



**Australian Energy Market Commission**

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## **CONSULTATION PAPER**

# **National Gas Amendment (Timetable for Prescribed Gas STTM Reviews) Rule 2010**

### **Rule Proponent**

Australian Energy Market Operator (AEMO)

28 October 2010

**RULE  
CHANGE**

This Consultation Paper has been prepared by the staff of the Australian Energy Market Commission (AEMC) to facilitate public consultation on the Rule change request. This Paper does not represent the views of the AEMC or any individual Commissioner of the AEMC.

Written requests not to expedite the Rule making process due: 11 November 2010  
Submissions on the content of the Rule change request due: 25 November 2010  
Reference: GRC0005

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## **About the AEMC**

The Council of Australian Governments, through its Ministerial Council on Energy (MCE), established the Australian Energy Market Commission (AEMC) in July 2005 to be the rule maker for national energy markets. The AEMC is currently responsible for rules and providing advice to the MCE on matters relevant to the national energy markets. We are an independent, national body. Our key responsibilities are to consider rule change proposals, conduct energy market reviews and provide policy advice to the MCE, as requested, or on AEMC initiative.

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# 1 Introduction

On 16 September 2010, the Australian Energy Market Commission (AEMC or Commission) received a Rule change request from the Australian Energy Market Operator (AEMO or Proponent) in relation to realigning the timetable for prescribed gas Short Term Trading Market (STTM) reviews.

Under Division 11 of Part 20 of the National Gas Rules (NGR), AEMO is required to conduct six prescribed market reviews of the STTM. The first market review was originally intended to begin once the STTM commenced operation on 4 June 2010, during the winter peak demand period, and be completed by 31 December 2010. However, the commencement of the operation of the STTM was delayed until 1 September 2010 because AEMO had to resolve some market readiness issues.

The Proponent seeks an amendment to the timetable for prescribed market reviews<sup>1</sup> of the STTM to allow for sufficient time to collect and analyse market data for a full winter and two summer periods, and to undertake adequate review and consultation. This amendment would entail consolidating the first three market reviews into one review which would be completed by 31 March 2012. Additionally, the Proponent seeks to move the review of the Minimum Market Price (MMP) from the third review to a later review (the fifth review) so that it can be reviewed alongside the other STTM parameters to ensure these market settings are considered holistically.

The AEMC has decided to expedite the Rule change request under section 304 of the National Gas Law (NGL) on the grounds that the Rule change relates to a 'non-controversial Rule'.

This Consultation Paper has been prepared by the staff of the AEMC to facilitate public consultation on the Rule change request. This paper does not represent the views of the AEMC or any individual Commissioner of the AEMC.

This paper:

- sets out a summary of, and a background to, the Rule change request;
- identifies a number of questions and issues to facilitate the consultation on this Rule change request; and
- outlines the process for making submissions on the Rule change request.

## **Written requests not to expedite the Rule making process and submissions**

In accordance with section 304 of the NGL, any written request not to expedite the Rule making process must be lodged to the Commission by 11 November 2010. Submissions on the content of the Rule change request must be lodged to the Commission by

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<sup>1</sup> The first three prescribed market reviews of the STTM are defined in NGR rules 489(1), 489(2) and 490.

25 November 2010. Additional details on lodging a submission are outlined in Chapter 6 of this paper.

### **Timetable**

Under an expedited Rule making process, the Commission has six weeks from the publication of the notice under section 303 of the NGL to publish a final Rule determination. Under an expedited Rule making process, no draft Rule determination would be published, and the final Rule determination (and final Rule if applicable) would therefore be required to be published by 9 December 2010.

If the Commission receives a written request not to expedite the Rule making process for the proposed Rule and is of the opinion that the reasons given in that written request are not misconceived or lacking in substance, the 'standard' Rule making process will apply. The 'standard' Rule making process would consist of two rounds of consultation, and publications of a draft Rule determination and a final Rule determination.

## 2 Background

This chapter provides an overview of the existing timetable for AEMO's STTM reviews prescribed by the NGR.

### **AEMO's existing review obligations**

The STTM commenced on 1 September 2010 following a delay to the proposed commencement date of 4 June 2010. The commencement was delayed to enable AEMO to resolve some market readiness issues.

