

**Australian Energy Market Commission**

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## **RULE DETERMINATION**

**National Gas Amendment (Pipeline operator  
cost recovery processes) Rule 2013**

**Rule Proponent**

Australian Energy Regulator

27 June 2013

For and on behalf of the Australian Energy Market Commission

**RULE  
CHANGE**

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## **About the AEMC**

The Council of Australian Governments (COAG), through its then Ministerial Council on Energy (MCE), established the Australian Energy Market Commission (AEMC) in July 2005. In June 2011, COAG established the Standing Council on Energy and Resources (SCER) to replace the MCE. The AEMC has two main functions. We make and amend the national electricity, gas and energy retail rules, and we conduct independent reviews of the energy markets for the SCER.

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## Summary

The Commission has made a final rule that amends the cost recovery processes for pipeline operators providing information services in the National Gas Rules. The amendments establish a single process which is proportionate to the size and nature of the recoverable costs, and which includes some flexibility in its operation.

As a result of the final rule, gas market participants will not pay the costs incurred by pipeline operators in providing information services without the Australian Energy Regulator (AER) having first reviewed the costs to ensure they are reasonable.

The final rule has been made in response to the pipeline operator cost recovery processes rule change request (rule change request) submitted by the AER on 1 June 2012. The final rule is largely reflective of, and consistent with, the draft rule, with some minor clarifications. It will commence on 1 July 2013.

### *Rule change request*

The rule change request seeks to amend the cost recovery processes established in the rules for gas transmission pipeline operators who provide:

- the Market Operator Service (MOS) allocation service in the Short Term Trading Market (STTM); and
- aggregation and information services in the National Gas Market Bulletin Board (Bulletin Board).

Following first use of the cost recovery provisions for the assessment of MOS allocation service costs in 2011, Australian Energy Market Operator (AEMO) and the AER identified a number of issues with the arrangements. Consequently, the AER submitted this rule change request to improve the efficiency and operation of the cost recovery processes for pipeline operators. The AER proposed to achieve this by amending a number of aspects of the cost recovery arrangements to:

- require pipeline operators to submit costs and, where required, the relevant body to assess costs, by reference to efficient costs that would have been incurred by a prudent operator (rather than by reference to reasonable costs);
- transfer responsibility for decision making on the amounts payable to pipeline operators from AEMO to the AER;
- extend the timeframes for assessment of cost invoices<sup>1</sup> to provide the AER with sufficient time to seek further clarification and collect additional information from pipeline operators, if required;

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<sup>1</sup> The terms 'cost invoice' and 'tax invoice' are used interchangeably in this final rule determination.

- require pipeline operators to submit evidence with their cost estimates and invoices to demonstrate that the costs specified reflect the efficient costs that would be incurred by a prudent operator;
- clarify the definitions of 'MOS allocation service costs' and 'aggregation and information services costs'; and
- amend the aggregation and information services cost recovery process in the Bulletin Board rules in line with any changes made to the MOS allocation service cost recovery process in the STTM rules.

*Commission's decision*

The Commission considers that, on balance, the rule proposed by the AER would likely provide a more efficient cost recovery process relative to the process followed by the AER in 2011. However, having had regard to the views of stakeholders, and having undertaken its own analysis and review, the Commission considers that additional improvements could be made to further promote efficiency in the operation and use of the pipeline operator cost recovery rules.

On this basis, the Commission has decided to make a final rule which is a more preferable rule to the AER's proposed rule. The final rule differs from the proposed rule in the following respects:

- All cost invoices submitted by pipeline operators for payment by AEMO will be subject to review by the AER. To this end, the objection mechanism will no longer act as trigger for the assessment process. In carrying out the review, the AER will be required to determine the amount payable to a pipeline operator in respect of its cost invoice by reviewing whether the costs specified in that invoice have been incurred and are reasonable.
- In reviewing a cost invoice, the AER must have regard to:
  - the evidence provided with an invoice;
  - any comments received by AEMO from other parties, including objections to the payment of an invoice;
  - any comments from AEMO;
  - any information received in accordance with a request or relevant notice issued by the AER;
  - any other relevant information; and
  - whether the likely costs of undertaking an assessment of the costs specified in an invoice outweigh the likely public benefit resulting from such an assessment.

- In determining the amount payable, the AER must either approve or reject the amount specified in a cost invoice. If the AER rejects the amount specified, it must undertake an assessment to determine an amount payable that, in the AER's opinion, is reasonable for the relevant services in respect of that invoice.
- The AER will be required to make a decision on the amounts payable to pipeline operators (if any) within 30 business days of receiving the cost invoices and other relevant information from AEMO. The period of time taken by a pipeline operator to provide additional information to the AER (where requested) may be disregarded for the purpose of calculating the 30 business days.
- AEMO will be required to publish the evidence provided by pipeline operators to support their cost estimates and cost invoices, subject to any claims of confidentiality by pipeline operators.
- AEMO must publish pipeline operators' cost estimates and supporting evidence, and cost invoices and supporting evidence, within five business days following receipt.
- AEMO must pay any amount the AER has determined payable to a pipeline operator within 10 business days of the AER publishing its determination.

The changes proposed by the AER to the definitions of 'MOS allocation service costs' and Bulletin Board 'aggregation and services costs' have been included in the final rule.

In addition, the final rule has made corresponding changes to the cost recovery process set out in Part 18 of the National Gas Rules (NGR) such that the process for assessing pipeline operators' aggregation and information services costs is consistent with the amended MOS allocation service cost recovery process.

#### *Reasons for the Commission's decision*

The Commission has made a more preferable rule which it considers is likely to better contribute to the achievement of the national gas objective (NGO). Specifically, the Commission considers that the final rule will:

- better promote transparency and increase the scope for effective engagement by stakeholders in the cost recovery processes by requiring AEMO to publish the information provided by pipeline operators in support of their cost estimates and cost invoices;
- increase certainty (thereby promoting confidence in the process) for pipeline operators and other stakeholders by providing a mechanism which ensures all cost invoices will be subject to oversight by the AER;
- improve overall efficiency of the cost recovery processes by providing a framework within which the costs of carrying out a detailed assessment of pipeline operators' invoiced costs can be weighed against the benefits to consumers of amending the amounts payable to pipeline operators; and

- provide a more proportionate approach to the assessment of pipeline operators' invoiced costs with the use of a reasonableness test given the relatively small size and nature of the costs claimed to date.

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# 1 AER's rule change request

## 1.1 The rule change request

On 1 June 2013, the Australian Energy Regulator (AER or proponent) submitted a rule change request to the Australian Energy Market Commission (AEMC or Commission) proposing changes to the National Gas Rules (NGR).<sup>2</sup>

Specifically, this rule change request seeks to amend the cost recovery processes which exist for gas transmission pipeline operators who provide:

- the Market Operator Service (MOS) allocation service in the Short Term Trading Market (STTM); and
- aggregation and information services in the National Gas Market Bulletin Board (Bulletin Board).

## 1.2 Rationale for the rule change request

Following the first use of the provisions in Part 20 of the NGR for the assessment of MOS allocation service costs in 2011, AEMO and the AER identified a number of issues with the arrangements.<sup>3</sup> As a result, the AER seeks to improve the efficiency and operation of the cost recovery processes for pipeline operators providing the MOS allocation service and Bulletin Board aggregation and information services.

## 1.3 Issues this rule change seeks to address

The proponent considers there are a number of problems with the rules in relation to the cost recovery arrangements for the MOS allocation service. The key issues as set out in the rule change request are as follows:

- **Approach to assessment:** The assessment of MOS allocation service costs requires consideration of whether the proposed costs meet the definition of having been 'reasonably incurred'. There is no requirement in the rules to assess whether the level of costs incurred by a pipeline operator is efficient, nor is there a requirement for pipeline operators to justify that the costs have been incurred prudently or efficiently. The proponent considers that it is not appropriate for STTM shippers to pay for costs above those which the AER considers have been incurred efficiently.<sup>4</sup>

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<sup>2</sup> The rule change request is available to download from the AEMC's website: [www.aemc.gov.au](http://www.aemc.gov.au).

<sup>3</sup> The Commission understands that the issues experienced by AEMO and the AER during the first application of the assessment process for 2010-2011 did not reoccur during the second application for 2011-2012.

<sup>4</sup> The amounts payable are ultimately recovered from participants via AEMO's fee process.

- **Appropriate decision making body:** The rules designate AEMO as the decision maker on whether the invoiced costs are reasonable (even where advice is provided by the AER). The proponent considers that it may be more appropriate for the AER, in its role as economic regulator, to be responsible for making determinations on the appropriate level of MOS allocation service costs. In addition, the proponent considers there is the potential for double handling of cost invoices. This is because, in the instance where the AER is unable to provide advice on the reasonableness of a claim within the required timeframes, the cost invoice and relevant information needs to be handed back to AEMO for it to consider the claim and determine an appropriate amount payable.
- **Timeframes for assessment of invoiced costs:** In the proponent's view, one of the most significant problems with the cost recovery arrangements is the timeframe for undertaking an assessment of MOS allocation service costs. It considers that the rules, which require the AER to respond to an AEMO request for advice within 15 business days, are insufficient to allow for a robust and comprehensive assessment of multiple pipeline operators' MOS allocation costs.<sup>5</sup> The proponent notes that, despite the AER being the body undertaking the key assessment work, it only has 15 business days to provide advice to AEMO. In comparison, AEMO has 30 business days after receiving the advice to make a determination on the amount payable (see Figure 2.2).
- **Information requirements – justification of costs:** The proponent considers that the information submitted by pipeline operators (and therefore the information published by AEMO for comment) provides relatively limited justification for the level of MOS service costs claimed on invoices. The information requirements (which are primarily specified in the STTM procedures) mean that, in practice, the AER must seek significant additional information from pipeline operators in order to undertake the assessment of invoiced costs.
- **Clarity of definition of 'MOS allocation service costs':** The proponent considers there is some ambiguity around which costs are recoverable under the definition of 'MOS allocation service costs'. The experience of assessing invoices for MOS allocation service costs for 2010-2011 highlighted different opinions about which costs are recoverable as MOS allocation service costs.<sup>6</sup>

The analysis within the AER's rule change request focuses on the MOS allocation service costs process. However, the AER also seeks to amend the process for the submission of costs and invoices, and the assessment and payment of invoices, for Bulletin Board aggregation and information services provided by pipeline operators.

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<sup>5</sup> In response to these timing limitations, the AER elected to use formal information gathering powers under s. 42 of the National Gas Law to seek information and supporting documents from the pipeline operators regarding their 2010-2011 invoiced costs.

<sup>6</sup> There are a broader set of costs associated with the process for determining STTM facility allocations which are separate to the costs associated with the MOS allocation service. It is not intended that the costs associated with the provision of STTM facility allocations to AEMO be recoverable under the definition of 'MOS allocation service costs'.

The AEMC sought additional information from the AER on why the proposed changes should apply to the Bulletin Board rules, particularly as cost recovery has not yet been sought by pipeline operators for the services they provide to the Bulletin Board. In its response, the AER identified two reasons for why the changes should be made. First, there is benefit in retaining a consistent assessment process between the Bulletin Board process and the MOS allocation service costs process. Second, there is the potential for identical problems to occur in the Bulletin Board to those that occurred under the STTM rules.<sup>7</sup>

#### 1.4 Solution proposed in the rule change request

The AER proposes to resolve the issues discussed above with a rule that amends Part 18 and Part 20 of the NGR. The rule change request includes a proposed rule. The proposed rule includes the following changes:

- **Approach to assessment:** require the AER to assess an invoice by reference to the 'efficient' MOS allocation service costs that the AER considers would have been incurred by a prudent operator. That is, the AER would apply an efficiency test, rather than a test of reasonableness, in determining the appropriate level of MOS allocation service costs.
- **Appropriate decision making body:** amend the roles of the AER and AEMO such that, when an objection is raised, the AER becomes the decision maker and informs AEMO of the amount payable. Alternatively, where no objection is raised, the proposed rule would provide AEMO with the discretion either to pay the invoiced amount, or refer the invoice to the AER if it considers the invoice should be assessed.
- **Timeframes for assessment of invoiced costs:** provide the AER with a period of 60 business days to assess an invoice, with the ability for the AER to extend this deadline by a further 30 business days if required. The clock would start upon receipt of a request from AEMO to make a determination.
- **Information requirements - justification of costs:** amend the rules to require that the evidence included with a pipeline operator's cost estimates and invoices includes justification that costs reflect the efficient costs that could be expected to be, or would have been, incurred by a prudent operator.
- **Clarity of definition of 'MOS allocation service costs':** include a definition of 'MOS allocation service' to clarify that the process for determining STTM facility allocations is not part of the MOS allocation service. This amendment is intended to clarify that only the costs associated with allocating pipeline deviations as MOS or overrun MOS (in accordance with rule 421) are recoverable under this process.

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<sup>7</sup> AER rule change request – additional information, p.4.

- **Bulletin Board:** to the extent that changes are made in rules 424 and 425, amend rules 197 and 198 to reflect those changes. In addition, the proposed rule amends rule 141 to include a definition of 'aggregation and information services costs'. This is intended to clarify that only the costs incurred by a pipeline operator in providing aggregation and information services are recoverable under this process.

A summary of the proposed process is provided in section 3.1.2 of this final determination.

## 1.5 Relevant background

### MOS allocation services in the STTM

There are five key roles for industry participants operating in the STTM.<sup>8</sup> These are outlined in the figure below.

**Figure 1.1 Participant roles in the STTM**

Role	Description	Obligation
<b>Information providers (non-financial role)</b>		
<b>STTM facility operator</b>	Operates an STTM facility (such as a transmission pipeline, a storage facility or a production facility)	Obligations to provide certain information to AEMO to enable the market to operate
<b>STTM distributor</b>	Operates an STTM distribution system (or a deemed STTM distribution system)	
<b>Allocation agent</b>	Provides AEMO with allocations on behalf of facility operators, distributors and shippers	
<b>Trading participants (financial role)</b>		
<b>STTM shipper</b>	Delivers gas to and withdraws gas from the hub	Ongoing financial obligations to meet prudential requirements
<b>STTM user</b>	Withdraws gas at the hub	

Pipeline operators participate in the STTM in two of the non-financial roles, namely, as STTM facility operators and as allocation agents.

There are a number of specific obligations imposed by the NGR on pipeline operators in their role as STTM facility operators. These obligations require the provision of certain information to AEMO to assist in the effective operation of the market. The information required to be provided by pipeline operators to AEMO includes (among other things):

- default capacity and maximum default capacity for the pipeline (rule 376);
- hub capacity for the following three days (rule 414); and

<sup>8</sup> All participants who operate in the STTM must register with AEMO. Participants who operate on multiple hubs must register separately for each hub. In addition, a single participant may register with AEMO in multiple roles.

- facility allocations on a daily and monthly basis (rule 419).

In respect of their role as allocation agents, the NGR requires pipeline operators to either act as, or appoint, allocation agents to determine the daily gas allocations for each STTM shipper which must be submitted to AEMO for the purpose of settlement.<sup>9</sup>

#### *Market operator service*

MOS is an STTM balancing service managed by AEMO. It is used to balance the amount of physical gas that actually flows on a transmission pipeline connected to an STTM hub on a gas day, with the amount of gas that was scheduled to flow on that pipeline to that hub on that day.<sup>10</sup> MOS can be provided by shippers and pipeline operators that have the ability to increase or decrease the quantity of gas they flow on a day.<sup>11</sup>

At quarterly intervals,<sup>12</sup> AEMO seeks price-quantity offers for the provision of MOS on each hub-connected transmission pipeline. Under the terms of a MOS provision, a MOS provider agrees to accept an additional gas allocation quantity (positive or negative) on a gas day to balance the difference between scheduled flows and actual gas flows on an STTM pipeline.

Based on the prices and quantities offered by MOS providers, AEMO maintains separate MOS stacks for 'increase MOS' (where additional gas needs to be delivered to the hub) and 'decrease MOS' (where excess gas needs to be withdrawn from the hub). It does this each gas day for each transmission pipeline connected to an STTM hub. AEMO provides these stacks to each pipeline operator who, in turn, allocate any pipeline deviations to the MOS providers in accordance with the stack order (from the lowest offer price to the highest offer price provider).

Pipeline operators are required to inform AEMO of all MOS gas allocations for each gas day. This allows AEMO to adjust the MOS provider's market schedule to account

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<sup>9</sup> Allocations define the actual quantities flowed to and from the hub on the gas day. AEMO uses this information to settle the market. While allocations to individual shippers are provided by the pipeline operators, the allocations to individual users are determined by AEMO using metered data provided by distributors and aligned with the pipeline allocations. Pipeline operators also provide allocations for transmission-connected users.

<sup>10</sup> Differences between actual deliveries and scheduled pipeline flows can occur if, for example, there is a discrepancy between forecast gas demand and actual gas demand in the hub, or if trading participants do not nominate in accordance with market schedules.

<sup>11</sup> On 23 May 2013, the AEMC published a final rule in respect of 'Market operator service - timing and eligibility' rule change request. Among other things, the final rule amended the NGR such that MOS could not only be provided by facility contract holders, but also by trading right holders that have a sub-contracted arrangement with a facility contract holder which provides them with access to pipeline capacity. Previously, only shippers who had a transportation contract on a pipeline could provide MOS in the STTM. See [www.aemc.gov.au](http://www.aemc.gov.au).

<sup>12</sup> The 'Market operator service - timing and eligibility' final rule (which commences on 1 April 2014) also amends the NGR to specify the MOS period as one month and to define the MOS period in the NGR. Previously, AEMO received MOS offers from eligible trading participants every three months and this period was specified in the STTM procedures. See [www.aemc.gov.au](http://www.aemc.gov.au).

for the MOS allocation. In this way, any resulting deviations incurred by the MOS provider are exempt from deviation payments and charges.<sup>13</sup>

If the deviation on a pipeline exceeds the allocation capacity of the relevant MOS stack on a gas day, the residual quantity is allocated by the pipeline operator to shippers in accordance with the allocation rules on that pipeline. The pipeline operator submits these to AEMO as overrun MOS allocations.

