



Australian Energy Market Commission

**RULE
CHANGE**

FINAL RULE DETERMINATION

National Gas Amendment (Calculation of STTM Participant Compensation Fund Contributions) Rule 2011

Rule Proponent(s)

AEMO

Commissioners

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17 March 2011

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Reference: GRC0006

Citation

AEMC 2011, Calculation of STTM Participant Compensation Fund Contributions, Final Rule Determination, 17 March 2011 , Sydney

About the AEMC

The Council of Australian Governments, through its Ministerial Council on Energy (MCE), established the Australian Energy Market Commission (AEMC) in July 2005. The AEMC has two principal functions. To make and amend the national electricity and gas rules - and to conduct independent reviews of the energy markets for the MCE.

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Summary

The Australian Energy Market Operator (AEMO) requested that the Australian Energy Market Commission (Commission or AEMC) consider a Rule change request concerning the treatment of Market Operator Services (MOS) and overrun MOS in the calculation of Short Term Trading Market (STTM) Participant Compensation Fund contributions payable by STTM Shippers. AEMO requested that the Commission consider this Rule change request under an expedited Rule-making process on the basis that the Rule change request would result in a non-controversial Rule.

On 3 February 2011, the Commission published a notice under section 303 and section 304 of the National Gas Law (NGL) to commence an expedited Rule making process on the basis that this was a non-controversial Rule, subject to the receipt of written objections. By 17 February 2011, no objections against the expedited Rule making process were received. On 3 March 2011, the deadline for submissions closed and no submissions were received.

On 17 March 2011, the Commission published this final Rule determination and the making of the final Rule by giving notice under section 311 and section 313 of the NGL. The Commission determined that MOS gas and overrun MOS would be excluded from the calculation of STTM Participant Compensation Fund contributions payable by STTM Shippers. The final Rule gives effect to the final Rule determination. The Commission determined that these arrangements preserve the integrity of the physical gas balancing mechanisms (MOS and overrun MOS), maintains the approach whereby contributions to the STTM Participant Compensation Fund are based on gas withdrawals, and thus promotes the efficient operation of natural gas services. The Commission determines that the final Rule would contribute to the achievement of the National Gas Objective (NGO).

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1 AEMO's Rule change request

1.1 The Rule change request

On 15 November 2010, AEMO (Rule Proponent) made a request to the Australian Energy Market Commission to make a rule regarding the method of calculating contributions made by STTM Shippers to the STTM Participant Compensation Fund (Rule change request).

1.2 Rule change request rationale

In this Rule change request the Rule Proponent seeks to change the method of calculating STTM Shippers' contributions to the STTM Participant Compensation Fund.

1.2.1 STTM Participant Compensation Fund and Scheduling Errors

The STTM Participant Compensation Fund (PCF) is a fund designed to provide compensation to Trading Participants (STTM Shippers¹ or STTM Users²) for scheduling errors.

Scheduling errors may arise under any of the following circumstances:

- where the Trading Participant is scheduled to supply gas at a lower price than is specified in its corresponding ex ante offer;
- where the Trading Participant is scheduled to withdraw gas at a higher price than is specified in its ex ante bid;
- where the Trading Participant is scheduled to provide a quantity of contingency gas at a lower price than is specified in its contingency gas offer;
- where the Trading Participant is scheduled to provide a quantity of contingency gas at a higher price than is specified in its contingency gas bid; or
- where the Trading Participant is a STTM User and AEMO has failed to schedule one or more price steps in a contingency gas offer submitted and confirmed by the STTM User or the STTM User's withdrawals of gas from that hub are curtailed by the STTM distributor.

¹ A STTM Shipper has a registered, contractual right to haul gas on an STTM facility and is able to offer gas for sale to, or bid to withdraw gas from, the STTM.

² A STTM User has a registered, contractual right to take gas from a STTM distribution system. Typically, STTM Users are retailers or large customers.

Trading participants may apply to AEMO for compensation (and thus access to the funds in the PCF) in any of the circumstances where a scheduling error has led to a financial loss.

Trading participants make contributions to the PCF based on aggregate withdrawals of gas over a monthly billing period. The aggregate quantity of gas withdrawn by a STTM Shipper is calculated on the basis of its STTM facility allocation. Under the Rules, the definition of a STTM facility allocation includes MOS gas and overrun MOS.³ Consequently, the way PCF contributions are calculated for STTM Shippers includes, as inputs, both MOS gas and overrun MOS.

1.2.2 Market Operator Services (MOS) and overrun MOS

In the STTM, MOS is a physical gas balancing mechanism that is used to address deviations between scheduled and actual gas that is injected or withdrawn for a particular gas day. Overrun MOS is additional MOS that is provided once the allocated MOS for a particular gas day has been exhausted.