Under the NGR, AEMO must complete six market reviews of the STTM by particular dates as described below. These dates did not change when AEMO delayed the commencement of the operation of the STTM from 4 June 2010 to 1 September 2010. The six market reviews that AEMO must complete are:

- by 31 December 2010, it must complete a review of the operation of the STTM that considers whether the Market Operator Service (MOS) is operating effectively and efficiently, and identifies any improvements in the operation of the STTM that can be implemented by 31 May 2011, by May 2012 or in a longer time period;<sup>2</sup>
- by 30 June 2011, it must complete a review of the potential for the STTM to operate at prospective additional hubs, including the identification of options to integrate scheduling for hubs and prospective hubs that are connected by the same pipeline;<sup>3</sup>
- by 31 December 2011, it must complete a review of the operation of the STTM that:<sup>4</sup>
  - considers whether the graduated deviation parameters, the graduated variation parameters, the MMP and the MOS cost cap are set at appropriate levels;
  - considers whether the MOS is operating effectively and efficiently; and
  - identifies options for the allocation of settlement surpluses and shortfalls on a daily basis;
- by 31 December 2012, it must complete a review of available options for additional or alternative STTM market processes that would operate within a gas day;<sup>5</sup>

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<sup>2</sup> NGR rule 489(1).

<sup>3</sup> NGR rule 490. We note that AEMO is currently investigating the potential for the STTM to operate at a Brisbane hub.

<sup>4</sup> NGR rule 489(2).

<sup>5</sup> NGR rule 491.

- by 31 December 2012 (and subsequently every five years), it must complete the first periodic reviews of the Market Price Cap (MPC), the administered price cap, the Cumulative Price Threshold (CPT), and the CPT horizon;<sup>6</sup> and
- after the last gas day that the contingency gas was scheduled because of the first contingency gas trigger event, a review of the operation of Division 8 of Part 20 of the NGR.<sup>7</sup>

For each review, AEMO must comply with the extended consultative procedure under rule 9A.<sup>8</sup> Under the extended consultative procedure, AEMO would have to publish and consult on particulars of the matter,<sup>9</sup> consider submissions on the particulars of the matter and determine whether to hold meetings,<sup>10</sup> publish and consult on a draft report,<sup>11</sup> consider submissions on the draft report,<sup>12</sup> and publish a final report.<sup>13</sup> The Proponent estimates that the extended consultative procedure requires at least five months to complete.<sup>14</sup>

### **Original policy intent behind the prescribed market reviews of the STTM**

A letter from the Ministerial Council on Energy (MCE) Standing Committee of Officials (SCO) to the Commission on 16 September 2010 stated an original policy intent behind the development of the six prescribed market reviews of the STTM:<sup>15</sup>

“During the development of the STTM, industry (through the GMLG) agreed to the prescription of six market reviews in the National Gas Rules (NGR), with the first review to be completed by 31 December 2010. In light of the delay to market start, carrying out these reviews in accordance with the currently-prescribed timetable will not allow sufficient time for AEMO to conduct the required consultation process and adequately review the operation of the market.

In addition, the intent behind the originally prescribed timing of the first review was to ensure that a review of market performance was undertaken following the initial winter peak demand period. With the market commencing on 1 September 2010, the first winter period of operation will now not be completed until August 2011...

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6 NGR rule 492.

7 NGR rule 493.

8 NGR rule 494.

9 NGR rule 9A(2).

10 NGR rule 9A(5).

11 NGR rule 9A(6).

12 NGR rule 9A(7).

13 NGR rule 9A(7)(a).

14 AEMO, Rule change request, 16 September 2010, p. 4.

15 MCE SCO, Letter to AEMC, 16 September 2010, p. 1.

The SCO believes that AEMO's proposal is consistent with the original policy intent that the reviews are designed to evaluate market performance following the initial peak winter period and the subsequent full year of operation."

The MCE SCO's views are also consistent with the views previously expressed by the STTM Consultative Forum (STTM-CF) and the Gas Market Leaders Group (GMLG), who supported the Proponent's Rule change request.<sup>16</sup> In particular, at the STTM-CF on 15 July 2010, the meeting attendees confirmed that "the policy objective behind the reviews was to ensure operational experience of key periods (e.g. winter) was gained to feed into the review process".<sup>17</sup> At the GMLG meeting on 20 July 2010 meeting, the members "confirmed the original policy intent in determining the timing for these reviews was to ensure sufficient operational experience over peak periods as input to the review process".<sup>18</sup>

In addition to the reasons above, the Proponent also noted that it was also the original policy intent that the reviews would be conducted in the context of live market operational experience.<sup>19</sup>

### **Issues raised by the Proponent**

The Proponent raised the following issues in its Rule change request:<sup>20</sup>

- appropriate time for review of live STTM operations will not be possible by the first review due on 31 December 2010 because of the delay in the commencement of the STTM;
- the 2010 winter period could not be experienced to provide an adequate review for the first review due to the delay in the commencement of the STTM;
- the extended consultative procedure of at least five months would make it difficult to meet the intent of the first and third reviews even without the delay; and
- the first and third reviews, along with the second review, overlap in terms of the timing, content and scope, resulting in insufficient time for review and consultation.