The process for the recovery of MOS allocation services costs by pipeline operators is set out in section 3.1.1 of this final determination.

### **Aggregation and information services in relation to the Bulletin Board**

The National Gas Market Bulletin Board is a public website which displays information on all major gas production fields, major demand centres and the interconnected natural gas transmission pipeline systems in South Australia, Victoria, Tasmania, New South Wales, the Australian Capital Territory and Queensland.<sup>14</sup> Through the provision of system and gas market information, the Bulletin Board is intended to facilitate trade in gas and pipeline capacity.

The Bulletin Board commenced operation in 2008 and is operated by AEMO. The NGR requires pipeline operators to provide aggregation and information services to assist AEMO in operating the Bulletin Board. Specifically, the NGR sets out obligations on pipeline operators to provide to AEMO:

- information on aggregated delivery nominations and aggregate forecast deliveries for the Bulletin Board pipeline (rule 173); and
- certain information to allow AEMO to calculate a Bulletin Board shipper's share of estimated Bulletin Board costs (under rule 191) for the relevant invoice period (rule 196).

Pipeline operators are entitled to recover the costs of providing these services, via AEMO, in accordance with rule 197 of the NGR. To date, no pipeline operator has submitted an invoice to AEMO under this provision.

The process for the recovery of aggregation and information services costs by pipeline operators is also set out in section 3.1.1 of this final determination.

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<sup>13</sup> An individual trading participant's deviation quantity is the difference between its modified market schedule quantity and its allocated quantity (that is, actual gas supplied to, or withdrawn from, the hub). Deviation quantities attract deviation penalties, the severity of which will depend on whether a trading participant has a "short" or "long" deviation. On 23 May 2013, the AEMC made a rule which better aligns charges for deviations with the costs caused by deviations. See 'STTM deviations and the settlement surplus and shortfall' rule change request available at [www.aemc.gov.au](http://www.aemc.gov.au).

<sup>14</sup> See [www.gasbb.com.au](http://www.gasbb.com.au).

## **1.6 Commencement of rule making process**

On 6 December 2012, the Commission published a notice under s.303 of the National Gas Law (NGL) advising of its intention to commence the rule making process and the first round of consultation in respect of the rule change request. A consultation paper prepared by AEMC staff identifying specific issues and questions for consultation was published with the rule change request. Submissions closed on 24 January 2013.

Five submissions on the rule change request were received. These submissions are available on the AEMC website. A summary of the issues raised in all submissions, and the Commission's response to each issue, is contained in Appendix A.1.

On 6 December 2012, the Commission decided under s.317 of the NGL to extend the period of time for the making of the draft rule determination to 4 April 2013. This extension of time was required due to the consultation period coinciding with the Christmas-new year period. It was made to provide sufficient time for stakeholders to fully and adequately consider the issues and to prepare their submissions to the consultation paper.

## **1.7 Publication of draft rule determination and draft rule**

On 4 April 2013, the Commission published a notice under s.308 of the NGL and a draft rule determination in relation to the rule change request. The draft rule determination included a draft rule.

Submissions on the draft rule determination closed on 16 May 2013. The Commission received four submissions on the draft rule determination. These submissions are available on the AEMC website.<sup>15</sup> A summary of the issues raised in submissions, and the Commission's response to each issue, is contained in Appendix A.2.

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<sup>15</sup> See [www.aemc.gov.au](http://www.aemc.gov.au)

## **2 Final rule determination**

### **2.1 Commission's determination**

The Commission has determined to make a final (more preferable) rule in accordance with ss.296 and 313 of the NGR.<sup>16</sup> The final rule incorporates several of the changes proposed in the AER's rule change request. It also makes additional amendments to the trigger for the assessment of pipeline operator invoiced costs, the timeframes for assessment and payment of invoiced costs, and to the information requirements. The final rule does not change the existing decision making test.

The Commission's reasons for making this final rule determination are set out in section 3.1.

The *National Gas Amendment (Pipeline operator cost recovery processes) Rule 2013 No 5* (final rule) is published with this final rule determination. The final rule commences on 1 July 2013. Its key features are described in section 3.2 of this final determination.

### **2.2 Commission's considerations**

In assessing the rule change request the Commission considered:

- the Commission's powers under the NGL to make the rule;
- the rule change request;
- submissions received during first and second round of consultation;
- other information relevant to the rule change request; and
- the Commission's analysis as to the ways in which the proposed rule will, or is likely to, contribute to the NGL.

### **2.3 Commission's power to make the rule**

The Commission is satisfied that the final rule falls within the subject matter about which the Commission may make rules. The final rule falls with s.74 of the NGL as it relates to:

- AEMO's STTM functions and the operation of a short term trading market of an adoptive jurisdiction (s.74(1)(a)(va)); and

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<sup>16</sup> Under s.296 of the NGL, the AEMC may make a rule that is different (including materially different) from a market initiated proposed rule (a more preferable rule) if it is satisfied that having regard to the issue or issues that were raised by the market initiated proposed rule (to which the more preferable rule relates), the more preferable rule will or is likely to, better contribute to the achievement of the national gas objective.



- the activities of registered participants, users, end users and other persons in a regulated gas market (s.74(1)(a)(vi)).

Further, the final rule falls within the matters set out in Schedule 1 to the NGL, including:

- item 55N, because it relates to the terms and conditions on which service providers, or classes of service providers, may recover costs for allocating quantities of natural gas relating to market operator services; and
- item 67, because it relates to the terms and conditions on which service providers, or classes of service providers, may recover amounts from AEMO for aggregating Bulletin Board information for the Bulletin Board operator.

## 2.4 Rule making test

Under s.291(1) of the NGL the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the NGO. This is the decision making framework that the Commission must apply.

The NGO is set out in s.23 of the NGL as follows:

“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 price, quality, safety, reliability and security of supply of natural gas.”

Under s.291(1) of the NGL, for the purposes of s.291(1) of the NGL, the AEMC may give weight to any aspect of the NGO as it considers appropriate in all the circumstances, having regard to any relevant Ministerial Council on Energy (MCE) statement of policy principles.<sup>17</sup>

For this rule change request, the relevant aspect of the NGO is the efficient operation and use of natural gas services for the long term interests of consumers of natural gas with respect to price.

The Commission is satisfied that the proposed rule will, or is likely to, contribute to the achievement of the NGO by:

- promoting clarity of meaning of the rules by removing ambiguity about the costs that can be claimed under the MOS allocation service and Bulletin Board aggregation and information services;
- promoting administrative efficiencies by providing a consistent approach to pipeline operator cost recovery in Part 18 and Part 20 of the NGR;

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<sup>17</sup> In this case, there is no relevant MCE statement of policy principles.

- providing an assessment approach which should provide incentives for pipeline operators to incur only efficient costs in providing the MOS allocation service and aggregation and information services; and
- aligning the roles and responsibilities of AEMO and the AER within the cost recovery framework with their experience, expertise and broader statutory roles.

## **2.5 More preferable rule**

Under s.296 of the NGL, the AEMC may make a rule that is different (including materially different) from a proposed rule (a more preferable rule) if the AEMC is satisfied that, having regard to the issue or issues that were raised by the market initiated proposed rule (to which the more preferable rule relates), the more preferable rule will, or is likely to, better contribute to the achievement of the NGO.

The Commission has considered the issues raised by the proponent in the rule change request as well as the issues raised by stakeholders in submissions. It has concluded that the final rule which is a more preferable rule will, or is likely to, better contribute to the NGO than the proposed rule by:

- establishing a framework which better promotes the efficient operation and use of the cost recovery provisions by pipeline operators, AEMO, the AER and other relevant stakeholders; and
- better promoting good regulatory practice and design.

Specifically, the Commission considers that the final rule will:

- promote transparency and increase the scope for effective engagement by stakeholders in the cost recovery process by requiring AEMO to publish the information provided by pipeline operators in support of their cost estimates and cost invoices;
- increase certainty (and thereby promote confidence in the process) for pipeline operators and other stakeholders by providing a mechanism which ensures all cost invoices will be subject to oversight by the AER;
- improve overall efficiency of the cost recovery process by providing a framework within which the costs of carrying out a detailed assessment of pipeline operators' invoiced costs can be weighed against the benefits to consumers of amending the amounts payable to pipeline operators; and
- provide a more proportionate approach to the assessment of pipeline operators' invoiced costs given the uncertainty around how the AER would apply a test of efficiency to assess MOS allocation service costs (and aggregation and information services costs), and given the relatively small size and nature of the costs claimed to date.

### **3 Commission's reasons**

The Commission has analysed the rule change request and assessed the issues arising from it. For the reasons set out below and in the following chapters, the Commission has determined to make a more preferable rule, rather than the proposed rule. The Commission's analysis of the proposed rule and the differences between the proposed rule and the final rule are set out below. Further discussion is included in the subsequent chapters.

#### **3.1 Assessment of issues**

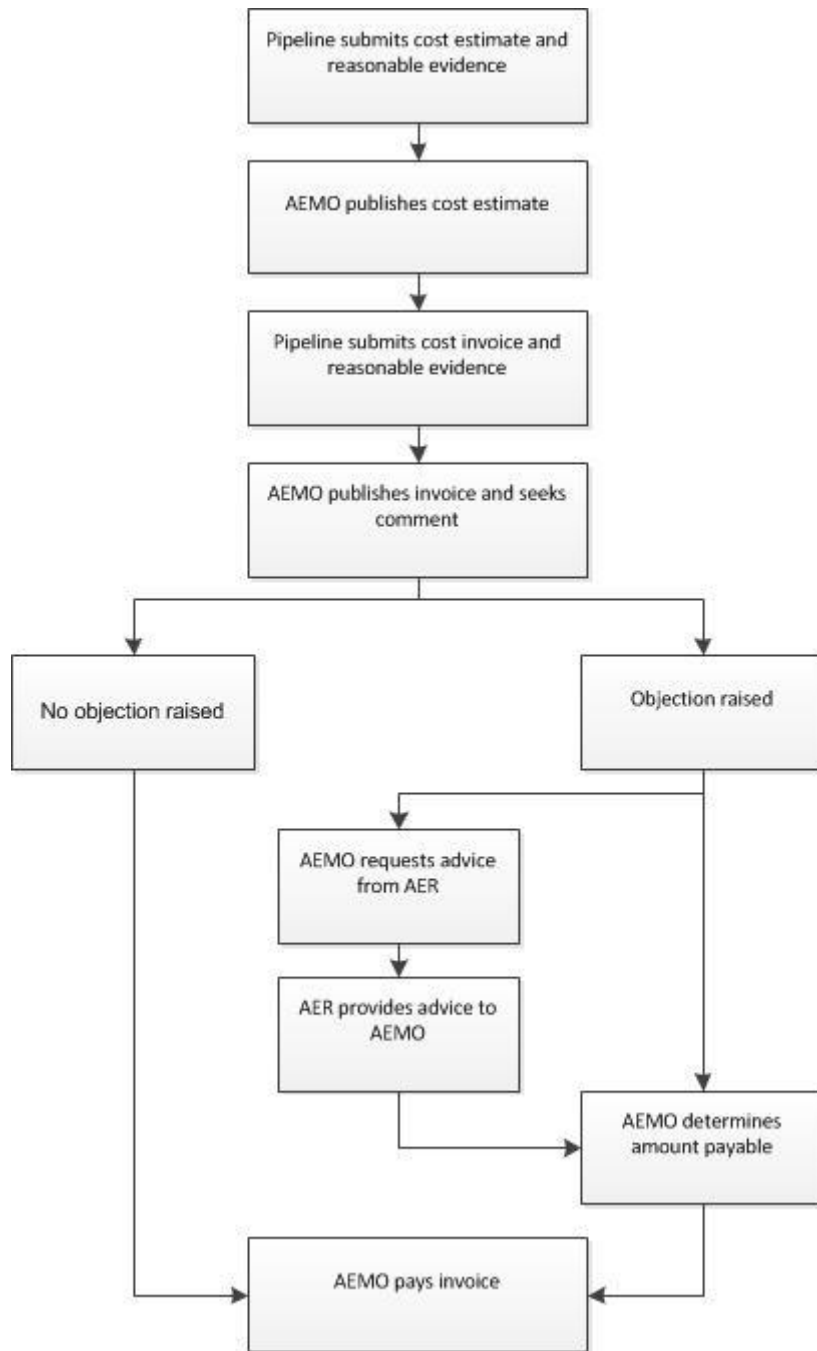
Ahead of considering the amendments proposed by the AER in its rule change request, the next section details the cost recovery processes for the MOS allocation service and Bulletin Board aggregation and information services as set out in the NGR prior to the final rule being made. For ease of reference, Appendix B provides a table briefly summarising the key differences between the pipeline operator cost recovery processes which have applied to date, been proposed by the AER and which will be implemented by the final rule.

##### **3.1.1 Current arrangements**

###### **Cost recovery process for MOS allocation service costs**

The process for the submission and assessment of invoices from pipeline operators in respect of their MOS allocation service costs is set out in rules 424 and 425 of the NGR. A summary of the process which has applied to date is provided in Figure 3.1.

**Figure 3.1 MOS allocation service cost recovery process**



The key requirements under this process are as follows:

- STTM pipeline operators that wish to recover MOS allocation service costs must:
  - give AEMO an estimate of MOS allocation service costs they will seek to recover by 31 January each year for the financial year commencing on the following 1 July (rule 424(1));
  - notify AEMO as soon as practicable of any expected material variation between actual MOS allocation service costs and the costs specified in its estimate (rule 424(3));

- issue AEMO with a tax invoice regarding its actual MOS allocation service costs during the previous financial year, no later than 20 business days after the start of the next financial year (rule 424(4));
- in accordance with the STTM procedures,<sup>18</sup> provide AEMO with reasonable evidence to demonstrate that:
  - each cost estimate or expected variation is reasonable (rule 424(5)(a));
  - invoiced costs were actually incurred (rule 424(5)(b));
  - any material variation between actual costs and the most recent estimate given to AEMO is reasonable (rule 424(5)(c)); and
  - all costs specified in an estimate or invoice are MOS allocation service costs (rule 424(5)(d)).
- AEMO is required to:
  - publish any cost estimates received from a pipeline operator (rule 424(2));
  - publish any notice of variation received (rule 424(3));
  - publish any invoices received as soon as practicable and seek comments for at least 10 business days on whether there is any objection to the payment of those invoices (rule 425(1)).
- After AEMO seeks objections on invoices received, the assessment of those invoices is to be conducted as follows:
  - If an objection to the payment of an invoice is received, AEMO may, within 10 business days after receiving an objection, request the AER’s advice on the amount payable (if any), having regard to the evidence provided to AEMO to support the estimated and invoiced costs (rule 425(2)).
  - If AEMO seeks the AER’s advice:
    - the AER must provide its advice to AEMO within 15 business days after having received the request (rule 425(3));
    - AEMO must determine the amount payable consistent with the AER’s advice within 30 business days of receiving the advice (rule 425(4)(a)).
  - If AEMO does not receive advice from the AER (either because it did not request advice or the advice was not received within specified timeframes),

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<sup>18</sup> The STTM procedures set out the information which must be provided to AEMO (at a minimum) by pipeline operators as evidence that their invoiced costs are reasonable. See STTM procedures, section 7.4.

it must determine the amount payable having regard to the evidence provided by the pipeline operator, within 30 business days of receiving the invoice (rule 425(4)(b)).