1.2.3 Issues with current arrangements

In its Rule change request AEMO stated its issues with the current arrangements as expressed in the National Gas Rules (NGR or Rules), which are summarised as follows:⁴

- Under the current Rules, the method by which STTM Shippers' contributions to the PCF are calculated includes, as inputs, both MOS and overrun MOS. However, MOS and overrun MOS are physical gas balancing services and AEMO believes that it should not be used in the calculation of PCF contributions;
- Under the current Rules, STTM Shippers and STTM Users are treated inconsistently in the calculation of PCF contributions. In terms of calculating PCF contributions, STTM Shippers include MOS and overrun MOS whereas STTM Users exclude MOS and overrun MOS;
- As a consequence of the above, MOS increase providers and MOS decrease providers are treated inconsistently in the calculation of PCF contributions. MOS decrease providers are subject to a PCF contribution whereas MOS increase providers are not subject to a PCF contribution.⁵

³ Rule 419.

⁴ AEMO Rule change request, pp. 4-6

⁵ MOS decrease providers decrease the quantity of natural gas supplied or increase the quantity of natural gas withdrawn. MOS increase providers increase the quantity of natural gas supplied or decrease the quantity of natural gas withdrawn.

1.3 Solution proposed by the Rule change request

AEMO proposes that MOS gas and overrun MOS be excluded, as inputs, from the calculation of STTM Shippers' contributions to the PCF. If this solution were adopted, the following would result:

- STTM Shippers and STTM Users would be treated consistently in the calculation of their PCF contributions; and
- MOS increase providers and MOS decrease providers would be treated consistently by ensuring that both were excluded from being treated as inputs into the calculation of PCF contributions.

1.4 Commencement of Rule making process

On 3 February 2011, the Commission published a notice under section 303 of the National Gas Law (NGL) advising of its intention to commence the Rule change process and the first round of consultation in respect of the Rule change request. A consultation paper prepared by AEMC staff identifying specific issues or questions for consultation was also published with the Rule change request. Submissions closed on 3 March 2011.

The Commission received no submissions on the Rule change request.

The Commission accepted that the Rule change request was a request for a non-controversial Rule. Accordingly, the Commission intended to expedite the Rule change request under section 304 of the NGL, subject to any written requests not to do so. The closing date for receipt of written requests was 17 February 2011 and no objections were received. Consequently, the Rule change request was considered under an expedited process in accordance with section 304 of the NGL.

2 Final Rule Determination

2.1 Commission's determination

In accordance with section 311 of the NGL the Commission has made this final Rule determination in relation to the Rule proposed by AEMO. In accordance with section 313 of the NGL the Commission has determined to make the Rule proposed by the Rule proponent.

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

The *National Gas Amendment (Calculation of STTM Participant Compensation Fund Contributions) Rule 2011 No [1]* (Rule as Made) is published with this final Rule determination. The Rule as Made will commence operation on 17 March 2011. The Rule as Made reflects the Rule as proposed by the Rule Proponent. Its key features are described in section 3.2.

2.2 Commission's considerations

In assessing the Rule change request the following was material and relevant:

- the Commission's powers under the NGL to make the Rule;
- the Rule change request;
- any submissions received during consultation; and
- the Commission's analysis as to the ways in which the proposed Rule will or is likely to, contribute to the achievement of the NGO.

2.3 Commission's power to make the Rule

The Commission is satisfied that the Rule as Made falls within the subject matter about which the Commission may make Rules. The Rule as Made falls within the matters set out in section 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 (section 74(1)(a)(va); and
- the activities of Registered participants, Users, end Users and other persons in a regulated gas market (section 74(1)(a)(vi)).

Further, the Rule as Made falls within the matters set out in Schedule 1 to the NGL as it relates to the following items:

- 55B - The operation and administration of a regulated gas market;

- 55C – The declared system functions or STTM functions; and
- 55L(b) – The payment of money (the payment of interest and the provision of related security) to or from a Rule fund.

These items are relevant to this Rule change request because it relates to the calculation of STTM Shippers’ PCF contributions.

2.4 Rule making test

Under section 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 section 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.”

For the Rule change request, having regard to any relevant Ministerial Council on Energy (MCE) Statement of Policy Principles, the Commission considers that the relevant aspect of the NGO is efficient operation and use of natural gas services for the long term interests of consumers of natural gas with respect to the price of natural gas.⁶

The Commission is satisfied that the Rule as Made will, or is likely to, contribute to the achievement of the NGO because:

- excluding MOS gas and overrun MOS as inputs into the calculation of PCF contributions for STTM Shippers would preserve the integrity of MOS and overrun MOS as a physical gas balancing service and maintain the approach that contributions to the PCF are based on withdrawals of gas, and thus contribute to the efficient operation of natural gas services;
- excluding MOS gas and overrun MOS as inputs into the calculation of PCF contributions would ensure consistency in the treatment of STTM Shippers and STTM Users and thus contribute to the efficient operation and administration of natural gas services;
- excluding MOS gas and overrun MOS as inputs into the calculation of PCF contributions would ensure that MOS decrease providers and MOS increase providers would be treated consistently in that neither would be subject to a PCF