### **Previous consultation on the Rule change request**

The Proponent has consulted with industry through the STTM-CF and the GMLG on its proposal to consolidate and complete the first three reviews by 31 March 2012. The

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<sup>16</sup> AEMO, Rule change request, 16 September 2010, pp. 20-22.

<sup>17</sup> Ibid, p. 20.

<sup>18</sup> Ibid, p. 21.

<sup>19</sup> Ibid, p. 3.

<sup>20</sup> Ibid, pp. 3-4.

Proponent received support from members at the STTM-CF meeting on 15 July 2010,<sup>21</sup> the GMLG meeting on 20 July 2010,<sup>22</sup> and MCE SCO.<sup>23</sup> The Proponent has also confirmed to the AEMC in writing that it also consulted with these groups at those respective meetings in relation to the Proponent's proposal to move the review of the MMP to the fifth review.<sup>24</sup>

### **Other options to the proposed Rule**

The Proponent states that it considered a number of options before submitting its proposed Rule to the AEMC. These alternative options included:<sup>25</sup>

- no change to the existing arrangements;
- extending the completion date of the review in rule 489(1) (the first review) by three months;
- aligning the timing of the first review with the review in rule 490 (the second review); and
- aligning the timing of the first review with the review in rule 489(2) (the third review) and the second review.

Of the options assessed, the Proponent considered that the proposed Rule would be best able to address its identified issues.<sup>26</sup> The Proponent's reasons that the other options were unsuitable included:<sup>27</sup>

- for all of the other options considered, the timing limitations under the extended consultative procedure means that there would be insufficient opportunity for AEMO to observe and review live STTM operations during the first winter period (in either 2010 or 2011); and
- the other options (with the exception of the option to align the first three reviews that would be completed by 31 December 2011) would mean AEMO or external stakeholders would be unable to sufficiently examine live STTM operations required to determine whether the MOS is operating efficiently and effectively, AEMO would be unable to review the first winter period, and there would be overlap between timing for completion, content and scope of the first three reviews.

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21 Ibid, p. 20.

22 Ibid, pp. 21-22.

23 MCE SCO, Letter to AEMC, 16 September 2010, p. 1.

24 AEMO, Email to AEMC, 8 October 2010.

25 AEMO, Rule change request, 16 September 2010, pp. 17-18.

26 Ibid, p. 7.

27 Ibid, pp. 17-18.

### 3 Details of the Rule change request

The Rule change request from the Proponent proposes to:

- consolidate the first three reviews into one review by amending rules 489 and 490;
- complete the consolidated review by 31 March 2012 by amending rules 489(1) and 490; and
- move the review of the MMP to the fifth review by amending rules 489(2)(a) and 492.

In its Rule change request the Proponent provides its rationale for the Rule change. A number of key points raised in the Rule change request are summarised as follows:<sup>28</sup>

- the proposed Rule fulfils the original intent of the first and third prescribed reviews which is:
  - to provide sufficient time to review live market operations; and
  - to allow for the collection and analysis of market data for a winter period;
- the proposed Rule addresses overlapping scope, content and timing of the first three reviews which may otherwise have created uncertainty for participants and instability for the new STTM market;
- the proposed Rule provides for adequate time to review and consult on the first three reviews and allows AEMO to comply with the requirements of the extended consultative procedure; and
- the proposed Rule allows for the MMP to be revised with other STTM parameters to ensure a holistic review of the market parameters.<sup>29</sup>

The Proponent's Rule change request includes a proposed Rule.

#### **Non-controversial rule**

The Proponent has requested that this Rule change request be considered non-controversial under section 304 of the NGL as it would be unlikely to have a significant effect on a market for gas or the regulation of pipeline services.

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<sup>28</sup> Ibid, pp. 3-5.

<sup>29</sup> These other STTM parameters include the Market Price Cap (MPC), the administered price cap, the cumulative price threshold horizon (CPT), and the CPT.