- AEMO must pay any amount it has determined as payable as soon as practicable after making the determination (rule 425(5)).<sup>19</sup>

### **Cost recovery process for aggregation and information services costs**

The assessment of costs associated with providing Bulletin Board aggregation and information services would be carried out according to a similar process (as set out in rules 197 and 198 of the NGR). Although broadly similar to the cost recovery process for pipeline operators providing the MOS allocation service in the STTM, there are a number of small differences, namely in relation to:

- the deadlines (times of year) provided for the submission of cost estimates and cost invoices by pipeline operators for the respective services;
- the timeframes provided to AEMO for payment of final invoices (both in the event an objection to payment is received, and when it is not); and
- the provision of a discrete step in the process dedicated to the determination by AEMO of a final amount payable to pipeline operators following receipt of advice from the AER.<sup>20</sup>

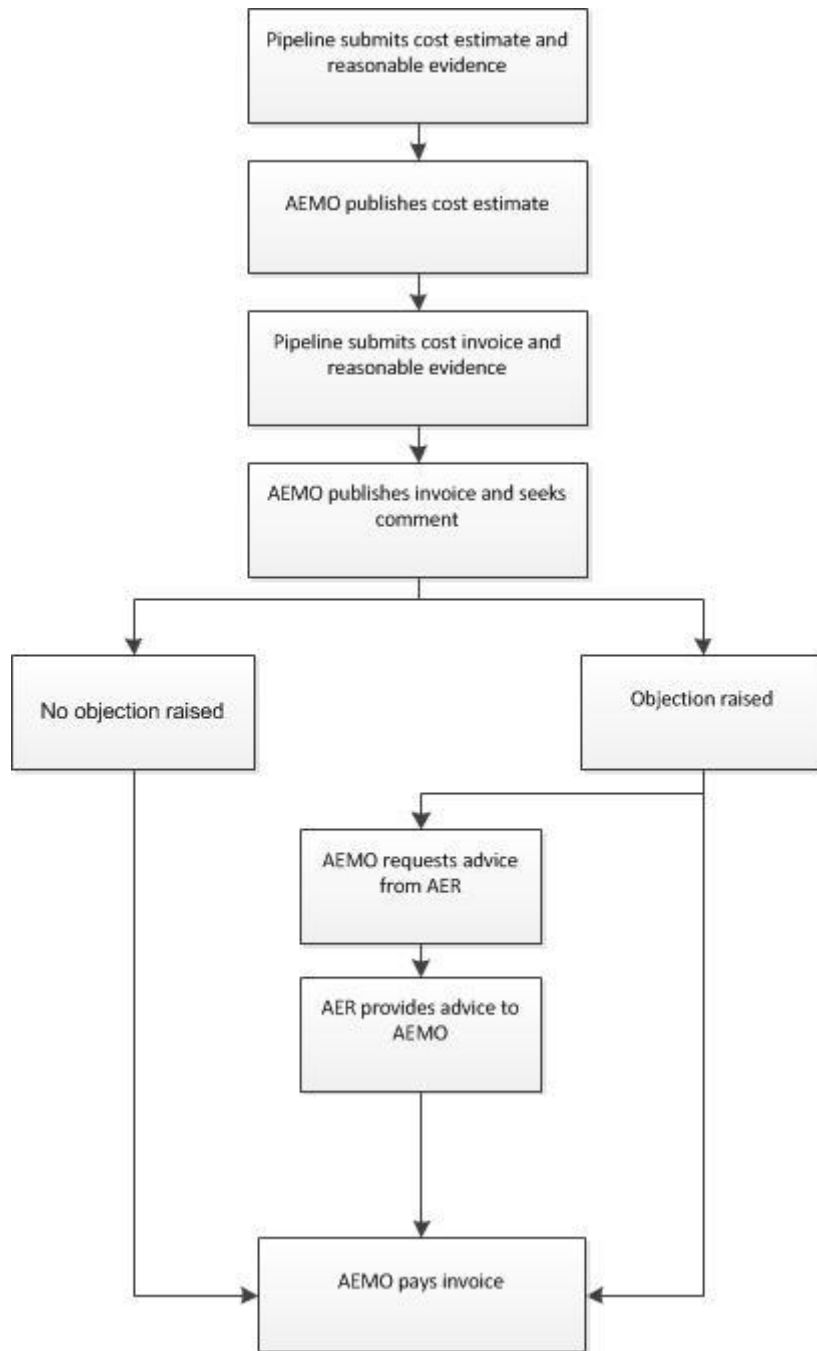
A summary of this process is provided in the figure below.

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<sup>19</sup> The amounts payable are ultimately recovered from participants via AEMO's fee process.

<sup>20</sup> Unlike the provisions in Part 20, the provisions in Part 18 do not include a discrete step in the process for the determination by AEMO of the amount payable to a pipeline operator following receipt of advice from AER. Rather, AEMO is required to pay an invoice within 10 business days of receiving that advice.

**Figure 3.2**      **Aggregation and information services cost recovery process**



The key requirements are as follows:

- Pipeline operators that wish to recover costs of providing aggregation and information services must:
  - no later than 20 business days after the start of an invoice period, provide AEMO with:
    - an estimate of costs of providing aggregation and information services during the invoice period (rule 197(1)(a));

- a tax invoice in relation to actual costs of providing aggregation and information services during the previous invoice period (rule 197(1)(b));
- in accordance with the Bulletin Board procedures,<sup>21</sup> provide AEMO with reasonable evidence to demonstrate that:
  - the cost estimate is reasonable (rule 197(2)(a)); and
  - it has incurred the invoiced costs (rule 197(2)(b));
- not issue a tax invoice to AEMO which includes an amount that it has recovered or is entitled to recover, from a Bulletin Board shipper or any other person either at law or under any contract, arrangements or understanding, or pursuant to an access arrangement (rule 197(3)).
- AEMO is required to publish any invoices received as soon as practical and seek comments for 10 business days as to whether there is any objection to payment of those invoices (rule 198(1)).
- After AEMO seeks objections on invoices received, the assessment of those invoices is to be conducted as follows:
  - If an objection to the payment of an invoice is received, AEMO may, within 10 business days after receiving an objection, refer the question of payment to the AER for advice (rule 198(2)).
  - If AEMO seeks the AER's advice, the AER must provide its advice to AEMO within 15 business days after the question of payment is referred to it (rule 198(3)).
  - Subject to being satisfied that the invoice should be paid, having regard to the evidence provided by the pipeline operator and any advice provided by the AER, AEMO must pay the invoice within the later of:
    - 20 business days after receipt of the invoice;
    - 10 business days of receiving advice from the AER (rule 198(4)).

### 3.1.2 AER's proposed rule

The AER submitted that the proposed rule would provide for a more efficient process for assessing pipeline operators' MOS and Bulletin Board cost recovery proposals. It expects to achieve this by amending a number of aspects of the assessment processes to:

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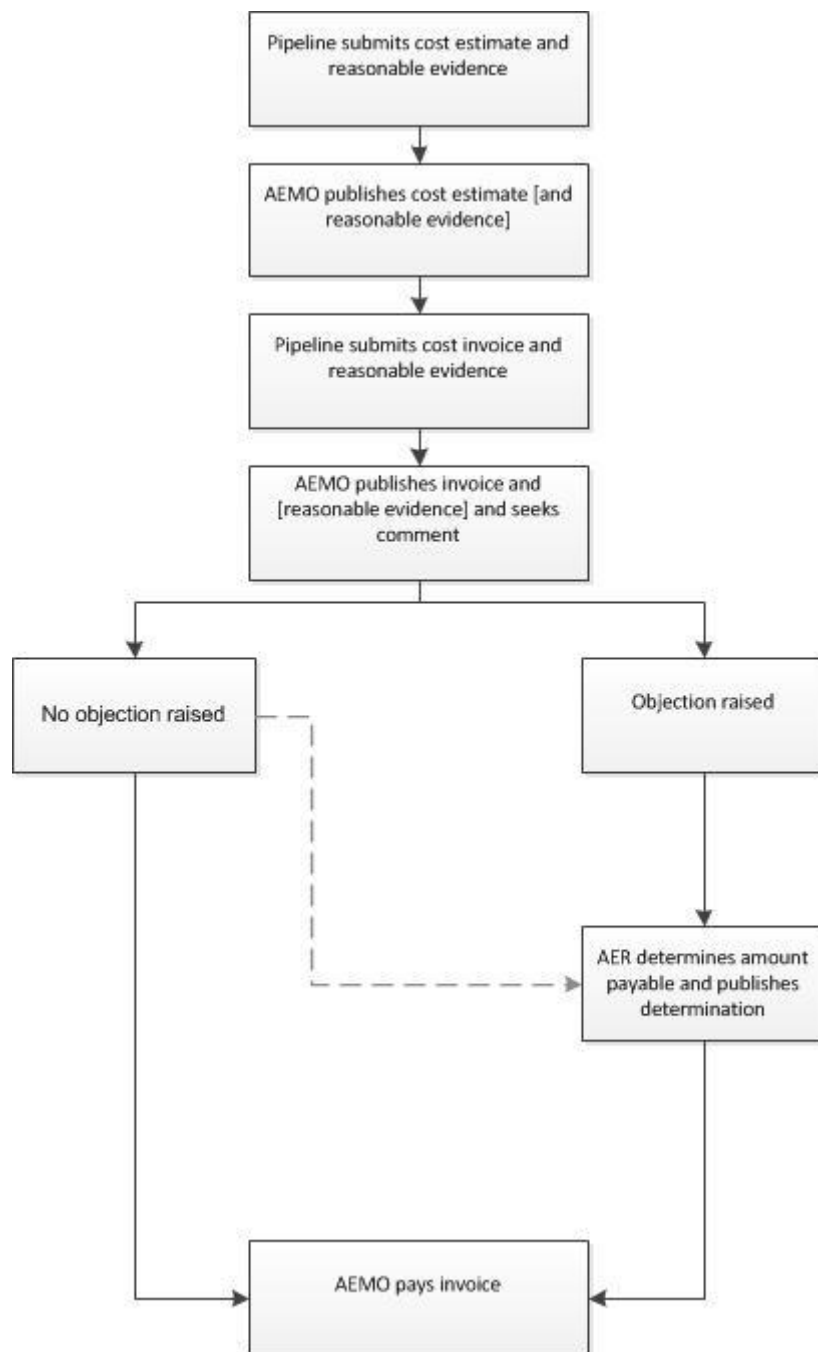
<sup>21</sup> The Bulletin Board procedures set out the information which must be provided to AEMO (at a minimum) by pipeline operators to substantiate forecast cost estimates and actual costs. See Bulletin Board procedures, section 11.



- require pipeline operators to submit costs and, where required, the relevant body to assess costs, by reference to efficient costs that would have been incurred by a prudent operator (rather than by reference to reasonable costs);
- transfer responsibility for decision making on the amounts payable to pipeline operators in respect of MOS allocation and aggregation and information services costs, from AEMO to the AER;
- extend the timeframes for assessment of cost invoices to provide the AER with sufficient time to seek further clarification and collect additional information from pipeline operators, if required;
- require pipeline operators to submit evidence with their cost estimates and invoices to demonstrate that the costs specified reflect the efficient costs that would be incurred by a prudent operator;
- clarify the definitions of 'MOS allocation service costs' and 'aggregation and information services costs'; and
- amend the aggregation and information services cost recovery process in the Bulletin Board in line with any changes made to the MOS allocation service cost recovery process in the STTM rules.

A summary of the AER's proposed cost recovery process is provided in Figure 3.3 below. The detailed process is set out in the proposed rule which is attached to the AER's rule change request.

**Figure 3.3 AER's proposed cost recovery process**



### 3.1.3 Impact and assessment of the proposed rule

This section summarises the Commission's assessment of the impact of the proposed rule. These matters are discussed in more detail in Chapters 5-9.

#### Approach to assessment

The proposal to require the assessment of invoiced costs by reference to efficient costs that would have been incurred by a prudent operator (rather than by reference to reasonable costs) could, at least conceptually, be more likely to provide an incentive for pipeline operators not to incur costs which are above efficient levels. However, given

the uncertainty around how the AER would apply a test of efficiency to assess MOS allocation service costs, and given the size and nature of these costs claimed to date,<sup>22</sup> the Commission does not support the move to an efficiency assessment at this time (see Chapter 5).

### **Appropriate decision making body**

The Commission considers the proposal to transfer responsibility for decision making on the amounts payable to pipeline operators from AEMO to the AER is appropriate in the context of the changes proposed by the AER to the decision making test. That is, the proposed rule necessitates a decision maker with the capacity to utilise a range of analytical tools, including benchmarking, to carry out an effective assessment of invoiced costs by reference to 'efficient costs'. This would align with the AER's responsibilities and experiences of economic regulation.

### **Timeframes for assessing invoiced costs**

The Commission does not support the proposal to extend the timeframes for assessment of cost invoices by the AER to 60 business days (with the option of an additional 30 business days, where required). In the context of the proposed changes to the information requirements on pipeline operators, which should reduce the need for the AER to seek additional information from pipeline operators to support their costs claims, 60-90 business days would be excessive.

### **Information requirements – justification of costs**

The proposed changes require pipeline operators to submit evidence with their cost estimates and invoices to demonstrate that the costs specified in their estimates and invoices reflect the efficient costs that would be incurred by a prudent operator. These changes are, in effect, consequential amendments required to align the information requirements in the NGR with the proposed changes to the assessment approach. On this basis, the Commission supports the changes as means to promoting consistency although the final rule does not adopt the proposed efficiency test for costs (see Chapter 7).

### **Definition of 'MOS allocation service costs'**

The Commission supports the proposals to clarify the definitions of 'MOS allocation service costs' and 'aggregation and information services costs' in the NGR. It considers these changes will promote clarity of meaning by removing ambiguity around which costs can be claimed.

### **Bulletin Board**

To the extent that changes are made to the MOS allocation service cost recovery process, the Commission supports corresponding changes being made to the

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<sup>22</sup> Appendix C provides a summary of pipeline operators' MOS allocation service costs claimed and paid to date.

aggregation and information services cost recovery process. Providing consistency in the approach to pipeline operator costs recovery should promote administrative efficiencies for all relevant stakeholders, including pipeline operators seeking to recover costs for the provision of the relevant services in the STTM and Bulletin Board, and for AEMO and the AER in carrying out their respective roles in these processes.

### **3.1.4 Commission's conclusions**

The Commission considers that, on balance, the proposed rule would likely provide a more efficient cost recovery process relative to the process which has applied to date. However, having had regard to the views of stakeholders, and having undertaken its own analysis and review, the Commission considers that additional amendments could be made to the cost recovery processes to further promote efficiency in their operation and use. On this basis, the Commission has made a final rule which it considers will, or is likely to, better contribute to the NGO than the proposed rule.

## **3.2 The final rule**

The final rule is a more preferable rule to the rule proposed by the AER. It is different from the proposed rule in the following respects:

- All cost invoices submitted by pipeline operators for payment by AEMO will be subject to review by the AER. To this end, the objection mechanism will no longer act as trigger for the assessment process. In carrying out the review, the AER will be required to determine the amount payable to a pipeline operator in respect of its cost invoice by reviewing whether the costs specified in that invoice:
  - have been incurred; and
  - are reasonable.
- In reviewing a cost invoice, the AER must have regard to:
  - the evidence provided with a cost invoice;
  - any comments received by AEMO from other parties, including objections to the payment of an invoice;
  - any comments from AEMO;
  - any information received in accordance with a request or relevant notice issued by the AER;
  - any other relevant information; and
  - whether the likely costs of undertaking an assessment of the costs specified in an invoice outweigh the likely public benefit resulting from such an assessment.

- In determining the amount payable, the AER must either approve or reject the amount specified in a cost invoice. If the AER rejects the amount specified, it must undertake an assessment to determine an amount payable that, in the AER's opinion, is reasonable for the relevant services in respect of that invoice.
- The AER will be required to make a decision on the amounts payable to pipeline operators (if any) within 30 business days of receiving the cost invoices and other relevant information from AEMO. The period of time taken by a pipeline operator to provide additional information to the AER (where requested by the AER) may be disregarded for the purpose of calculating the 30 business days.
- AEMO will be required to publish the evidence provided by pipeline operators to support their cost estimates and cost invoices, subject to any claims of confidentiality by pipeline operators.
- AEMO must publish pipeline operators' cost estimates and supporting evidence, and cost invoices and supporting evidence, within five business days following receipt.
- AEMO must pay any amount the AER has determined payable to a pipeline operator within 10 business days of the AER publishing its determination.

The final rule will apply to both the MOS allocation service cost recovery process set out in Part 20 of the NGR, and to the aggregation and information services cost recovery process set out in Part 18.

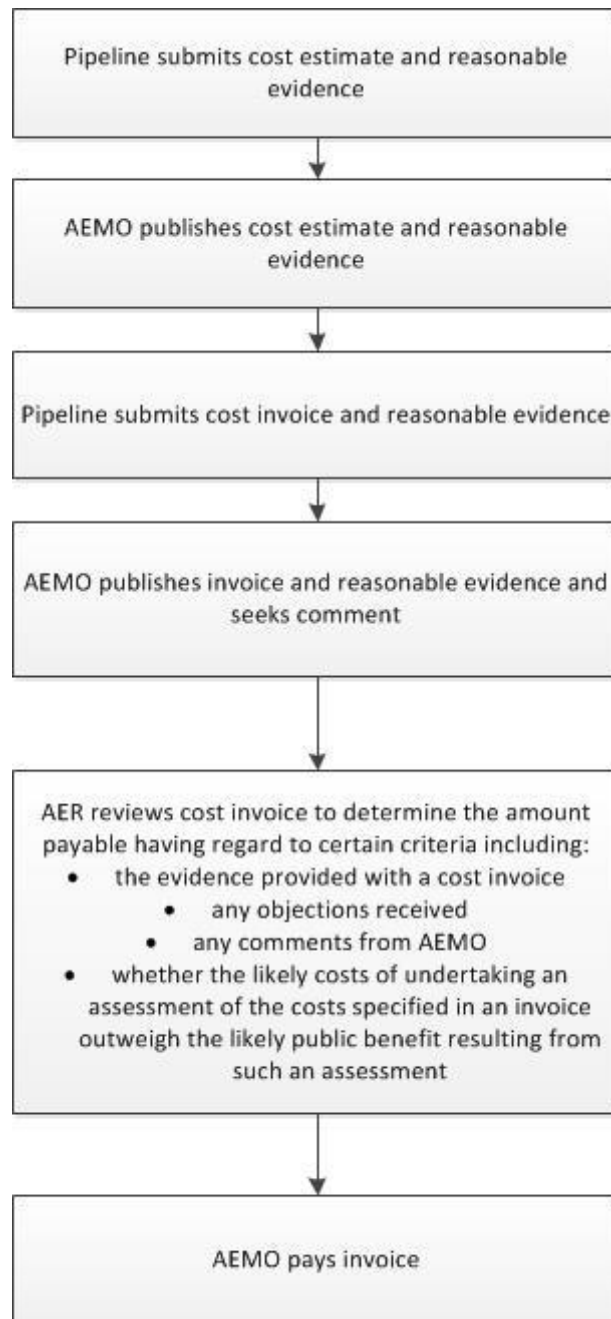
The changes proposed by the AER to the definitions of 'MOS allocation service costs' and Bulletin Board 'aggregation and services costs' have also been included in the final rule.

The final rule does not incorporate the change proposed by the AER to have cost invoices assessed by reference to 'efficient costs incurred by a prudent operator'.

The detailed process is set out in the final rule which is attached to and published with this final rule determination.

A summary of the cost recovery process set out in the final rule is provided in Figure 3.4 below.

