are to be relied upon to specify any additional detail on how this information is to be reported, then it is possible that amendments to rule 135EA(2) in Part 15B may also be required.
- Any necessary adjustments to Rules and Procedures to ensure reports of planned closures inform and build on the longer-term planning signals provided through the GSOO and Victorian Gas Planning Report forecasts.

3.1.1 Other considerations

NEM generator notice of closure

The AEMC may wish to consider whether any of the design elements of the NEM notice of closure requirements in the NER should be adapted for this rule change request to avoid unintended consequences of a gas supply and delivery infrastructure notice of closure requirement. These include:

- Provision for reporting closures of generating units ‘...whether entirely or in relation to one or more connection points’ (clause 2.10.1(c1)(1)(ii)(B) of the NER) (i.e. partial closures or closures of subcomponents of key gas supply infrastructure).
- Allowances for the AER to ‘...exempt any Scheduled Generator or Semi-Scheduled Generator from the requirement to provide the closure date...’ (clause 2.10.1(c4) of the NER. (i.e. an exemption framework).

3.2 How the proposed rule addresses the identified issues

The proposed rule is expected to overcome the problems identified with the current rules by providing for the publication on the Bulletin Board of timely and clear information on planned

closures of supply and delivery infrastructure with sufficient notice to enable market participants to respond, with the reporting of such information subject to a robust reporting framework.

Having clear and timely notices of supply and delivery infrastructure closures at least 36 months prior to closure will, for example, provide market participants sufficient time to make informed and efficient decisions about how to respond and mitigate the impacts of the closure. This could, in the case of some gas users, involve reducing their demand for gas (e.g. by implementing energy efficiency measures or switching to alternative energy sources), while for other gas users it may involve seeking out alternative sources of gas supply (including renewable gases) and/or underwriting new supply or delivery infrastructure developments. Timely information on closures will also enable governments to make more informed policy decisions.

The publication of this information on the Bulletin Board will also support improved forecasting in the GSOO, VGPR and the proposed gas PASA, which will enable more informed and efficient planning and investment decisions to be made by market participants and governments.

As a package, the proposed changes are expected to support the efficient operation of the market and the efficiency with which gas, supply and delivery infrastructure and other resources are allocated by allowing market participants to make more timely, informed, and efficient decisions about how to respond to planned closures.

The improved efficiency and responsiveness of market participants should reduce the need for AEMO to intervene to address any threats associated with such closures and avoid the costs associated with unreliable or inadequate supply. The proposed rule changes are expected to improve forecasting, planning and overall reliability of the east coast gas system, which will become increasingly important as Australia progresses through the energy transition.

4 Consistency of the proposed rule with the National Gas Objective

The NGO is set out in section 23 of the NGL, and states:

The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long-term interests of consumers of natural gas with respect to—

- (a) price, quality, safety, reliability and security of supply of natural gas; and*
- (b) the achievement of targets set by a participating jurisdiction—*
 - (i) for reducing Australia’s greenhouse gas emissions; or*
 - (ii) that are likely to contribute to reducing Australia’s greenhouse gas emissions.*

If made, the proposed rule is expected to contribute to the NGO by:

- promoting efficient investment in and the efficient operation and use of gas services
- supporting the reliability and security of supply of gas in the east coast gas system.

The proposed rule is expected to reduce information asymmetry and promote efficient investment in, and the efficient operation and use of, gas services, by enabling market participants to make more timely, informed, and efficient decisions about consumption, production, infrastructure use and/or investment in gas and alternative energy sources in response to planned closures of supply or delivery infrastructure.

This includes being able to consider options that might not otherwise have been available to market participants if a shorter notice period was provided. For example, if given sufficient notice, some large users may be able to respond by reducing their demand for gas or switching to lower cost alternative energy sources. The ability to consider these types of options is becoming increasingly important as the energy system transforms to a lower-emission system and will promote productive, allocative and dynamic efficiency across the broader energy market over the short, medium and longer term.

The proposed rule is also expected to improve the reliability and security of supply and the efficiency with which reliability and supply adequacy threats are managed. It is expected to do so by enabling more timely and efficient market-led responses to planned closures and, in so doing, avoiding the costs and inefficiencies that may be associated with inadequate or unreliable supply, or more direct interventions by AEMO.

Additionally, as alluded to above, the proposed rule change should provide market participants more time to consider alternative solutions to addressing planned closures that may contribute to emissions reductions. These might include:

- investment in low-emission gas supply alternatives
- infrastructure improvements (e.g. to improve operational efficiency or reduce fugitive emissions)

- reducing gas demand through energy efficiency improvements or switching to lower emission energy sources, where feasible.

Realising each of these benefits is in the long-term interests of consumers of gas and is expected to support both the reliability and affordability of gas as the sector transitions and decarbonises in line with legislated emissions reduction targets. The proposed rule is therefore expected to contribute to the achievement of the NGO.