The Proponent considers that:<sup>30</sup>

- any such effects would only result from subsequent decisions to amend Procedures or Rules;
- the policy intent for the timing and scope of the prescribed reviews does not change;
- the proposed Rule does not limit progression of any changes to the STTM outside the prescribed review processes where there is urgency or clear efficiency gains or reductions in costs via a Rule or Procedure change process. For instance, the MCE SCO notes that any market issues at the Sydney and Adelaide hubs would not be precluded from being addressed through a Rule change request if they arise; and
- the Proponent has consulted and received support for its Rule change request from industry through the STTM-CF, the GMLG and the MCE SCO.

The AEMC has decided to expedite the Rule change request under section 304 of the NGL on the grounds that the Rule change relates to a 'non-controversial Rule'.

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<sup>30</sup> AEMO, Rule change request, 16 September 2010, p. 7.

## 4 Assessment framework

The Commission's assessment of this Rule change request must consider whether the proposed Rule promotes the National Gas Objective (NGO) as set out under section 23 of the NGL. The proposed Rule will be assessed against the relevant counterfactual arrangements, which in this case are the existing provisions in the NGR. In assessing the Rule change request against the NGO the following issues may be taken into consideration:

- administrative and operational efficiency:
  - will the existing timetable contribute to improving the operation and efficiency of the STTM given that these reviews will be undertaken without the necessary winter data being available?
  - will AEMO and stakeholders be provided with adequate time for consultation under the existing arrangements?
  - will the existing timetable result in unnecessary costs for undertaking and participating in the reviews, and any implementation of the findings from the reviews?
- certainty and stability – will the existing timetable create uncertainty and instability in relation to the development of the STTM as the outcomes of the overlapping reviews may lead to ongoing changes to the NGR?

## **5 Issues for consultation**

Taking into consideration the assessment framework and potential requirements to implement the proposed Rule change, a number of issues for consultation that appear to be relevant to this Rule change request are set out in this chapter.

The issues outlined below are provided for guidance. Stakeholders are encouraged to comment on these issues as well as any other aspect of the Rule change request or this paper including the proposed assessment framework.

### **5.1 Will the proposed Rule contribute to administrative and operational efficiency, certainty and stability of the STTM?**

Any changes to the existing timetable for the prescribed gas STTM, especially at a point in time where the STTM has recently commenced operation on 1 September 2010, need to ensure that there is certainty and stability, as well as administrative and operational efficiency, of the review processes for the new STTM.

In assessing whether the proposed Rule promotes the achievement of the NGO, the following questions should be considered.

**Question 1 Will consolidating the reviews and re-alignment of the timetable improve the costs for administering the reviews?**

**Question 2 Will extending the date for completion of the first three reviews provide time for adequate consultation?**

**Question 3 Will the proposed Rule promote certainty and stability of the STTM?**

**Question 4 Will moving the review of MMP to a later date result in administrative efficiency?**

## **6 Lodging a submission**

The Commission has published a notice under sections 303 and 304 of the NGL for this Rule change request inviting written submissions. Written requests not to expedite the Rule making process with reasons relating to the expedited Rule making process must be lodged to the Commission by 11 November 2010.

Submissions on the content of the Rule change request must be lodged to the Commission by 25 November 2010. Written requests not to expedite the Rule making process and submissions are to be lodged online or by mail in accordance with the following requirements.

Where practicable, submissions should be prepared in accordance with the Commission's Guidelines for making written submissions on Rule change requests.<sup>31</sup> The Commission publishes all submissions on its website subject to a claim of confidentiality.

All enquiries on this project should be addressed to Charles Hoang on (02) 8296 7800.

### **6.1 Lodging a submission electronically**

Electronic submissions must be lodged online via the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au), using the "lodge a submission" function and selecting the project reference code "GRC0005". The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated.

Upon receipt of the electronic submission, the Commission will issue a confirmation email. If this confirmation email is not received within three business days, it is the submitter's responsibility to ensure the submission has been delivered successfully.

### **6.2 Lodging a submission by mail**

The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated. The submission should be sent by mail to:

Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

Or by Fax to (02) 8296 7899.

The envelope must be clearly marked with the project reference code: GRC0005.

Except in circumstances where the submission has been received electronically, upon receipt of the hardcopy submission the Commission will issue a confirmation letter.

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<sup>31</sup> This guideline is available on the Commission's website.

If this confirmation letter is not received within three business days, it is the submitter's responsibility to ensure successful delivery of the submission has occurred.

## Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
Commission	See AEMC
CPT	Cumulative Price Threshold
GMLG	Gas Market Leaders Group
MCE	Ministerial Council on Energy
MMP	Minimum Market Price
MOS	Market Operator Service
MPC	Market Price Cap
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
SCO	Standing Committee of Officials
STTM	Short Term Trading Market
STTM-CF	STTM Consultative Forum