**Figure 3.4** Final rule cost recovery process



### **3.3 Civil penalties**

The final rule does not amend any rules that are classified as civil penalty provisions under the NGL or Regulations. The Commission does not propose to recommend to the Standing Council on Energy and Resources (SCER) that any of the amendments in the final rule be classified as civil penalty provisions.

## 4 Commission's assessment approach

This chapter describes the Commission's approach to assessing the rule change request in accordance with the requirements set out in the NGL (and explained in Chapter 2).

In assessing any rule change request against the NGL criteria, the first step is to consider the counterfactual arrangements against which the rule change is being compared. In the present case, the counterfactual arrangements are the MOS allocation service cost recovery arrangements set out in Part 20 of the NGR, and the Bulletin Board aggregation and information services cost recovery process set out in Part 18 of the NGR. The key features of these arrangements have been set out in section 3.1.1.

In assessing this rule change request, the Commission has considered how the AER's rule change request, and the final rule, may improve efficiency of the arrangements for cost recovery relative to the arrangements which have applied to date. In doing so, the Commission has focussed on the following key features for a cost recovery framework:

- appropriate trigger for the assessment of pipeline operators' invoiced costs;
- approach to assessing pipeline operators' invoiced costs ('efficiency' test versus a test of 'reasonableness');
- appropriate body to carry out the assessment and determine the amount payable to pipeline operators;
- disclosure of information to justify invoiced costs;
- timeframes necessary to assess invoiced costs; and
- definitions of costs that can be claimed.

To assist in its assessment, the Commission has considered the AER's proposed rule and the final rule against the following criteria:

- transparency: whether the proposed and final cost recovery processes provide sufficient information to enable the AER to undertake an efficient assessment and to promote effective engagement by stakeholders;
- proportionality: whether the costs arising from the proposed and final cost recovery processes and regulatory requirements are proportionate to the benefits;
- fit for purpose: whether the proposed and final cost recovery processes achieves an effective balance between quick decision making and thorough assessment and consultation;
- clarity of the rules: whether the proposed and final arrangements are likely to introduce greater clarity and certainty in the rules; and

- consistency within the rules: where appropriate, the rules should provide consistent approach to cost recovery.

Chapters 5-9 set out the Commission's analysis of the key features of the cost recovery framework against this assessment framework. Chapter 10 then sets out the implementation and transitional issues relevant to the rule change request.



## 5 Assessment of cost invoices - roles, responsibilities and trigger

The processes for pipeline operator cost recovery set out in the NGR incorporate a number of discrete features. This chapter sets out the Commission's views specifically in relation to:

- the approach to assessing pipeline operators' invoiced costs;
- the appropriate decision making body to carry out the assessment and determine the amounts payable to pipeline operators; and
- the appropriate trigger for the assessment of pipeline operators' invoiced costs.

In considering these features, the Commission has had regard to the views of stakeholders in submissions to the consultation paper and draft rule determination.

### 5.1 Rule proponent's view

The process for the recovery of MOS allocation service costs for pipeline operators is set out in Chapter 3 of this final determination. In summary:

- Pipeline operators seeking to recover their MOS allocation service costs have been required to submit cost estimates to AEMO by the end of January each year for the following financial year. Cost invoices must then be submitted to AEMO at the end of each financial year for that financial year.<sup>23</sup>
- To support their cost estimates and invoices, pipeline operators must provide reasonable evidence to demonstrate that the estimates submitted are 'reasonable' and that the levels of costs claimed on invoices have been incurred.
- AEMO is required to publish any cost estimates and invoices it receives. In respect of the latter, AEMO must also seek comment from any person as to whether there is an objection to payment of an invoice.
- In the event that an objection is raised, AEMO must determine the appropriate amount payable to the pipeline operator, having regard to the reasonable evidence provided with the cost estimate and invoice. Ahead of making a decision, AEMO may request advice from the AER on the amount payable.

#### Approach to assessment

The AER does not consider it appropriate for STTM shippers to be required to pay for costs above those which it considers have been incurred efficiently. To date, in the event an objection is raised, AEMO has not been required to assess (or the AER to

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<sup>23</sup> This process is largely the same for pipeline operators seeking to recover their aggregation and information services costs.

consider) whether the level of costs incurred by a pipeline operator are 'efficient'. In addition, there has been no obligation on pipeline operators to justify that the costs claimed on their invoices have been incurred prudently or efficiently.

To address this issue, the AER has proposed a change to the rules which would require pipeline operators to provide evidence with their cost estimates and cost invoices demonstrating that the level of costs incurred are 'efficient'.<sup>24</sup> Further, in the event that an objection to payment of an invoice is raised, the proposed rule would require the level of costs incurred by a pipeline operator to be assessed by reference to "the efficient MOS allocation service costs that would have been incurred by a prudent operator".<sup>25</sup>

The AER considers that an assessment of efficiency (rather than reasonableness) would place more appropriate incentives on pipeline operators to reduce their costs to efficient levels and, in doing so, would reduce the likelihood of recovery of costs that are above efficient levels.<sup>26</sup>

The AER also considers that use of terminology such as 'efficient costs' provides an approach which is consistent with other assessment approaches in the NGR. It argues that use of terms such as 'reasonably incurred' may introduce different considerations and a level of ambiguity in the way the regulator is meant to assess MOS allocation service costs claims.<sup>27</sup>

The AER submits that the proposed change to the assessment test is an important part of ensuring that the MOS assessment process to be administered by the AER appropriately advances the NGO.

#### *Rule change request - additional information*

Following receipt of the rule change request, the AEMC requested that the AER provide further explanation as to how the application of an efficiency test would differ from the application of a reasonableness test. Specifically, information was sought in relation to the evidence that pipeline operators would be required to provide to support their cost claims, and how the AER would assess these invoices in the event that an objection was raised.

In its response, the AER explained that the application of an efficiency test would not be expected to make a large practical difference to the way in which it would assess a cost invoice. It considered that, in the context of MOS allocation service costs and Bulletin Board aggregation and information services costs, reasonable costs could typically be argued to be efficient and prudently incurred.<sup>28</sup>

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24 Proposed rule 424(5)(a).

25 Proposed rule 425(2).

26 AER rule change request, p.7.

27 AER rule change request - additional information, pp.3-4.

28 AER rule change request - additional information, p.3.

Further, the AER stated that it would be free to use a range of techniques when determining whether the level of costs claimed by a pipeline operator were reflective of the efficient costs that would have been incurred by a prudent operator. It noted that the detail of the assessment process would be dependent on the relevant circumstances and information available at the time.<sup>29</sup>

### **Appropriate decision making body**

The AER also considers that it may be more appropriate for the AER as economic regulator, rather than AEMO, to be responsible for making determinations on the appropriate level of MOS allocation service costs payable to pipeline operators.

The rule change request therefore also proposes to amend the roles of the AER and AEMO such that where an objection was raised, the AER would be the decision maker and inform AEMO of the amount payable. In addition, where no objection is raised, the proposed rule clarifies that AEMO may either pay the invoiced amount, or refer the invoice to the AER for assessment and a determination, which AEMO will then apply.

In its rule change request, the AER states that the benefits of this change would be administrative efficiencies for both the AER and AEMO. It also considers the proposed change will result in clearer accountability for decision making and more appropriate allocation of relevant functions to the AER in its role as economic regulator.<sup>30</sup>

### **Trigger for assessment**

The AER did not have a view on this matter.

## **5.2 Stakeholder views**

### **5.2.1 First round of consultation**

#### **Approach to assessment**

While supportive of the proposal to require the AER (rather than AEMO) to determine the amount payable to pipeline operators, Alinta Energy (Alinta) considered the AER may be constrained in its assessment of efficient costs by the absence of a relevant benchmark. Specifically, Alinta considered it was unclear against which theoretical 'prudent or efficient pipeline service provider' actual pipeline operators would be assessed. It considered that where there is scant evidence, or an absence of benchmarks, available to assess efficiency it may be appropriate to fall back on a test of reasonableness.<sup>31</sup>

The Australian Pipeline Industry Association (APIA) considered that, depending on whether there was a difference between reasonable costs and efficient costs, it was

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<sup>29</sup> AER rule change request – additional information, p.4.

<sup>30</sup> AER rule change request, p.13.

<sup>31</sup> Alinta, consultation paper submission, p.1.

possible that the proposed rule would reduce the ability of pipeline operators to recover the costs incurred in performing the MOS allocation service. APIA requested that the difference between the applications of each test be clarified before any change is made.<sup>32</sup>

In addition, APIA noted that pipeline operators providing MOS allocation services have different systems, resources and in house capabilities which means that the AER, in carrying out an efficiency assessment, would be unlikely to have a benchmark for comparison. Given this, APIA believed that cost invoices should be assessed based on whether costs have been incurred “under prudent commercial processes taking into account specific circumstances of the business”.<sup>33</sup>

It also considered that the development of a guideline on appropriate costs and appropriate information justification would increase the efficiency of the cost recovery and assessment process, and lower the potential for dispute.<sup>34</sup>

### **Appropriate decision making body**

Both AGL Energy (AGL) and Alinta considered that the proposed changes would lead to more efficient outcomes, including enhanced effectiveness and transparency of cost recovery by clarifying points within the decision-making process and the responsibilities of parties within that process.<sup>35</sup>

Alinta agreed with the AER that it was best placed to assess pipeline operators’ cost invoices.<sup>36</sup> Similarly, AGL considered that it was appropriate to assign the assessment role to the AER, thereby ensuring the roles and responsibilities of AEMO and the AER in this process were aligned with their key statutory roles.<sup>37</sup>

In contrast, APIA submitted that AEMO, as the party responsible for developing and maintaining the systems that run the STTM, would have a good understanding of the obligations on pipeline operators to provide MOS allocation services, and hence also a good understanding of the costs that would be incurred in doing so.<sup>38</sup>

### **Trigger for assessment**

It was APIA's "strong view" that improvements could be made to the objection mechanism to increase the threshold at which an objection would occur. It considered that the lack of barriers to objections, and the lack of any requirement for objections to be justified, meant that frequent and unnecessary objections were probable. It noted that, once triggered, the assessment process consumes resources from the AER, AEMO

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<sup>32</sup> APIA, consultation paper submission, p.6.

<sup>33</sup> *ibid.*

<sup>34</sup> *ibid.*

<sup>35</sup> AGL, consultation paper submission, p.2; Alinta, consultation paper submission, p.1.

<sup>36</sup> Alinta, consultation paper submission, p.1.

<sup>37</sup> AGL, consultation paper submission, p.2.

<sup>38</sup> APIA, consultation paper submission, p.8.

and pipeline operators, and delays payment to pipeline operators. In light of this, APIA considered the objection mechanism is inherently inefficient.<sup>39</sup>

APIA considered there were a number of ways the objection mechanism could be improved, including by: introducing a cost to objection; removing a blanket objection; requiring justification for an objection to be provided; or considering a pipeline operators' histories before initiating a full cost assessment.<sup>40</sup>

## **5.2.2 Second round of consultation**

### **Approach to assessment**

In its submission to the draft rule determination, the AER maintained the view that an efficiency based test would be preferable to a test based on reasonable costs, as the former better reflects the NGO. The AER confirmed that, in practice, an assessment of whether costs had been incurred efficiently by a prudent operator would be a relevant factor in assessing reasonableness.<sup>41</sup>

APA Group (APA) was supportive of the draft decision to maintain a test of reasonableness. It noted that, given the reasonably modest level of costs claimed to date, assessment of costs against a standard of efficient and prudent expenditure would lead to uncertainty around how the test would be applied. This could also result in an assessment process which was disproportionate to the size and nature of costs being claimed.<sup>42</sup>

APA also considered that, given the majority of STTM pipelines are not subject to direct economic regulation, it was not appropriate to regulate and assess costs for these pipelines in the same manner as if they were regulated.<sup>43</sup>

Alinta was supportive of the draft rule and endorsed the view that an efficiency test at this time may be unlikely to result in materially different evaluation outcomes than assessment based on reasonableness.<sup>44</sup>

### **Appropriate decision making body**

APA did not consider it necessary or appropriate for MOS allocation service costs to be assessed within an economic regulatory framework. It explained that the majority of STTM pipelines are either uncovered or subject to light regulation. As such, they face market pressures which influence commercial decision making and provide natural

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<sup>39</sup> *ibid*, p.4.

<sup>40</sup> *ibid*, pp.4-5.

<sup>41</sup> AER, draft rule determination submission, p.1.

<sup>42</sup> APA Group, draft rule determination submission, pp.1-2.

<sup>43</sup> *ibid*.

<sup>44</sup> Alinta, draft rule determination submission, p.1.

controls on expenditure. APA also considered that an assessment carried out by the AER would be disproportionate to the quantum of costs claimed to date.<sup>45</sup>

Alinta supported the draft rule's clarification of roles between the AER and AEMO. It agreed that this would reduce the duplication of responsibilities, resulting in clearer accountability and efficient decision making. Alinta also agreed the AER is the suitable decision making body to be tasked with conducting the assessment reviews given its experience in this area.<sup>46</sup>

### **Trigger for assessment**

The AER was concerned that the draft rule requirement for the AER to review all pipeline operator cost invoices would result in the AER Board having to assess every tax invoice, regardless of the amount specified. As an alternative, the AER proposed a process where invoices for amounts less than \$50,000 would be deemed to be approved by the AER after 30 business days, unless the AER had informed AEMO otherwise. The AER considered that this would avoid its staff having to table for Board decision small cost invoices such as those submitted for the 2011-2012 financial year.<sup>47</sup>

## **5.3 Commission's analysis**

### **5.3.1 Differences between the draft and final rules**

Having had regard to the views of stakeholders and its own analysis and review, the Commission has largely adopted the draft rule in relation to the approach to assessment, the decision making body and trigger for assessment of pipeline operators' MOS allocation service costs. However, the Commission has made a minor amendment to improve and clarify the application of the final rule, without affecting the principles underlying it. This change is as follows:

- Rule 425(3), (3A) and (4) have been amended to clarify that the AER would only be required to make one decision (that is, to determine the amount payable) in respect of a pipeline operator's cost invoice.<sup>48</sup>

Outlined below is the Commission's assessment of the final rule, including the reasons why it considers this aspect of the final rule meets the NGO.

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45 APA Group, draft rule determination submission, p.2.

46 Alinta, draft rule determination submission, p.1.

47 AER, draft rule determination submission, pp.1-2.

48 This amendment is intended to remove any suggestion that the AER would be required to make two decisions in respect a cost invoice. That is, to: (1) reject a cost invoice; and (2) determine an appropriate amount payable.

### 5.3.2 Commission analysis

#### Approach to assessment

The AER's rationale for implementing an approach which requires the assessment of costs on the basis of efficiency (rather than reasonableness) is to provide an incentive for pipeline operators not to seek recompense for costs above efficient levels.

At a conceptual level, the Commission acknowledges that an assessment of pipeline operators' costs on the basis of efficiency would be consistent with other approaches to cost assessments in the NGR. The proposed changes which provide only for the recovery of costs which have been 'efficiently incurred' may also be consistent with the NGO, which seeks to promote the achievement of efficient outcomes in the market, for the long term interests of consumers.

However, having regard to the information available to it, the Commission is not satisfied that the implementation of an efficiency test in place of a test of reasonableness is appropriate in this circumstance.

As highlighted by stakeholders in their submissions to the consultation paper, there are a number of issues around the practicalities of applying an efficiency test to the assessment of costs incurred in providing the MOS allocation service, including the usefulness of benchmarking.<sup>49</sup> The AER has confirmed that:<sup>50</sup>

"It would be open to the AER to use a range of techniques when determining whether the proposed costs reflect the efficient costs of a prudent operator. However, it is difficult in the abstract to explain this assessment process in more detail as it would be dependent on the relevant circumstances and information available at the time."

The Commission recognises that there are potential difficulties associated with determining what 'efficiently incurred' costs may be.<sup>51</sup> However, it also recognises that it is important for stakeholder confidence in the process that the AER is transparent in its approach to assessing costs. This would include how it would determine 'efficient costs that would be incurred by a prudent operator'. Having regard to the AER's explanation above, the Commission is not satisfied that this aspect of the proposed rule will result in a more transparent, certain and robust regulatory

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<sup>49</sup> Benchmarking is an analytical tool used by regulators to estimate the efficient costs of delivering a service through the examination of the historic costs of a firm or industry. There are many different types of benchmarks, and multiple ways of calculating and using benchmarks. The appropriateness of benchmarking as a tool in promoting efficient outcomes depends on a number of factors, including being able to develop a benchmark which is transparent, provides certainty and does not involve onerous data obligations or take too much time to prepare.

<sup>50</sup> As the AER's explanation on the use of an efficiency test was unclear in its rule change proposal, the AEMC requested additional information. See AER rule change request – additional information, p.4.

<sup>51</sup> This is because 'efficient costs' can be very specific to participant size and operating environment.

environment for pipeline operators and other stakeholders, relative to the arrangements which have applied to date.

In addition, the Commission is not satisfied that the purpose for making a change to this feature of the cost recovery arrangements, as described by the AER, has been clearly demonstrated. As noted previously, the rationale for introducing the concept of an efficiency assessment is driven primarily by the view that an efficiency assessment will place more appropriate incentives on pipeline operators to seek recompense only for costs at efficient levels. However, it is not clear that the reasonableness test used to date has led to (or is expected to lead to) inefficient outcomes.<sup>52</sup>

Further, there is some uncertainty around the materiality of the benefits likely to flow from the proposed change, particularly in light of the AER's view that:<sup>53</sup>

- the application of an efficiency test would not be expected to make a large practical difference to the way in which the AER would assess a cost invoice; and
- in the context of MOS allocation service costs and Bulletin Board aggregation and information services costs, reasonable costs could typically be argued to be efficient and prudently incurred.

Accordingly, having regard to the information available to it, the Commission is not satisfied that the problem identified by the AER as the reason for changing is material enough to justify making a change to the NGR.