5 Expected benefits, costs and impacts of the proposed rule

5.1 Benefits

Implementation of the proposed rule is expected to benefit market participants by providing them with more timely and transparent information on planned supply and delivery infrastructure closures that they can then respond to in a more informed and efficient manner. It will also support improved forecasting through the GSOO, VGPR and proposed gas PASA (being proposed as a separate rule change request). This will, in turn, facilitate timelier and more efficient decision-making and market-led responses, which will directly benefit individual market participants, gas consumers and the market more generally, by allowing market participants to:

- Make more timely, informed, and efficient consumption, production, infrastructure use and/or investment decisions in relation to:
 - the supply and/or delivery infrastructure that is closing
 - replacement sources of supply (covered gas or other lower emission energy sources) and/or delivery infrastructure
 - their own facilities, which could involve implementing energy efficiency measures to reduce their covered gas consumption and/or switching to lower emission energy sources.
- Respond in a more timely, informed, and efficient manner to any reliability or supply adequacy threats that may be associated with the closure and therefore limit the need for more costly and potentially distortionary interventions by AEMO.

The proposed rule will also result in significant indirect benefits, by avoiding the reliability and supply adequacy threats, inefficient decision making and inefficient allocation of resources that may be associated with an unanticipated closure of supply and delivery infrastructure, the costs of which would ultimately be borne by gas consumers.

5.2 Costs

While there will be some incremental costs associated with the proposed rule, they are expected to be very small. For instance:

- The costs to the supply and delivery infrastructure operators that would be subject to the proposed rule are expected to be very small because:
 - the operators are already Bulletin Board reporting entities and, as such:
 - are subject to similar reporting obligations (including the obligation to report on uncontracted capacity over an equivalent 36-month reporting period)
 - have existing reporting systems in place to meet Bulletin Board reporting obligations
 - the operators should have a high degree of confidence in whether the infrastructure will be operational in three years or not (which would be evident via their intention to offer services to market participants) and so should be well placed to report this information

- planned closures are expected to occur relatively infrequently.
- The incremental costs to AEMO as Bulletin Board operator are also expected to be small because the infrastructure operators that would be subject to the reporting obligation are already registered as BB reporting entities. The reporting of information on planned closures is also expected to form part of AEMO’s existing reporting systems.
- The incremental costs to the AER in monitoring and enforcing compliance with the reporting requirement are also expected to be relatively small, because it has existing monitoring and enforcement frameworks in place.

During consultation on the RSA stage 2 proposals, several stakeholders noted the potential for entities to face indirect costs by being penalised if good faith estimates do not eventuate due to operational changes and the potential for perverse incentives to provide inaccurate closure dates to avoid the risk of any potential penalty, but then delay closure.²²

The NGR already mitigates these risks through the Bulletin Board information standard. Rule 165(1) provides that where a BB reporting entity is required by Part 18 or the BB procedures to give information to AEMO, it must be done in accordance with the ‘BB information standard’. This information standard is a tier 1 civil penalty.

Rule 165(2) provides the BB information standard for information or data relating to a:

BB facility means the practices, methods and acts that would reasonably be expected from an experienced and competent person engaged in the ownership, operation or control of a BB facility in Australia of that type;

...

in each case, acting with all due skill, diligence, prudence and foresight and in compliance with all applicable legislation (including these rules), authorisations and industry codes of practice.

Under the proposed rule, a facility operator would not contravene the NGL or the NGR in failing to provide the closure information by the required date, if the operator acted in accordance with the BB information standard. Whether or not there has been compliance with the BB information standard will be fact-specific and depend on the conduct of the BB facility operator as compared against the conduct that would reasonably be expected from an experienced and competent person in the same position.

Further, the provision of information in good faith is protected through section 226(1) of the NGL–Immunity of persons giving information to AEMO or AER, which provides that:

A person who gives Bulletin Board information to AEMO or the AER does not incur any civil monetary liability for an act or omission in giving that information unless the act or omission is done or made in bad faith or through negligence.

