

## Setting the opening capital base for gas pipeline service providers

### Commencement of consultation on rule change request

**The AEMC has commenced consultation on a rule change request submitted by the Australian Energy Regulator that proposes to modify the National Gas Rules to require the economic regulator to adjust the opening capital base in certain circumstances.**

#### Overview

On 11 November 2013, the Australian Energy Regulator (the AER) submitted a rule change request to the Australian Energy Market Commission (AEMC).

The rule change request seeks to modify the National Gas Rules (NGR) to require the AER or, in Western Australia, the Economic Regulation Authority (ERA) to remove any benefit or penalty associated with the difference between estimated and actual capital expenditure when setting the opening capital base for an access arrangement period.

The opening capital base is set at the beginning of each access arrangement period by the AER or ERA and is used to determine total revenue and, ultimately, to set the reference tariff for each reference service.

#### Details of the rule change request

In its rule change request, the AER submits that the proposed change is required to prevent gas pipeline service providers from accruing benefits or losses due to a difference between the estimated and actual final year capital expenditure used to set the opening capital base.

The AER submits that these gains or losses are not related to the efficiency of operating a pipeline. Consequently, they are in conflict with the national gas objective because they can adversely affect pipeline investment and usage incentives, leading to price distortions.

To address this, the AER proposes changing the NGR to require it or the ERA to make adjustments to the opening capital base with respect to any benefit or penalty relating to the difference between estimated capital expenditure and actual capital expenditure in the final year of a relevant access arrangement period.

The proposed rule seeks to the NGR to align it with the National Electricity Rules (NER), which requires the removal of any benefit or penalty associated with any difference between estimated capital expenditure and actual capital expenditure.

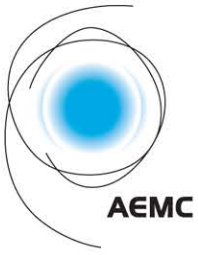
The AER also considers that the proposed rule would provide desirable consistency between the NGR and the NER.

#### Background

This rule change request arose out of decisions of the Australian Competition Tribunal (the Tribunal) in 2011 and 2013. Both of these decisions concerned, in part, whether the NGR provided the AER with the power to make adjustments to the return on capital component of the opening capital base to account for the difference between estimated capital expenditure and actual capital expenditure.

On this point, the 2011 decision of the Tribunal found that the AER did have such a power under the NGR. In 2013, the Tribunal decided that the AER did not have an express power under the NGR.

Subsequently, the AER submitted this rule change request to the AEMC.



# INFORMATION

## Consultation process

The consultation paper has been prepared to facilitate public consultation and assist stakeholders in providing submissions on the rule change request and consultation paper.

The consultation paper should be read in conjunction with the AER's rule change request, which is available on the AEMC website.

Submissions to the consultation paper and rule change request are due by **22 May 2014**.

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