Consistent with its draft determination, the Commission's final determination is to make a rule which retains a reasonableness test to assess pipeline operators' costs.

### **Appropriate decision making body**

There are two drivers behind the AER's proposed changes to the roles and responsibilities of AEMO and the AER in the cost recovery process. The first relates to the apparent inefficient duplication of activities by the AER and AEMO ('double handling') in the event the AER is unable to provide advice to AEMO on the amount payable within specified timeframes. The second reason relates to the AER's role as economic regulator. The AER considers this places it in a more appropriate position than AEMO to make determinations on the appropriate level of MOS allocation service costs.

In respect of the first, there does appear to be the potential for double handling of cost invoices in certain circumstances. However, whether this is a consequence of an overlap in the roles and responsibilities assigned to AEMO and the AER, or a result of the timeframes and information requirements currently specified in the rules and procedures, is debatable.

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<sup>52</sup> For example, the Commission is not aware of any evidence to suggest that the amounts paid to pipeline operators to date (or the amounts expected to be claimed by pipeline operators in the future), although reasonable, do not (or are not expected to) reflect efficient costs.

<sup>53</sup> AER rule change request - additional information, p.3.



In respect of the second issue, the Commission accepts that, in general, the AER as economic regulator is in the best position to carry out an effective assessment of invoiced costs by reference to 'efficient costs'. This would align with the AER's responsibilities and experiences of economic regulation.

However, as noted above, the final rule retains the reasonableness test. In this context, the Commission considers that both the AER and AEMO possess the skills and experience necessary to be able to carry out an effective assessment of invoiced costs by reference to 'reasonable costs'.<sup>54</sup>

In order to assign the decision making role, the Commission has therefore had regard to the broader cost recovery framework set out in the final rule. As discussed further below, the final rule removes the role of the objection mechanism as the trigger for assessment and instead requires all pipeline operators' MOS allocation service costs to be subject to at least a high level review. The rule also provides discretion for a more detailed assessment of a cost invoice having regard to a number of factors, including whether the costs of undertaking the assessment outweigh the likely public benefit resulting from such an assessment. Given this broader oversight role, the Commission considers that the AER (rather than AEMO) is the appropriate body to take on the assessment and decision making role on pipeline operators' cost invoices.

### **Trigger for assessment**

Under the cost recovery arrangements used to date, the assessment of a pipeline operator's cost invoice is triggered by receipt of an objection to payment of that invoice by AEMO. Objections may be raised by any person and do not require justification or any supporting materials. Where an objection is not received and the AER is not called upon to provide advice, AEMO is required to pay pipeline operators the amounts claimed on their cost invoice.

The Commission notes the concerns of APIA in its submission to the consultation paper regarding the effectiveness of the objection mechanism and its role as trigger of the assessment process. The Commission also has a number of concerns.

First, effective review of pipeline operators' invoiced costs is contingent upon stakeholder engagement in the process. This implies that stakeholders are in a position to be able to make an effective judgement within 10 business days on what is or isn't a 'reasonable cost' in order to inform the decision on whether or not to object to payment. It also requires that a degree of transparency be provided about pipeline operators' costs (information requirements are considered further in the next chapter).

Second, in the instance an objection to payment is received, a full assessment process is triggered. As demonstrated in 2010-2011, the cost assessment process has the potential to be resource intensive and time consuming for AEMO, the AER and relevant pipeline operators, particularly where objections to multiple invoices are received. It is therefore

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<sup>54</sup> As noted by APIA in its submission to the consultation paper, AEMO is likely to have a relatively good idea of the costs involved to pipeline operators in providing the MOS allocation service, given its experience in developing and maintaining the systems that run the STTM.

not guaranteed that the benefits from assessing pipeline operators' invoices (that is, a reduction in the costs payable by shippers to pipeline operators)<sup>55</sup> will in all cases be proportionate to the costs of conducting the assessment.

For these reasons, the Commission considers there is a case to amend the operation of the objection mechanism as the trigger for assessment.

Ideally, the design of the cost recovery process should allow the potential benefits from carrying out a full assessment to be identified and balanced against the total costs of conducting the process in instances where a full assessment is unlikely to deliver broader benefits to the market.

The final rule achieves this by removing the role of the objection mechanism as the trigger for assessment. Instead, it requires all cost invoices submitted to AEMO be reviewed by the AER. The key requirements of the review are as follows:

- The AER will be required, within 30 business days after receiving the invoices and supporting evidence from AEMO, to determine the amount payable to a pipeline operator in respect of its cost invoice by reviewing whether the costs specified in that invoice:
  - have been incurred; and
  - are reasonable.
- In reviewing a cost invoice, the AER must have regard to:
  - the evidence provided with a cost invoice;
  - any comments received by AEMO from other parties, including objections to the payment of an invoice;
  - any comments from AEMO;
  - any information received in accordance with a request or relevant notice issued by the AER;
  - any other relevant information; and
  - whether the likely costs of undertaking an assessment of the costs specified in an invoice outweigh the likely public benefit resulting from such an assessment.
- In determining the amount payable, the AER must either approve or reject the amount specified in a cost invoice. If the AER rejects the amount specified, it must undertake an assessment to determine an amount payable that, in the AER's opinion, is reasonable for the relevant services in respect of that invoice.

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<sup>55</sup> The amounts payable are ultimately recovered from participants via AEMO's fee process.

The final rule ensures that all pipeline operators' MOS allocation service costs (and aggregation and information services costs) are subject to at least a high level review by the regulator, ahead of the invoices being paid. This provides a safeguard against shippers being required to pay costs above those which have been reasonably incurred (this is particularly important where an objection is not raised to an invoice which, arguably, should be subject to review). It also removes the necessity of shippers and other parties being active in the process.

In addition, the final rule addresses some of the concerns of APIA by preventing objections which may be misconceived or lacking in substance triggering a full assessment process and unnecessarily delaying payment. Stakeholders would, however, still be provided with an opportunity to comment on, or object to, invoices and evidence. This would be taken into account by the AER.

The Commission has considered the concern raised by the AER that the rule would require the AER Board to make a decision on all pipeline operators' cost invoices. The driver of the requirement for the AER to review all invoices is the need to ensure that costs payable to pipeline operators are reasonable. This is relevant for all invoiced amounts, irrespective of the level of costs claimed. For this reason, the AER's proposal to deem invoices with amounts less than \$50,000 as approved is not supported by the Commission. It is recognised that in some cases, the value in carrying out a more detailed assessment of an invoice may be minimal relative to the costs being claimed. For this reason, the final rule has been designed to allow the AER to balance the costs of undertaking a more detailed assessment with the likely benefits to the public of determining a more appropriate amount.

Notwithstanding the above, a minor amendment has been made to rule 425(3) to clarify that the AER would only be required to make one decision (that is, to determine the amount payable) in respect of a pipeline operator's cost invoice. This amendment is intended to remove any suggestion that the AER would be required to make two decisions (that is, to (1) reject a cost invoice and (2) determine an appropriate amount payable in respect a cost invoice).

The Commission considers that this aspect of the final rule promotes good regulatory practice and design by providing a framework which allows an appropriate balance to be struck between the potential benefits of amending final invoiced costs and the potential costs of conducting the assessment. It also provides a balance between quick decision making and thorough assessment and consultation, thereby promoting efficiency of the cost recovery process.

## **5.4 Conclusion**

### *Approach to assessment*

The Commission considers that the proposal to require the assessment of invoiced costs by reference to efficient costs that would have been incurred by a prudent operator (rather than by reference to reasonable costs) could encourage pipeline operators not to seek recompense for costs which are above efficient levels. On this

basis, the Commission considers that this aspect of the proposed rule will, or is likely to, contribute to the achievement of the NGO.

However, given the uncertainty around how the AER would apply a test of efficiency to assess MOS allocation service costs, and given the relatively small size and nature of these costs claimed to date, the Commission does not support the move to an efficiency assessment at this time. The final rule therefore retains the reasonableness test. This aspect of the final rule will, or is likely to, better contribute to the NGO than the proposed rule by providing a more proportionate approach to the assessment of pipeline operators' invoiced costs.

#### *Appropriate decision maker*

The Commission considers that the AER's proposal to transfer responsibility for decision making on the amounts payable from AEMO to the AER is appropriate if the decision maker is to carry out an effective assessment of invoiced costs by reference to 'efficient costs'. This would align with the AER's responsibilities and experiences of economic regulation.

In the context of the final rule, which proposes to retain the test of reasonableness, the Commission considers that both the AER and AEMO possess the skills and experience necessary to be able to carry out an effective assessment of invoices costs.

However, having regard to the broader changes to be made to this entire process, the Commission considers it is appropriate for the AER, rather AEMO, to assume the role of decision maker on the amount payable. By aligning the roles and responsibilities of AEMO and the AER within the cost recovery framework with their experience, expertise and broader statutory roles, the Commission considers this aspect of the final rule will also be consistent with the NGO.

#### *Trigger for assessment*

Having considered the issues raised by stakeholders, the final rule provides a framework where all pipeline operators' cost invoices would be subject to AER oversight. Where deemed necessary by the AER, invoices would undergo a more detailed assessment where there is benefit in doing so. The Commission considers that this aspect of the final rule will, or is likely to, better contribute to the NGO than the proposed rule by:

- increasing certainty (thereby promoting confidence in the process) for pipeline operators and other stakeholders by providing a mechanism which ensures all cost invoices will be subject to oversight by the AER; and
- improving overall efficiency of the cost recovery process by providing a framework within which the costs of carrying out a detailed assessment of pipeline operators' invoiced costs can be weighed against the benefits to consumers of amending the amounts payable to pipeline operators.

## 6 Timeframes for assessment of invoiced costs

This chapter sets out the Commission's views in relation to the timeframes necessary to assess invoiced costs. In considering this feature of the cost recovery process, the Commission has had regard to the views of stakeholders in submissions to the consultation paper and draft rule determination.

### 6.1 Rule proponent's view

To date, the AER has been required to respond to an AEMO request for advice within 15 business days of receiving that request. AEMO has then had 30 business days to make a determination on the amount payable after receiving the AER advice.

Following first use of the provisions in 2010-2011, the AER found that this timeframe was insufficient for it to be able to provide advice to AEMO on the amount payable for one of four pipeline operators' invoices subject to review that year.<sup>56</sup> Consequently, the AER has proposed to amend the timeframe provided for it to assess any cost invoices, from 15 business days to 60 business days. The AER would also have the ability to extend this deadline by a further 30 business days if required.<sup>57</sup>

The AER states that the additional assessment time (from 15 business days to 60 business days) will allow it to properly determine MOS allocation service cost amounts, including allowing more time for pipeline operators to respond to requests for information. The AER also considers that the ability to extend this timeframe by a further 30 business days will allow it to deal with circumstances where there has been a delay to the process, such as a need to wait for information from pipeline operators or where the determination involves questions of unusual complexity or difficulty.<sup>58</sup>

The AER considers that the proposed rule achieves a better balance between quick decision making and thorough assessment and consultation processes. It also considers that the proposed changes will provide a better opportunity for the AER to engage with pipeline operators to clarify aspects of their invoices, including more time for pipeline operators to comment or clarify aspects if required.<sup>59</sup>

Notwithstanding the above, the AER recognises that introducing the potential for a longer assessment process could lead to short delays in the payment of invoices by AEMO. However, it considers that any delay would be relatively modest and manageable, given the level of costs involved.

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<sup>56</sup> During the 2010-2011 assessment process, AEMO received an objection to payment of all four cost invoices submitted to AEMO. AEMO subsequently sought advice from the AER on the amounts payable. However, the AER was unable to collect additional information from one of the four pipeline operators within the prescribed timeframe and was therefore unable to provide advice to AEMO on an amount payable for that pipeline operator. AEMO subsequently carried out further work and sought additional information from the pipeline operator itself.

<sup>57</sup> The clock would start upon receipt of a request from AEMO to make a determination.

<sup>58</sup> AER rule change proposal, p.9.

In addition, the AER notes that its proposal to remove the potential for doubling handling of invoices between AEMO and the AER may reduce the amount of time between when the AER has assessed costs and when AEMO can pay the invoices, somewhat offsetting the additional assessment time.<sup>60</sup>

Finally, the AER considers that the additional time will likely reduce its own assessment costs on the basis that it would be able to more efficiently allocate resources to the task.<sup>61</sup>

## 6.2 Stakeholder views

### 6.2.1 First round of consultation

APIA considered that the timeframes set out in the proposed rule were excessive. It considered that if the AER required 60-90 business days to make a decision on the amount payable to a pipeline operator, it was likely that the costs of making the decision would outweigh the benefits of both the rule change proposal and of any assessment of pipeline operator invoices. APIA submitted that a 30 business day timeframe would be sufficient for this task.<sup>62</sup>

In addition, APIA considered that in the event the extended timeframes were implemented, pipeline operators should be allowed to charge interest on their payments. This would be in line with standard commercial terms on invoices which require payment within 30 days before interest can be charged.<sup>63</sup>

APIA also noted that it was standard for invoices to be paid within 30 days (equivalent to 20 business days). Given the proposed rule would shift the decision making role from AEMO to the AER, APIA considered that 10 business days (rather than 30 business days as provided in the proposed rule) would be appropriate for the payment of invoices by AEMO.<sup>64</sup>

Finally, APIA expressed concern about the requirement that AEMO publish cost invoices, and refer invoices to the AER, "as soon as practicable". APIA suggested that a five business day statutory time limit apply to both these activities.<sup>65</sup>

In its submission, Alinta noted that it was uncertain how the AER had determined that up to 90 business days would be required to perform the cost assessment.<sup>66</sup>

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59 AER rule change proposal, p.13.

60 AER rule change proposal, p.10.

61 AER rule change proposal, p.9.

62 APIA, consultation paper submission, p.8.

63 *ibid*, p.4.

64 *ibid*, pp.8-9.

65 *ibid*, p.9.

66 Alinta, consultation paper submission, p.2.

## 6.2.2 Second round of consultation

The AER was concerned that 30 business days may not be sufficient for it to consult with pipeline operators and conduct a proper assessment of cost invoices in all circumstances. The AER proposed that, at a minimum, a “clock-stopper” provision should apply to rules 198(3) and 425(3) to allow it to do more than just a cursory assessment of any further evidence provided by a pipeline operator.<sup>67</sup> In addition, in the instance a cost invoice was rejected, this provision would allow the AER to consult with the relevant business on what it considered to be a more reasonable figure. In doing so, the AER considered it would be better able to ensure that shippers pay reasonable costs. It would also provide an extra incentive for pipeline operators to provide suitable evidence to support costs claimed at the time of submitting their costs.<sup>68</sup>

Alinta agreed with the AEMC that 30 business days to conduct an appropriate review to determine reasonable costs, followed by payment by AEMO within 10 business days from the determined invoice, was a practical and appropriate framework in which to determine an effective and timely outcome for the participants and the market.<sup>69</sup>

APA also supported the 30 business day deadline for the assessment of cost invoices by the AER. Given the size and nature of the costs claimed to date and the decision making test, APA considered that six weeks for verification of costs appeared sufficient.<sup>70</sup>

## 6.3 Commission's analysis

### 6.3.1 Difference between the draft and final rules

Having had regard to the views of stakeholders and its own analysis and review, the Commission has made one amendment to the draft rule in relation to the timeframes for assessment of MOS allocation service costs. This change is as follows:

- Rule 425 has been amended to provide the AER with the ability to stop the clock on the 30 business day timeframe for review. Specifically, the final rule provides for the period of time taken by a person to provide additional information to the AER (where requested by the AER) to be disregarded for the purpose of calculating the 30 business days allowed for the review of pipeline operators' cost invoices.

Outlined below is the Commission's assessment of the final rule, including the reasons why it considers this aspect of the final rule meets the NGO.

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<sup>67</sup> The AER cited rule 11 of the NGR as an example of how such a provision could operate.

<sup>68</sup> AER, draft rule determination submission, pp.2-3.

<sup>69</sup> Alinta, draft rule determination submission, p.2.

<sup>70</sup> APA Group, draft rule determination submission, p.2.

### 6.3.2 Commission's analysis

One of the AER's key concerns regarding the current cost recovery process relates to the timeframes for undertaking an assessment of MOS allocation service costs. At present, the rules require the AER to respond to an AEMO request for advice within 15 business days.<sup>71</sup>

Having considered the AER's proposed rule and submissions to the consultation paper, the Commission's draft determination was to provide the AER with a period of 30 business days (rather than 60 to 90 business days) to undertake a review of all pipeline operators' cost invoices.<sup>72</sup>

While the Commission recognised that allowing a longer assessment period would provide the AER with additional time to conduct a robust assessment of costs (including time for it to collect additional information from pipeline operators if necessary), it also recognised the need to balance thorough assessment and consultation with quick and effective decision making. In addition, the Commission noted that the following:

- The provision of more detailed and targeted information by pipeline operators at the time cost estimates and invoices are submitted to the AER should decrease the need for the AER to seek further information from pipeline operators in support of their cost claims (and the time needed for this).
- By retaining a reasonableness test for the assessment of cost invoices, the assessment process should not be as time consuming or resource intensive as implied by the AER in the event an efficiency assessment was required.
- The issues experienced by AEMO and the AER during the first application of the assessment process in 2010-2011 did not reoccur during the second application in 2011-2012. That is, the AER successfully carried out an assessment of invoiced costs within the currently specified 15 business days.

In its submission to the draft rule determination, the AER argued that 30 business days would still not allow it to do more than a cursory assessment of any further evidence provided by a pipeline operator. It proposed that the final rule include, at a minimum, a "clock-stopper" provision within rules 198(3) and 425(3).