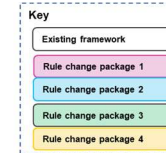
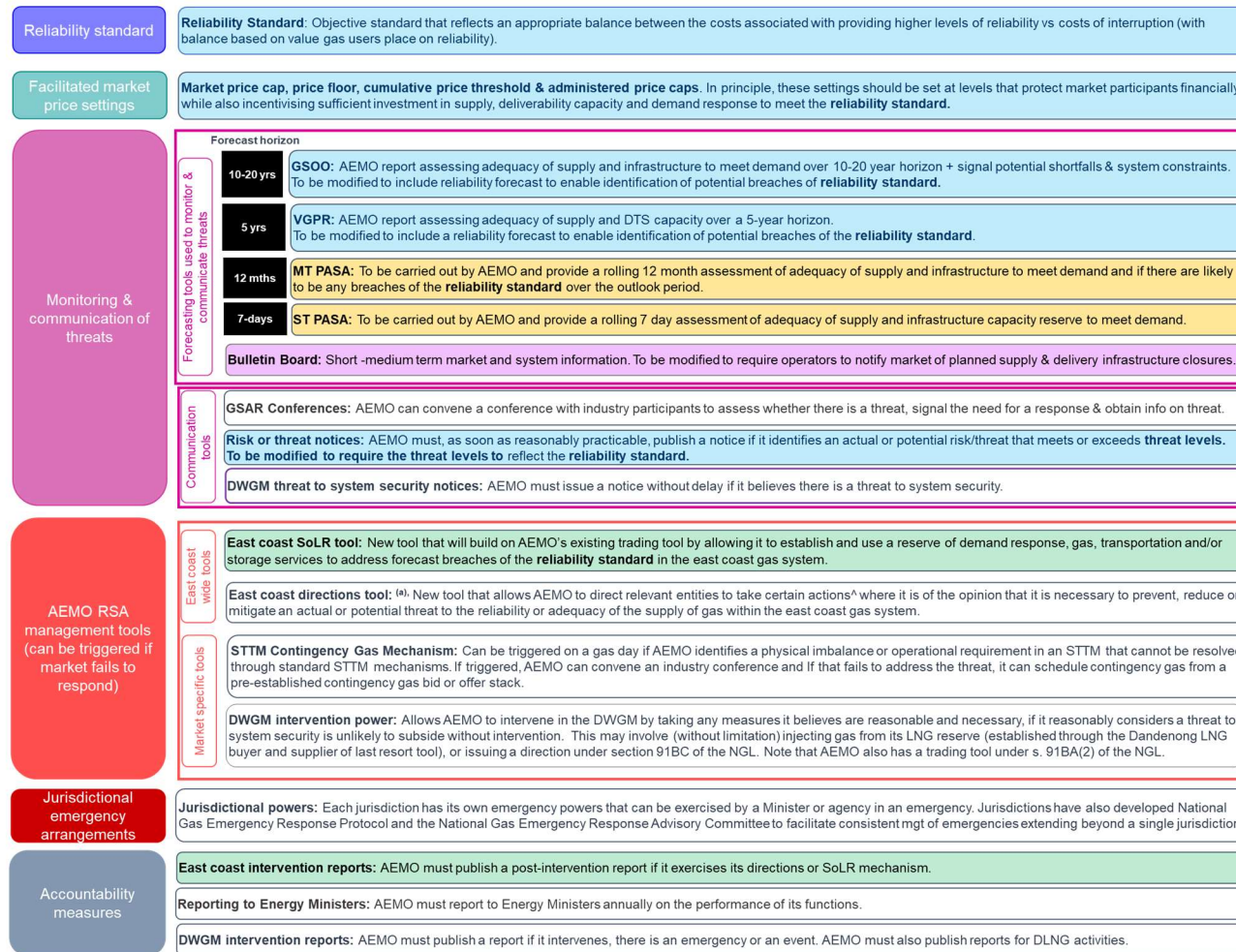
²² These risks are not unique to the proposed rule. Rather, they apply to general Bulletin Board reporting obligations, where BB reporting entities could be incentivised to provide advice of maintenance to avoid any potential penalty, but then change dates at a later point.

5.3 Potential impacts on affected parties

For the reasons set out in sections 5.1 and 5.2, the proposed rule change is expected to have a positive impact on market participants, gas consumers, electricity consumers via GPGs and the market more generally, because it will provide for more timely, informed, and efficient decision making and market-led responses to planned closures. It will also avoid the costs, inefficiencies and reliability and supply adequacy threats that may otherwise be associated with planned closures that, in the absence of the proposed rule, would not be clearly advised to the market.

For other directly affected parties, including supply and delivery infrastructure operators that would be subject to the proposed reporting requirement, AEMO and the AER, the proposed rule change is expected to have a slightly negative impact, because it will result in a very small (if not negligible) increase in their costs. However, it is important to acknowledge that planned closures are expected to occur relatively infrequently. The overall impact on these parties is therefore expected to be minimal.

Appendix 1 RSA framework



This rule change request

Notes:

(a) The NGL identifies a number of potential directions that may be made, but notes that this list does not limit AEMO's directions power. The potential directions identified in the NGL include: (i) the operation, maintenance or use of any equipment or installation; (ii) the control of the flow of gas; (iii) any other matter that may affect the reliability or adequacy of the supply of gas. The NGR also states that AEMO must not give a direction in relation to natural gas owned or controlled by a relevant entity that exports LNG that is long-term contract gas within the meaning of the Customs (Prohibited Exports) Regulations 1958 (Commonwealth).