Having considered the AER's submission in detail, the Commission has included a stop the clock provision in the final rule. Specifically, the final rule provides for the period of time taken by a person to provide additional information to the AER (where requested by the AER) to be disregarded for the purpose of calculating the 30 business days allowed for the review of pipeline operators' cost invoices. The Commission

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<sup>71</sup> Following receipt of the AER's advice, AEMO then has 30 business days in which to determine an amount payable.

<sup>72</sup> Where the AER chose to exercise its discretion to carry out a more detailed assessment of a pipeline operator's invoiced costs, it would be required to do so, and to determine the amount payable, within this period.



considers this change is likely to provide a better balance between thorough assessment and consultation by the AER, and the need for quick and effective decision making to ensure pipeline operators are paid appropriately. As noted by the AER, the inclusion of such a provision would provide an incentive for pipeline operators to provide suitable evidence to support their cost claims at the time of submitting their invoices, and/or to provide additional information to the AER quickly in the instance a request was made. It would also provide the AER some additional time (equivalent to the time taken for a pipeline operator to provide additional information) to conduct its assessment, including carrying out necessary consultation with relevant parties.

The final rule also makes two further changes to the timeframes specified in the AER's proposed rule. Specifically, it requires that:

- AEMO publish pipeline operators' cost estimates, invoices and supporting information, "within five business days after receipt" (rather than "as soon as practicable"); and
- AEMO pay any amount determined as payable by the AER "within 10 business days of the AER publishing its determination" (rather than "within 30 business days" of receipt of an invoice or of the AER publishing its determination).

The Commission considers these amendments will further clarify the process and facilitate quick and effective decision making for all parties. The changes to the payment period will also help to ensure against unnecessary delays in the payment of final invoices.

## **6.4 Conclusion**

The Commission does not support the proposal to extend the timeframes for assessment of cost invoices by the AER to 60 business days (with the option of an additional 30 business days, where required). The changes to the information requirements should reduce the need for the AER to seek additional information from pipeline operators to support their costs claims. In addition, given the final rule retains the reasonableness test, the assessment of cost invoices is likely to be less intensive in terms of time and resources than an 'efficiency test'. For these reasons the Commission considers 60-90 business days to be excessive.

The final rule therefore provides the AER with a period of 30 business days to review pipeline operators' cost invoices, with the ability to stop the clock on the decision making timeframe in the instance the AER requests additional information from any person to assist in its decision. The Commission considers that these arrangements better balance the need for thorough assessment and consultation with quick decision making by the AER than the proposed rule, and in doing so, will, or are likely to, better contribute to the achievement of the NGO.

## 7 Information requirements – justification of costs

This chapter sets out the Commission's views in relation to the provision of information to justify invoiced costs. In considering this feature of the cost recovery process, the Commission has had regard to the views of stakeholders in submissions to the consultation paper and draft rule determination.

### 7.1 Rule proponent's view

The current obligations on pipeline operators to provide information in support of their costs claims are set out in both the rules and STTM (and Bulletin Board) procedures. The NGR includes a broad requirement on pipeline operators to provide AEMO with reasonable evidence to demonstrate that:

- each cost estimate or expected variation in cost estimate is reasonable;
- invoiced costs were actually incurred;
- any material variation between actual costs and the most recent estimate given to AEMO is reasonable; and
- all costs specified in an estimate or invoice are MOS allocation service costs (or in the case of the Bulletin Board rules, aggregation and information services costs).

The STTM procedures then detail the 'reasonable evidence' which must be provided by pipeline operators, at a minimum.<sup>73</sup>

AEMO is not required to publish the supporting information provided with cost estimates (rule 424) and cost invoices (rule 425). However, to date, some supporting information has been included within MOS cost applicant's estimates and tax invoice documents, and has been published by AEMO this way.

The AER considers that the information provided by pipeline operators (and therefore the information published by AEMO) currently provides relatively limited justification for the level of MOS allocation service costs claimed. In addition, the AER is concerned that it must seek significant additional information from pipeline operators in instances where a more detailed assessment of pipeline operators' invoiced costs is required. Further, given the other changes proposed in the rule change request, the AER considers that pipeline operators should be required to explain, in sufficient detail, the reasons why the costs they are claiming are efficient, rather than reasonably incurred.

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<sup>73</sup> This includes, for example, the number of STTM pipelines operated by the pipeline operator; the number of STTM shippers and MOS providers on each pipeline; a breakdown of costs by reference to time allocation to tasks or process steps performed exclusively for MOS allocation services, labour cost rates, fixed cost allocations etc. The Bulletin Board procedures set out similar information requirements in the context of pipeline operator aggregation and information services.

The AER therefore proposes to require pipeline operators to submit evidence with their cost estimates and invoices to demonstrate that the costs specified reflect the efficient costs that would be incurred by a prudent operator. It would then have regard to this evidence when assessing a cost invoice. The AER also expressed a desire for pipeline operators to provide a breakdown of their estimated and invoiced costs. Amendments to the specific evidence required for this purpose would need to be made to the STTM (and Bulletin Board) procedures through the procedure change process.

The AER considers that these changes will improve the quality of consultation and reduce the amount of information the AER needs to subsequently request at the time of assessment.<sup>74</sup> Although it recognises that a requirement to provide justification that costs are efficient will create some additional work for pipeline operators, the AER considers this will be appropriate for the scale of invoiced costs. To the extent that provision of greater up front information reduces the need for the AER to subsequently request that information from pipeline operators later in the assessment process, the AER submits that the requirements would not add to existing costs.<sup>75</sup>

## **7.2 Stakeholder views**

### **7.2.1 First round of consultation**

Origin Energy (Origin) stated that its key concern was the limited requirement for pipeline operators to provide information to justify the level of MOS service costs claimed on invoices. Origin considered this made it difficult for participants to assess invoices and raise objections if necessary. On this basis, it expressed strong support for the AER's proposal to require evidence to be provided with invoices which would allow participants to engage more effectively in the process from the outset.<sup>76</sup>

APIA noted two key concerns with the proposed changes to the information requirements. First, if publication was the intention, it would be very likely that this information would include commercially sensitive information which pipeline operators would not wish to share with the broader market.<sup>77</sup> Second, it was excessive to require pipeline operators to provide reasonable evidence to justify the efficiency of their estimated costs. It stated that pipeline operators have sufficient incentives to provide accurate costs estimates on the basis that alignment of estimates with final invoices would reduce the likelihood of objections being raised. While APIA accepted that some level of justification may be relevant at the cost estimate stage, it considered that any new rule should explicitly reflect that the information required is less than for the final invoice.<sup>78</sup>

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<sup>74</sup> AER rule change request, p.8.

<sup>75</sup> AER rule change request, p.13.

<sup>76</sup> Origin, consultation paper submission, p.1.

<sup>77</sup> APIA, consultation paper submission, pp.7-8.

<sup>78</sup> APIA, consultation paper submission, p.8.

## 7.2.2 Second round of consultation

In its submission to the draft rule determination, APIA explained that the STTM procedures (setting out the reasonable evidence requirements) were developed at a time when publication of supporting evidence was not required. While it accepted that some explanation of the costs incurred by pipeline operators should be published, it proposed that this should take the form of a qualitative explanation of costs claimed. APIA proposed that the evidence covering the items already set out in STTM procedure 7.4 would be given to the AER, but would not be subject to publication.<sup>79</sup>

APA also expressed some concern in relation to the requirement for AEMO to publish the supporting evidence provided by pipeline operators. APA suggested that the rule be amended to be explicit in only requiring the publication of evidence subject to appropriate confidential claims on that information.<sup>80</sup>

In contrast, Alinta was supportive of the proposal for the AER to publish supporting evidence as a method of increasing transparency and promoting procedural confidence in the market. Alinta considered the requirement to provide evidence that costs were reasonable would not be an undue extension of current practice. It also noted that it understood that the AER's proposal was consistent with the confidentiality principles contained in the NGL which protects genuinely commercially confidential information from being published.<sup>81</sup>

## 7.3 Commission's analysis

### 7.3.1 Difference between the draft and final rules

Having had regard to the views of stakeholders and its own analysis and review, the Commission has largely adopted the draft rule in relation to the provision of information to justify invoiced costs. That said, the Commission has made a minor amendment to improve and clarify the application of the final rule, without affecting the principles underlying it. This change is as follows:

- Rule 425(1)(a) has been amended to clarify that AEMO's obligation to publish the evidence provided in support of pipeline operators' cost invoices is subject to claims for confidentiality. In addition, a note to direct users of the costs recovery regime to the confidentiality regime in the NGL has also been included within rule 425(2).

Outlined below is the Commission's assessment of the final rule, including the reasons why it considers this aspect of the final rule meets the NGO.

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79 APIA, draft rule determination submission, pp.1-2.

80 APA, draft rule determination submission, p.2.

81 Alinta, draft rule determination submission, p.2.

### 7.3.2 Commission's analysis

The obligations on pipeline operators to provide information in support of their costs claims are set out in both the rules and procedures. The NGR includes a broad requirement on pipeline operators to provide reasonable evidence to demonstrate (among other things) that the cost estimates they have provided are reasonable, and that the costs specified on their cost invoices have been incurred. The evidence which must be provided by pipeline operators (at a minimum) for this purpose is specified in the STTM (and Bulletin Board) procedures.

AEMO is not required to publish the reasonable evidence provided by pipeline operators in support of their cost estimates and invoices. However, in practice, pipeline operators have tended to embed this information within their cost estimates and invoices, and thus it has been published by AEMO.

In its rule change request, the AER noted that it was its intention to tighten the information requirements in the procedures so that pipeline operators must submit more supporting information with their cost estimates and invoices. In addition, the AER proposed to amend the NGR to require pipeline operators to provide evidence to demonstrate that their invoiced cost reflected the 'efficient costs that would be incurred by a prudent operator' (rather than 'reasonable costs'). The AER's rule change request does not seek to require AEMO to publish the supporting evidence provided by pipeline operators in support of their cost estimates (rule 424) and cost invoices (rule 425).

Given that any tightening of the information requirements would need to be effected through AEMO's procedure change process (and are thus beyond the scope of this rule change request), the key change to the NGR proposed by the AER is the requirement for pipeline operators to provide evidence to demonstrate that their invoiced costs reflect the efficient costs that would have been incurred by a prudent operator. In effect, this change is a consequential amendment which seeks to align the information requirements, with the changes proposed to the decision making test (considered in Chapter 5).

However, for the reasons discussed in Chapter 5, the final rule retains the reasonableness decision making test. To this end, the Commission does not support the proposed changes to the information requirements as proposed by the AER.

With that said, having considered the issue of information provision more generally, the Commission considers there is benefit in including an additional requirement on AEMO to publish the supporting information provided by pipeline operators, together with their cost estimates and cost invoices. This would ensure that, where supporting information was provided but was not embedded within an estimate and/or invoice document, it would still be published and available for comment. By providing further transparency on pipeline operators' costs, stakeholders will be better informed and better able to effectively engage in the cost recovery process. Further, improving transparency may strengthen the accountability of pipeline operators and further provide incentives for them to keep costs at reasonable levels.

The Commission has considered the concerns of APIA and APA in their submissions to the draft rule determination in respect of the provision and publication of confidential information. APIA proposed the inclusion of a third category of information – a qualitative summary of pipeline operators' invoiced costs – which would be provided by pipeline operators to AEMO for publication with their cost invoices. While pipeline operators would still be required to provide AEMO with the evidence specified in the STTM procedures, this evidence would not be subject to publication.

The Commission has considered APIA's proposal but does not consider it is necessary to expand the information requirements in the manner suggested. As noted in the draft rule determination, the final rule does not prevent confidentiality being claimed over information which is legitimately confidential, in accordance with broader confidentiality principles in the NGL. To ensure this is clear, a minor amendment has been made to rule 425(1)(a) to clarify that AEMO's obligation to publish evidence is subject to legitimate claims for confidentiality. Further, the final rule includes a note within rule 425(2) to direct users of the costs recovery regime to the confidentiality regime in the NGL.

As noted above, the reasonable evidence which must be provided by pipeline operators (at a minimum) to AEMO is specified in the STTM procedures. To the extent that the stakeholders consider there is a merit in categorising the reasonable evidence to be provided to AEMO (which could include confidential information not for publication and non-confidential information for publication), it may be appropriate to raise this matter in the context of the STTM and Bulletin Board procedure change process.

## **7.4 Conclusion**

The Commission notes that the proposed changes require pipeline operators to submit evidence with their cost estimates and invoices to demonstrate that the costs specified in their estimates and invoices reflect the efficient costs that would be incurred by a prudent operator. These changes are, in effect, consequential amendments required to align the current information requirements with the proposed assessment approach. The Commission therefore supports the changes as means to promoting consistency within the rules although the final rule does not adopt the proposed efficiency test for costs.

In addition, the final rule also includes a requirement for AEMO to publish the evidence provided by pipeline operators with their cost estimates and costs invoices. By promoting transparency and increasing the scope for effective engagement by stakeholders in the cost recovery process, the Commission considers that the final rule will, or is likely to, better contribute to the NGL than the proposed rule.

## 8 Definition of 'MOS allocation service costs'

This chapter sets out the Commission's views in relation to the definition of 'MOS allocation service costs'. In considering this issue, the Commission has had regard to the views of stakeholders in submissions to the consultation paper and draft rule determination.

### 8.1 Rule proponent's view

Rule 364 currently defines 'MOS allocation service costs' as follows:

**"MOS allocation service costs** mean the costs reasonably incurred by an STTM pipeline operator (including fees and expenses payable to an allocation agent) for the purposes of allocating pipeline deviations as MOS or overrun MOS in accordance with rule 421 (the MOS allocation service) to the extent that those costs:

- (a) are either:
  - (i) incremental costs incurred exclusively for the provision of MOS allocation service; or
  - (ii) a proportionate share of any incremental costs reasonably attributable to the MOS allocation service; and
- (b) would not have been incurred but for the requirements to provide MOS allocation service; and
- (c) are not offset by benefits reasonably available to the STTM pipeline operator in relation to its other activities."

The AER notes that there are a broader set of costs associated with the process for determining STTM facility allocations that are not part of the costs of providing the MOS allocation service and would have been incurred regardless of the requirement to provide the MOS allocation service. It does not consider that these costs should be recoverable under the definition of MOS allocations service costs.

The proposed rule therefore seeks to clarify the definition of recoverable costs by making some minor amendments to the definition of 'MOS allocation service costs' and including a new definition of 'MOS allocation service' in rule 364 as follows:

**"MOS allocation service** means the allocation of pipeline deviations as MOS or overrun MOS in accordance with rule 421, but excludes any other part of the process for determining STTM facility allocations."

The proposed definition confirms that costs associated with allocating pipeline deviations as MOS or overrun MOS in accordance with rule 421 are recoverable, but that other parts of the process for determining STTM facility allocations are not part of

the MOS allocation service. The proposed wording is intended to confirm that associated costs are not recoverable under the definition of MOS allocation service costs.<sup>82</sup>

## **8.2 Stakeholder views**

### **8.2.1 First round of consultation**

APIA considered that by explicitly excluding certain costs, the proposed rule could be considered to increase clarity on the types of costs that can be recovered. However, APIA noted that pipeline operator systems are not readily separable into 'MOS allocation systems' and 'STTM systems' on the basis that MOS allocation processes utilise existing systems and functionality and have the potential to impact existing systems and functionality. Therefore, APIA noted that a level of discretion would always be present and the potential for dispute as to what comprises a 'MOS allocation service cost' would always remain.<sup>83</sup>

Alinta considered that the definition of allocation services that the revised process relates to needed to be clarified to ensure all parties and pipelines have greater certainty around cost recovery.<sup>84</sup>

### **8.2.2 Second round of consultation**

Alinta supported the proposed minor amendments and definition restructure. It considered this to be an appropriate change which would increase participant clarity.<sup>85</sup>

## **8.3 Commission's analysis**

### **8.3.1 Difference between the draft and final rules**

Having had regard to the views of stakeholders and its own analysis and review, the Commission has adopted the draft rule in relation to the definition of MOS allocation service costs.

Outlined below is the Commission's assessment of the final rule, including the reasons why it considers this aspect of the final rule meets the NGO.

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82 AER rule change request, pp.10,12.

83 APIA, consultation paper submission, p.9.

84 Alinta, consultation paper submission, p.2.

85 Alinta, draft rule determination submission, p.2.



### **8.3.2 Commission's analysis**

The Commission understands that this change is driven by the experience of assessing invoices for MOS allocation service costs for 2010-2011. At that time, there was some confusion among stakeholders regarding which costs were recoverable under the definition of 'MOS allocation service costs'. The AER's proposed change to the definition is therefore intended to clarify that costs which are not part of the MOS allocation service, but which relate to other parts of the process for determining STTM facility allocations, are not recoverable under the definition of MOS allocation service costs.

Having considered the issues raised, the Commission has concluded that the AER's proposed changes will likely remove some uncertainty about which costs can be claimed as part of the cost recovery process. These changes will increase clarity, accuracy and consistency are likely to contribute to the achievement of the NGO.

With that said, the Commission recognises that the efficiency benefits of this change are likely to be minimal, particularly given that pipeline operators and other stakeholders have now had some experience in the cost recovery process. It is understood that the question of what falls within the definition of recoverable costs did not arise in the second assessment process. Over this time, pipeline operators, through their interactions with AEMO and the AER, are likely to have developed a sound understanding of which costs can be claimed for the MOS allocation service.

## **8.4 Conclusion**

The Commission has decided to clarify the definitions of MOS allocation service costs. It considers this change will promote clarity of meaning by removing ambiguity around which costs can be claimed as MOS allocation service costs. On this basis, the proposed rule will, or is likely to, contribute to the achievement of the NGO. In addition, given that the final rule incorporates this aspect of the AER's proposed rule, the final rule is also likely to contribute to the achievement of the NGO.

## 9 Bulletin Board

The analysis within the AER's rule change request focuses on the MOS allocation service cost recovery process. However, the AER also seeks to amend the process for the submission of cost estimates and invoices, and the assessment and payment of invoices, for aggregation and information services provided by pipeline operators in the Bulletin Board.

This chapter sets out the Commission's views in relation to those changes, having regard to the views of stakeholders in submissions to the consultation paper and draft rule determination.

### 9.1 Rule proponent's view

As noted above, the analysis within the AER's rule change request largely focuses on the MOS allocation service cost recovery process. However, following a request from the AEMC for further justification for the proposed changes to the Bulletin Board rules, the AER stated that:

- there is benefit in retaining a consistent assessment process between the Bulletin Board cost recovery process and the MOS allocation service cost recovery process; and
- there is the potential for identical problems to occur in the Bulletin Board to those that occurred under the STTM rules.<sup>86</sup>

To the extent that changes are made to the process in rules 424 and 425, the AER proposes to amend rules 197 and 198 to reflect those changes. Specifically, the proposed rule intends to make the following amendments to the aggregation and information services cost recovery process:

- require pipeline operators to submit costs and, where required, the relevant body to assess costs, by reference to efficient costs that would have been incurred by a prudent operator (rather than by reference to reasonable costs);
- transfer responsibility for decision making on the amounts payable to pipeline operators in respect of aggregation and information service costs from AEMO to the AER;
- extend the timeframes for assessment of cost invoices to provide the AER with sufficient time to seek further clarification and collect additional information from pipeline operators, if required; and
- require pipeline operators to submit evidence with their cost estimates and invoices to demonstrate that the costs specified reflect the efficient costs that would be incurred by a prudent operator.

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<sup>86</sup> AER rule change request – additional information, p.4.

In addition, the proposed rule would amend rule 141 to include a definition of 'aggregation and information services costs'. The rules currently define 'aggregation and information services' as follows:<sup>87</sup>

**“aggregation and information services** means the costs incurred by a pipeline operator in aggregating and providing information to the AEMO in compliance with rules 173 and 196.”

The proposed rule seeks to clarify this definition by including a new definition of 'aggregation and information services costs' in rule 141 as follows:

**“aggregation and information services costs** means the costs incurred by a pipeline operator in providing aggregation and information services.”

The new definition is intended to clarify that 'aggregation and information services costs' are the costs incurred by a pipeline operator in providing aggregation and information services. The AER considers that making this change should make clear that only the costs incurred by a pipeline operator in providing aggregation and information services are recoverable under this process.

## 9.2 Stakeholder views

### 9.2.1 First round of consultation

In their submissions to the consultation paper, EnergyAustralia, AGL and Alinta expressed support for the inclusion of changes to the Bulletin Board cost recovery process within this rule change request.<sup>88</sup>

APIA considered the approach to cost recovery for the Bulletin Board should be consistent with that for the MOS allocation service. In addition, it suggested that the consistent approach should be detailed in one section in the NGR and referenced in the relevant STTM and Bulletin Board sections of the NGR.<sup>89</sup>

In respect of the proposed amendment to include a definition of 'aggregation and information services costs', APIA did not consider this inclusion would provide more clarity. APIA noted that the change simply moves the reference to “costs incurred in providing aggregation and information service” from the NGR into a definition without providing any additional information or explanation as to what those costs may be.<sup>90</sup>

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<sup>87</sup> NGR rule 141.

<sup>88</sup> EnergyAustralia, consultation paper submission, p.1; AGL, consultation paper submission, p.2; Alinta, consultation paper submission, p.2.

<sup>89</sup> APIA, consultation paper submission, p. 9.

<sup>90</sup> *ibid*, p.10.

## **9.2.2 Second round of consultation**

Alinta considered that amending the definition of 'aggregation and information services costs' within the Bulletin Board is appropriate and will ensure that arrangements across pipeline operator cost recovery rules is consistent.

## **9.3 Commission's analysis**

### **9.3.1 Difference between the draft and final rules**

Having had regard to the views of stakeholders and its own analysis and review, the Commission has largely adopted the draft rule in relation to the cost recovery process for aggregation and information services provided by pipeline operators in the Bulletin Board. That said, the Commission has made a number of minor amendments, in line with the amendments made to the MOS allocation services cost recovery process, intended to improve and clarify the application of the final rule, without affecting the principles underlying it. These changes are as follows:

- Rule 198(3), (3A) and (4) have been amended to clarify that the AER would only be required to make one decision (that is, to determine the amount payable) in respect of a pipeline operator's cost invoice.
- Rule 198 has been amended to provide for the period of time taken by a person to provide additional information to the AER (where requested by the AER) to be disregarded for the purpose of calculating the 30 business days allowed for the review of pipeline operators' cost invoices.
- Rule 198(1)(a) has been amended to clarify that AEMO's obligation to publish the evidence provided in support of pipeline operators' cost invoices is subject to claims for confidentiality. In addition, a note to direct users of the costs recovery regime to the confidentiality regime in the NGL has also been included within rule 198(1).

### **9.3.2 Commission's analysis**

The AER has stated that the relevant rules for the Bulletin Board cost recovery process should be amended in line with any changes made to the MOS allocation service cost recovery process so that the arrangements remain consistent. However, as stated in Chapter 2, these processes are not the same. Nevertheless, the Commission has considered this aspect of the AER's rule change request on the basis that the AER's intention is to create a consistent cost recovery process for pipeline operators.

The Commission's analysis and reasons for its decisions on the changes proposed by the AER in relation to the MOS allocation service cost recovery provisions are set out in detail in Chapters 5-8. To the extent that those considerations are also relevant in the context of the aggregation and information services cost recovery process, the Commission has not revisited that analysis here. Similarly, the Commission's analysis

of the final rule in the context of the MOS allocation service is also relevant in the context of the cost recovery process for aggregation and information services. That analysis has therefore not been reproduced in this chapter either.

However, having regard to the Commission's considerations in Chapters 5-8, and in line with the intent that the cost recovery provisions in Parts 18 and 20 of the NGR are consistent, the final rule includes amendments to rules 197 and 198 of the NGR in line with the amendments to rules 424 and 425. Specifically, the final rule makes the following amendments to the aggregation and information services cost recovery process:

- All cost invoices submitted by pipeline operators for payment by AEMO will be subject to review by the AER. To this end, the objection mechanism will no longer act as a trigger for the assessment process. In carrying out the review, the AER will be required to determine the amount payable to a pipeline operator in respect of its cost invoice by reviewing whether the costs specified in that invoice:
  - have been incurred; and
  - are reasonable.
- In reviewing a cost invoice, the AER must have regard to:
  - the evidence provided with a cost invoice;
  - any comments received by AEMO from other parties, including objections to the payment of an invoice;
  - any comments from AEMO;
  - any information received in accordance with a request or relevant notice issued by the AER;
  - any other relevant information; and
  - whether the likely costs of undertaking an assessment of the costs specified in an invoice outweigh the likely public benefit resulting from such an assessment.
- In determining the amount payable, the AER must either approve or reject the amount specified in a cost invoice. If the AER rejects the amount specified, it must undertake an assessment to determine an amount payable that, in the AER's opinion, is reasonable for the relevant services in respect of that invoice.
- The AER will be required to make a decision on the amounts payable to pipeline operators (if any) within 30 business days of receiving the cost invoices and other relevant information from AEMO. The period of time taken by a pipeline operator to provide additional information to the AER (where requested by the AER) may be disregarded for the purpose of calculating the 30 business days.

- AEMO will be required to publish the evidence provided by pipeline operators to support their cost estimates and cost invoices, subject to any claims of confidentiality by pipeline operators.
- AEMO must publish pipeline operators' cost estimates and supporting evidence, and cost invoices and supporting evidence, within five business days following receipt.
- AEMO must pay any amount the AER has determined payable to a pipeline operator within 10 business days of the AER publishing its determination.

In addition to the amendments made to Part 18 to reflect the key changes made to Part 20, the Commission has made a number of other minor amendments to the provisions in Part 18 to align the two cost recovery processes.

The Commission considers that the changes made by the final rule to aggregation and information services cost recovery process will improve the overall efficiency of the cost recovery process, with benefits accruing to pipeline operators, AEMO, the AER and ultimately to consumers.

#### **9.4 Conclusion**

To the extent that changes are made to the MOS allocation service cost recovery process, the Commission has concluded that corresponding changes to the aggregation and information services cost recovery process are appropriate. Providing consistency in the approach to pipeline operator costs recovery in the NGR should promote administrative efficiencies for all relevant stakeholders, including pipeline operators seeking to recover costs for the provision of the relevant services in the STTM and Bulletin Board, and for AEMO and the AER in carrying out their respective roles in these processes.

## **10 Transition and implementation**

### **10.1 Rule proponent's view**

In its rule change request, the AER requested that consideration of the proposed rule be finalised before June 2013 to allow it to apply to the assessment of invoices for costs incurred during 2012-2013.<sup>91</sup> No transitional provisions were included in the proposed rule.

### **10.2 Stakeholder views**

#### **10.2.1 First round of consultation**

In the consultation paper, the Commission sought views from stakeholders on whether there were any implications from applying a new cost recovery process to costs incurred within the 2012-2013 cost recovery period.<sup>92</sup>

In its submission to the consultation paper, AGL cautioned against any retrospective application of any approved rule change.<sup>93</sup> Alinta also noted that pipeline operators may have concerns if the rule were to be applied retrospectively.<sup>94</sup>

In addition, APIA strongly opposed the rule applying retrospectively in the instance a final rule was made which changed the category of costs able to be claimed from 'reasonable' costs to 'efficient' costs. However, where any changes made were only procedural, APIA stated that it did not have a strong view on the matter.<sup>95</sup>

#### **10.2.2 Second round of consultation**

In its submission to the draft rule determination, Alinta observed that retrospective application of policy or legal changes is generally considered poor practice, as reflected by previous stakeholders' concerns.<sup>96</sup>

### **10.3 Commission's analysis**

Having considered the issues in relation to implementation of the rule in the context of the changes included in the final rule, the Commission notes the following:

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<sup>91</sup> AER rule change request - cover letter, p.2.

<sup>92</sup> AEMC 2012, Pipeline operator cost recovery processes, Consultation Paper, 6 December 2012, Sydney, p.15.

<sup>93</sup> AGL, consultation paper submission, p.2.

<sup>94</sup> Alinta, consultation paper submission, p.2.

<sup>95</sup> APIA, consultation paper submission, p.5.

<sup>96</sup> Alinta, draft rule determination submission, p.2.

- the final rule still requires pipeline operator's cost invoices to be assessed having regard to 'reasonable' costs;
- the nature of the evidence required to be provided by pipeline operators in support of their cost estimates and cost invoice does not change under the final rule;
- the dates for submission of pipeline operators cost estimates and cost invoices are not affected by the final rule; and
- the most substantive change made by the final rule is procedural and relates to the organisation responsible for assessing pipeline operators cost invoices.

On this basis, the Commission does not consider there are any issues with requiring the final rule to be applied to costs incurred by pipeline operators' during the 2012-2013 financial year.

#### **10.4 Conclusion**

In light of the above, the Commission has identified 1 July 2013 as the commencement of the final rule.



## Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
APIA	Australian Pipeline Industry Association
Bulletin Board	National Gas Market Bulletin Board
Commission	See AEMC
MCE	Ministerial Council on Energy
MOS	Market Operator Service
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
proponent	See AER
SCER	Standing Council on Energy and Resources
STTM	Short Term Trading Market

## A Summary of issues raised in submissions

### A.1 Summary of submission to the consultation paper

The table below provides a summary of the policy issues raised by stakeholders in their submissions to the consultation paper. The table sets out the Commission's response to each issue. The submissions received are available on the AEMC website at [www.aemc.gov.au](http://www.aemc.gov.au).

Stakeholder	Issue	AEMC Response
<b>General comments</b>		
EnergyAustralia	Supports the rule change proposal submitted by the AER. Considers it will improve the efficiency and operation of the process for the recovery of costs incurred by pipeline operators in relation to the MOS allocation service and the aggregation and information service in the Bulletin Board. (p.1)	The Commission agrees that the proposed rule should lead to improvements in efficiency and operation of the processes for pipeline operator cost recovery in the NGR. However, for the reasons set out Chapter 2, the Commission considers that the draft (more preferable) rule will, or is likely to, better contribute to the NGO than the proposed rule.
Origin Energy (Origin)	Supports the rule change proposal. From a trading participant perspective, the rule change improves clarity and transparency of the cost recovery process. Consequently, this affords Origin greater confidence that the costs recovered by pipeline operators reflect the efficient costs of providing MOS allocation services. (p.1)	As above.
AGL Energy (AGL)	Endorses the proposed changes as they are seen to have the potential to bring about the following outcomes (which will contribute to the NGO): a more efficient process for cost recovery; enhanced effectiveness and transparency for cost recovery, including clarifying the points within the decision-making process and the responsibilities within that process; greater role clarity between the AER and	As above.

Stakeholder	Issue	AEMC Response
	AEMO; appropriate assignment of the assessment role to the AER as this aligns with on either key statutory roles; and enhanced confidence in the process for shippers, users and ultimately end-users. (pp.1-2)	
Alinta Energy (Alinta)	Welcomes the rule change on the basis that the existing process does not appropriately assess costs claimed on invoices. In broad terms, supports the rule change and endorses the view that it will: drive more efficient cost recovery by pipeline operators; improve effectiveness and transparency for cost recovery including clarifying the points within the decision-making process and the responsibilities within that process; improve overall confidence in the process for market participants and general stakeholders. Considers these outcomes are in the long term interest of customers consistent with the NGO. (p.1)	As above.
Australian Pipeline Industry Association (APIA)	Considers there is little improvement in overall efficiency resulting from the rule change as it is proposed. Several changes could be made to improve efficiency including in relation to: drafting efficiency; objection mechanism; timeframe of full process. Supports a framework which: focusses on and resolves contentious issues; provides for the pipeline operator to produce additional information on request; and that takes account of materiality. (pp.1,3)	The Commission notes this point. It also considers that a number of additional amendments could be made to the cost recovery process proposed by the AER to further promote efficiency in its operation and use. For this reason, the Commission has decided to make a draft rule which is a more preferable rule. The differences between the proposed rule and draft (more preferable) rule are set out in section 3.2.
<b>Approach to assessment</b>		
Alinta	Considers the AER's assessment of 'efficient' costs may be constrained by the absence of a relevant benchmark. It is unclear against which theoretical "prudent or efficient pipeline service provider" actual pipelines will be assessed. On this basis, considers the information provided by	The Commission notes this point. See section 5.4 for further discussion on this matter.

Stakeholder	Issue	AEMC Response
	pipelines to justify invoices will be critical in determining efficiency. Notes that where there is scant evidence or absence of benchmarks to assess efficiency, then it may be appropriate to fall back on the existing test of reasonableness. (p.1)	
APIA	Notes it is not clear how an efficiency test would differ from a test of reasonableness. Considers the test should be whether "the costs have been incurred under prudent commercial processes, taking into account specific circumstances of the business". Does not believe that introducing an efficiency test creates the onus for pipeline operators to prove their costs are efficient. Rather, considers this is done by changing the requirements on information supporting the invoice. (pp.5-7)	The Commission agrees that there is some uncertainty around how an efficiency test would differ from a test of reasonableness based on the information provided by the AER in its rule change request and supplementary letter. For this reason (among others) the draft (more preferable) rule retains the current test of reasonableness. See section 5.4 for further discussion on this matter.
<b>Appropriate decision making body</b>		
Alinta	Agrees that the AER is best placed to make the assessment of costs. (p.1)	The Commission notes this point.
APIA	Considers that AEMO, as the party responsible for developing and maintaining the systems that run the STTM, would have a good understanding of the obligations on pipeline operators to provide MOS allocations services and the costs that would be incurred in doing so. (p.8)	The Commission notes this point. See section 5.4 for further discussion on this matter.
<b>Timeframes for assessment of invoiced costs</b>		
Alinta	Notes that it is uncertain how the AER determined that up to 90 days would be required to perform the cost assessment. (p.2)	The Commission understands that the rationale for 60 business days is to allow the AER to properly determine MOS allocation service cost amounts, including allowing sufficient time for pipeline operators to respond to requests for information. The ability to extend this timeframe by an additional 30 business days

Stakeholder	Issue	AEMC Response
		would allow the AER to deal with circumstances where there has been a delay in the process. The Commission does not support the timeframes proposed by the AER in its rule change request. The draft (more preferable) rule provides the AER with 30 business days to review pipeline operator invoices and undertake further assessment where deemed necessary. See section 6.4 for further discussion on this matter.
APIA	Notes that if all stages carried out to full extent, payment would not be made for 6 months. Standard commercial terms on invoices requirement payment within 30 days – beyond this consider pipeline operators should be able to charge interest on payments. Considers that if the AER requires 60-90 days, the resources required and cost of making the decision will outweigh the benefits of this rule change or any assessment of the invoices. Also considers 30 business days (a doubling of the existing timeframe), and 10 business days for payment of invoices, is appropriate. (pp.8-9)	The Commission has considered these points. See section 6.4 for further discussion on this matter.
<b>Information requirements - justification of costs</b>		
Origin	Its key concern regarding the current arrangements is that there is a limited requirement for pipeline operators to provide accompanying information to justify the level of MOS service costs claimed on invoices which makes it difficult for participants to assess invoices and raise objections if necessary. Therefore it supports the proposal to require that the evidence provided with an invoice provides this justification. Considers this will allow participants to engage more effectively in the process from the outset. (p.1)	The draft (more preferable) rule requires pipeline operators to provide evidence in support of their cost estimates and cost invoices demonstrating that: (1) their cost estimates are reasonable; and (2) their invoiced costs have been incurred and are reasonable. The draft (more preferable) rule also requires AEMO to publish the evidence provided by pipeline operators with the cost estimates and cost invoices. Details of the information which must be provided by pipeline operators to AEMO (at a minimum) are set out in the STTM and Bulletin Board procedures are therefore out of the scope of this rule change request.

Stakeholder	Issue	AEMC Response
APIA	Considers the rule change introduces “burdensome” information requirements at the cost estimation stage. Changes to rule 424(5) create the same information requirements for the cost estimate and final invoice and the justification of efficient costs at the cost estimation stage is excessive. it is also very onerous to require operators to provide evidence to demonstrate that every component of the invoiced amount is efficient, irrespective of amounts involved and only when some components may be contentious. Accepts that there should be appropriate detail and explanatory material, but not to level of detail implied by AER. (pp.5-7)	The draft (more preferable) rule retains the current approach to the assessment of cost invoices which is based on a test of reasonableness. Pipeline operators are therefore not required to provide evidence that their cost estimates and cost invoices are ‘efficient’. Rather, pipeline operators will continue to be required to provide evidence that their cost estimates and cost invoices are reasonable.
APIA	Notes that there is suggestion in the commentary of the AER's rule change request that information provided to the AER to justify invoices will be published. If this is the intention, it is very likely that the supporting information will include commercially sensitive information that pipeline operators do not wish to share with the wider market. (pp.7-8)	The AER’s rule change request did not include a requirement for AEMO to publish the evidence provided by pipeline operators in support of their cost estimates and invoices. However, the draft (more preferable) rule does include such a requirement. The Commission notes that this requirement would not prevent confidentiality being claimed over information which is legitimately confidential, in accordance with broader confidentiality principles in the NGL. See section 7.4 for further discussion on this matter.
<b>Definition of 'MOS allocation service costs'</b>		
Alinta	Considers the definition of 'MOS allocation services' that the revised process relates to needs to be clarified to ensure all parties and pipelines have greater certainty around cost recovery. (p.2)	The Commission notes this point. The draft (more preferable) rule includes the proposed definition of 'MOS allocation service costs'.
APIA	Considers that by explicitly excluding certain costs, the proposed rule could be considered to increase clarity on the types of costs that can be recovered. However, notes that pipeline operator systems are not readily separable	As above.

Stakeholder	Issue	AEMC Response
	into 'MOS allocation systems' and 'STTM systems' on the basis that MOS allocation processes utilise existing systems and functionality and have the potential to impact existing systems and functionality. Therefore, notes that a level of discretion would always be present and the potential for dispute as to what comprises a 'MOS allocation service cost' would always remain. (p.9)	
<b>Bulletin Board</b>		
Energy Australia	Supports the inclusion of the Bulletin Board in the rule change request. (p.1)	The Commission notes this point.
AGL	Supports the inclusion of cost recovery by pipeline operators in relation to the Bulletin Board. (p.2)	As above.
Alinta	Supports the inclusion of the Bulletin Board in the rule change request. (p.2)	As above.
APIA	Considered the approach to cost recovery for the Bulletin Board should be consistent with that for the MOS allocation service. In respect of the proposed amendment to include a definition of 'aggregation and information services costs', does not consider this inclusion would provide more clarity. Notes that the change simply moves the reference to "costs incurred in providing aggregation and information service" from the rules into a definition without providing any additional information or explanation as to what those costs may be. (pp.9,10)	The Commission notes these points. The proposed definition of 'aggregation and information services' has been included in the draft (more preferable) rule.
<b>Implementation</b>		
Alinta	Supports the timing of the rule change process but considers that retrospective application may be of concern	The Commission notes this point. On the basis that the changes set out in the draft (more preferable) rule are procedural only,

Stakeholder	Issue	AEMC Response
	to pipeline operators. (p.2)	there is unlikely to be any issues in respect of retrospective application of the rule (where a final rule is made). See section 10.3 for further discussion on this matter.
AGL	Cautions against any retrospective application of any approved rule change. (p.2)	As above.
APIA	Notes strong opposition to the rule applying retrospectively in the instance a final rule is made which changes the category of costs able to be claimed from 'reasonable' costs to 'efficient' costs. However, where any changes made are only procedural, notes it does not have a strong view on the matter. (p.5)	As above.
<b>Trigger for assessment</b>		
APIA	Strongly believes improvements could be made to increase the threshold at which an objection will occur (not efficient to have a process that will routinely lead to objections and a full assessment process). Notes that this is not an area which is addressed in the proposed rule. Notes that there are currently no barriers to objections, or the need for an objecting party to provide any justification for their objection, which means that frequent and unnecessary objections are probable. Suggests a number of ways the objection process could be improved including: introduction of cost to objections; removal of a blanket objection; provision of justification for an objection; track record should matter. (pp.3-4)	The Commission also considers that there are some issues in respect of the current operation of the objection mechanism. The draft (more preferable) rule removes the role of the objection mechanism as the trigger for assessment of pipeline operators' cost invoices. Instead, it provides a framework where all cost invoices submitted to AEMO would be subject to AER oversight which could include a more detailed assessment where there is benefit in doing so. See section 5.4 for further discussion on this matter.
<b>Other issues</b>		
APIA	The proposed drafting requires the creation of identical sections in two separate parts of the NGR. It could be	The Commission notes this point but has retained the current drafting structure which sets out the cost recovery process for the



Stakeholder	Issue	AEMC Response
	more efficient to have a single cost recovery section that can be referenced as necessary. This section could be readily applied to future services provided by pipeline operators and other market participants (for example, in the context of the gas supply hub). (p.3)	MOS allocation service in Part 20 of the NGR, and for aggregation and information services in Part 18 of the NGR. The Commission would welcome further views from stakeholders in submissions to the draft rule determination on the benefits or otherwise of creating a single section on cost recovery in the NGR.

## A.2 Summary of submissions to the draft rule determination

The table below provides a summary of the policy issues raised by stakeholders in their submissions to the draft rule determination and draft rule. The table sets out the Commission's response to each issue. The submissions received are available on the AEMC website at [www.aemc.gov.au](http://www.aemc.gov.au).

Stakeholder	Issue	AEMC response
<b>General comments</b>		
APA Group	Considered the issues that have given rise to the rule change request should diminish as pipeline operators, the AER and AEMO gain experience and improve understanding of their STTM roles and responsibilities. Care should be taken before changing the established rules and procedures as this may risk losing the benefits of the knowledge already gained of the process. (p.1)	The Commission acknowledges this point and notes that the final rule has been designed to ensure that any benefits in terms of knowledge and experience gained from carrying out the process to date are not lost in the move to the new process.
<b>Approach to assessment</b>		
Australian Energy Regulator (AER)	Maintained that an efficiency based test would be preferable as it better reflects the NGO. However, if the test were to be a reasonableness test, the AER would, in practice, still give consideration to whether costs have been incurred efficiently by a prudent operator as this	An assessment of invoiced costs by reference to efficient costs (rather than reasonable costs) may, at least conceptually, be more likely to provide an incentive for pipeline operators not to incur costs which are above efficient levels. However, given the uncertainty about how the AER would apply an efficiency test in

Stakeholder	Issue	AEMC response
	would be a relevant factor in assessing reasonableness. (p.1)	this context, and given the size and nature of the costs claimed to date, an efficiency assessment is not supported at this time.
<b>Appropriate decision making body</b>		
APA Group	It is not necessary or appropriate for costs to be assessed within an economic regulatory framework (hence why AEMO was established as the decision making body initially). This is because the majority of STTM pipeline operators are either uncovered or subject to light regulation and therefore face market pressures that influence commercial decision making and provide natural controls and expenditure. Also, an assessment by the AER would be disproportionate to the quantum of costs claimed to date. (p.2)	The final rule has been designed to ensure that all pipeline operators' MOS allocation service costs (and aggregation and information services costs) are subject to at least a high level review by the regulator ahead of the invoices being paid. This provides a safeguard against shippers being required to pay costs above those which have been reasonably incurred. In addition, the process has been designed to allow the potential benefits and costs of carrying out a full assessment to be considered before it is carried out.
<b>Trigger for assessment</b>		
AER	Concerned that all invoices would be subject to an AER decision. This means the AER Board would be required to assess every tax invoice regardless of the amount. Instead, invoices for any amount less than \$50,000 be should be deemed approved by the AER after 30 business days unless the AER has informed AEMO otherwise (or a clock-stopper is in place). This would mean AER staff would not need to table for Board decision small cost invoices. (pp.1-2)	<p>The basis for the requirement for the AER to review all invoices is the need to ensure that costs payable to pipeline operators are reasonable. This is relevant for all invoiced amounts, irrespective of the level of costs claimed and for this reason, we have not pursued the proposal to deem invoices with amounts less than \$50,000 as approved.</p> <p>In some cases, the value in carrying out a more detailed assessment of an invoice may be minimal relative to the costs being claimed. For this reason the final rule allows the AER to balance the costs of a more detailed assessment with the likely benefits.</p> <p>In relation to the view that the rule would require the AER Board to make a decision on all pipeline operators' cost invoices, we question whether this concern could be addressed through the</p>

Stakeholder	Issue	AEMC response
		<p>AER's internal delegations processes.</p> <p>With that said, a minor amendment has been made to rule 425(3) to clarify that the AER would only be required to make one decision (that is, to determine the amount payable) in respect of a pipeline operator's cost invoice. This amendment is intended to remove any suggestion that the AER would be required to make two decisions (that is, to (1) reject a cost invoice and (2) determine an appropriate amount payable in respect a cost invoice).</p>
<b>Timeframes for assessment of invoiced costs</b>		
AER	Concerned that 30 days may not be sufficient for the AER to consult with pipeline operators and conduct a proper assessment of cost invoices in all circumstances. AER proposed that, at a minimum, a "clock-stopper" provision apply to clauses 198(3) and 425(3). (pp.2-3)	The final rule includes a stop the clock provision designed to operate in a similar manner to rule 11 of the NGR. It provides for the period of time taken by a person to provide additional information to the AER (where requested) to be disregarded for the purpose of calculating the 30 business days allowed for the review of pipeline operators' cost invoices.
<b>Information requirements - justification of costs</b>		
Australian Pipeline Industry Association (APIA)	The STTM procedures setting out the reasonable evidence requirements were developed when the publication of this information was not required. While some explanation of costs in an invoice must be published for market participants, pipeline operators would be willing to provide a qualitative explanation of these costs. However, the rule should be amended to require that: (1) the invoice with a detailed explanation and evidence be submitted to AEMO; (2) only the invoice and detailed explanation be published; and (3) the evidence covering the items already set out in STTM procedure 7.4 be given	Providing transparency around pipeline operators' costs will allow stakeholders to be better informed and better able to effectively engage in the cost recovery process. Further, improving transparency may strengthen the accountability of pipeline operators and provide incentives to keep costs at reasonable levels. The final rule does not prevent confidentiality being claimed over information which is legitimately confidential in accordance with broader confidentiality principles in the NGL.

Stakeholder	Issue	AEMC response
	to the AER and not published. (pp.1-2)	
APA Group	Concerned that AEMO would be required to publish all information and evidence provided by pipeline operators in support of cost invoices. Instead, the rule should be explicit in only requiring the publication of evidence subject to appropriate confidential claims on that information. (p.2)	The final rule clarifies that AEMO is required to publish the evidence provided by pipeline operators to support their cost estimates and cost invoices, subject to any claims of confidentiality.
<b>Implementation</b>		
Alinta Energy	Noted that the retrospective application of policy or legal changes is generally considered poor practice. (p.2)	This point is noted. The final rule will take effect from 1 July 2013 and so will be applied to the assessment of costs incurred by pipeline operators during the 2012-2013 financial year. Given that the changes made by the final rule are procedural only, there will not be any issues in respect of retrospective application of the rule.

## B Key features of the pipeline operator cost recovery processes

Table B.1 briefly summarises the key characteristics of the current cost recovery processes for the MOS allocation service in the STTM, and for aggregation and information services in the Bulletin Board, compared to the proposed rule and final rule. These processes are described in more detail in Chapter 3 of this final rule determination.

**Table B.1 Differences between the cost recovery processes**

Key feature	Current process - STTM	Current process – Bulletin Board	Proposed rule	Final rule
Trigger for assessment	Objection to payment of an invoice by any person	Objection to payment of an invoice by any person	Objection to payment of an invoice by any person	All invoices subject to AER oversight.  Assessment when: <ul style="list-style-type: none"> <li>• pipeline operator has failed to demonstrate invoiced costs have been incurred and are reasonable; and</li> <li>• benefits of undertaking assessment outweigh costs</li> </ul>
Approach to assessment	Costs reflect 'reasonable' costs	Costs reflect 'reasonable' costs	Costs reflect 'efficient costs incurred by a prudent operator'	Costs reflect 'reasonable' costs
Decision making body	AER provides advice where requested by AEMO	AER provides advice where requested by AEMO	AER determines amount payable where requested by	AER determines amount payable

Key feature	Current process - STTM	Current process – Bulletin Board	Proposed rule	Final rule
	AEMO determines amount payable	(Although not explicitly stated, presume intention is for AEMO to determine amount payable)	AEMO	
Information requirements – justification of costs	Reasonable evidence that: <ul style="list-style-type: none"> <li>• estimated costs are reasonable</li> <li>• invoiced costs have been incurred</li> <li>• any material variation between invoiced costs and estimate are reasonable</li> </ul>	Reasonable evidence that: <ul style="list-style-type: none"> <li>• estimated costs are reasonable</li> <li>• invoiced costs have been incurred</li> <li>• any material variation between invoiced costs and estimate are reasonable</li> </ul>	Evidence that: <ul style="list-style-type: none"> <li>• estimated costs reflect efficient costs that would have been incurred by a prudent operator</li> <li>• invoiced costs reflect efficient costs that would have been incurred by a prudent operator</li> </ul>	Evidence that: <ul style="list-style-type: none"> <li>• estimated costs are reasonable;</li> <li>• invoiced costs have been incurred and are reasonable</li> </ul>
Timeframe for publication of estimates and invoices	As soon as practicable	As soon as practicable	As soon as practicable	As soon as practicable
Timeframes for assessment	AER advice: <ul style="list-style-type: none"> <li>• within 15 business days of receipt of request for advice from AEMO</li> </ul> AEMO determination: <ul style="list-style-type: none"> <li>• within 30 business days of receipt of advice from AER</li> </ul>	AER advice: <ul style="list-style-type: none"> <li>• within 15 business days of receipt of request for advice from AEMO</li> </ul> AEMO determination: <ul style="list-style-type: none"> <li>• no time allocated (presume this occurs within the timeframe)</li> </ul>	AER determination: <ul style="list-style-type: none"> <li>• within 60-90 business days of receipt of request for advice from AEMO</li> </ul>	AER determination: <ul style="list-style-type: none"> <li>• within 30 business days after receipt of invoices and other information from AEMO</li> </ul> Ability for clock to stop in 30 business day period where AER requests additional information from a pipeline

Key feature	Current process - STTM	Current process – Bulletin Board	Proposed rule	Final rule
		provided for payment)		operator to assist its review of an invoice
Timeframes for payment by AEMO	As soon as practicable where advice received otherwise within 30 business days of receipt of an invoice	Within the later of 20 business days after receipt of an invoice or 10 business days after receipt of advice	Within 30 business days of receipt of an invoice where no advice requested otherwise within 30 business days of AER publishing its determination	Within 10 business days of AER publishing its determination

## C Pipeline operators' MOS allocation service costs

The tables below provide summaries of the pipeline operators' MOS allocation service cost estimates and invoices submitted to AEMO since 2010-2011.

The cost estimates, original invoices and final invoices are available on AEMO's website at [www.aemo.com.au](http://www.aemo.com.au).

**Table C.1 2013-2014 estimates**

	Adelaide Hub		Sydney Hub		Brisbane Hub
	SEAGas Pipeline (SEAGas)	Moomba to Adelaide Pipeline (Epic Energy)	Eastern Gas Pipeline (Jemena)	Moomba to Sydney Pipeline (APA Group)	Roma to Brisbane Pipeline (APA Group)
Original estimate	\$18,000	\$134,765	\$18,500	\$99,237	\$99,237

**Table C.2 2012-2013 estimates**

	Adelaide Hub		Sydney Hub		Brisbane Hub
	SEAGas Pipeline (SEAGas)	Moomba to Adelaide Pipeline (Epic Energy)	Eastern Gas Pipeline (Jemena)	Moomba to Sydney Pipeline (APA Group)	Roma to Brisbane Pipeline (APA Group)
Original estimate	\$15,000	\$294,435	\$18,601	\$110,762	\$110,762



**Table C.3 2011-2012 final invoices (paid)**

	Adelaide Hub		Sydney Hub		Brisbane Hub
	SEAGas Pipeline (SEAGas)	Moomba to Adelaide Pipeline (Epic Energy)	Eastern Gas Pipeline (Jemena)	Moomba to Sydney Pipeline (APA Group)	Roma to Brisbane Pipeline (APA Group)
Original estimate	\$15,000	\$268,943	\$18,601	\$268,653	\$752,434
Initial invoice	\$30,115	\$123,984	\$15,805	\$188,814	\$722,442
Final invoice	\$30,115	\$117,209	\$15,805	\$188,814	\$722,442

**Table C.4 2010-2011 final invoices (paid)**

	Adelaide Hub		Sydney Hub	
	SEAGas Pipeline (SEAGas)	Moomba to Adelaide Pipeline (Epic Energy)	Eastern Gas Pipeline (Jemena)	Moomba to Sydney Pipeline (APA Group)
Original estimate	\$76,124	\$216,254	\$274,485	\$891,966
Initial invoice	\$75,463	\$163,200	\$263,139	\$957,394
Final invoice	\$75,038	\$40,800	\$263,139	\$815,846