⁶ Under section 291(2) of the NGL, for the purposes of section 291(1) the AEMC may give such weight to any aspect of the NGO as it considers appropriate in all the circumstances, having regard to any relevant MCE statement of policy principles.

contribution, which would reduce barriers to entry for the provision of MOS and thus contribute to the efficient operation of natural gas services;

- excluding MOS gas and overrun MOS as inputs into the calculation of PCF contributions would ensure consistency between the inputs and methodology for determining PCF contributions with STTM participant fees and thus contribute to the efficient operation and administration of natural gas services; and
- it would remove any potential distortions in the pricing of gas purchased by STTM Shippers because PCF contributions would be excluded in STTM Shippers' bid amounts and thus contribute to the long term interests of consumers with respect to the price of natural gas services.

2.5 Other requirements under the NEL

MCE Statement of Policy Principles

In applying the Rule making test in section 291 of the NGL, the Commission has also had regard to any relevant MCE Statements of Policy Principles as required under section 73 of the NGL. There are no MCE Statement of Policy Principles relevant to this Rule change request.⁷

Expedited Rule making process

If a Proponent requests for a Rule to be considered as a non-controversial Rule, the Commission may make the relevant Rule in accordance with section 304 of the NGL. A non-controversial Rule is defined as 'a Rule that is unlikely to have a significant effect on a market for gas or the regulation of pipeline services'.

Under an expedited Rule making process, the Commission has six weeks from the publication of the notice under section 303 of the NGL to publish a final Rule determination. No draft Rule determination is published under an expedited Rule making process. Stakeholders have two weeks from the publication of the notice under section 303 of the NGL to submit written requests not to expedite the Rule making process. Stakeholders have four weeks from the publication of the notice under section 303 of the NGL to provide written submissions on the content of the Rule change request.

Non-controversial Rule

The Proponent requested that this Rule change request be considered non-controversial as it would be unlikely to have a significant effect on a market for gas or the regulation of pipeline services. The Proponent considered that⁸:

⁷ Under section 73 of the NGL the AEMC must have regard to any relevant MCE statement of policy principles in making a Rule.

⁸ AEMO Rule change request, p. 8.

- The proposed Rule is unlikely to have a material impact on market participants. In order for this Rule change request to have a material impact on market participants, it is necessary for two conditions to hold: firstly, a STTM Shipper is registered to withdraw gas from the STTM; and secondly, this STTM Shipper must also be a MOS provider. Currently, there is only one STTM Shipper that withdraws gas and this particular STTM Shipper is not a MOS provider, therefore there are no market participants presently affected by this Rule change request. However, the STTM only began on 1 September 2010 and there is a possibility that other market participants would be affected in the future;
- If MOS decrease providers were charged a PCF contribution (as stipulated in the current Rules), AEMO's analysis indicated that the impact on market participant's settlements accounts would be immaterial; and
- It consulted with industry through the STTM - Consultative Forum (24 August 2010). At this meeting, attendees unanimously supported a non-controversial Rule change request.

The Commission decided to expedite the Rule change request (subject to written objections from stakeholders) under section 304 of the NGL on the grounds that the Rule change relates to a 'non-controversial Rule' because it is unlikely to have a significant effect on a market for gas or the regulation of pipeline services. By 17 February 2011, the Commission had not received any objections to the expedited Rule making process for the making of a non-controversial Rule.

3 Commission's reasons

The Commission has analysed the Rule change request and assessed the issues or propositions arising out of this Rule change request. For the reasons set out below, the Commission has determined that a Rule be made. Its analysis of the Rule proposed by the Rule Proponent is also set out below.

3.1 Assessment

This Rule change request addresses the question on whether MOS gas and overrun MOS should be included or excluded from the calculation of PCF contributions payable by STTM Shippers.

The Commission determines that MOS gas and overrun MOS should be excluded from the calculation of STTM Shippers' PCF contributions. This requires a Rule to be made. The Rule as Made reflects the Commission's position. In particular, the Rule as Made would:

- preserve the integrity of MOS and overrun MOS as physical gas balancing services and preserve the approach that PCF contributions should be based on withdrawals of gas;
- ensure consistency in calculating PCF contributions for STTM Shippers and STTM Users and thus remove the differences in the methods of calculating PCF contributions as drafted in the current Rules;
- ensure that MOS increase providers and MOS decrease providers are treated consistently in that both would not be subject to PCF contributions; and
- ensure that the calculation of PCF contributions is consistent with STTM Participant fees in that both are based on withdrawals of gas from the hub.

3.2 Rule as made

The Rule as Made explicitly excludes, as inputs, both MOS gas and overrun MOS from the calculation of PCF contributions for STTM Shippers. For the purposes of calculating PCF contributions for STTM Shippers, the Rule as Made achieves this effect by excluding MOS gas and overrun MOS as a component of a STTM facility allocation.

3.3 Civil Penalties

The Rule as Made does not amend any Rules that are currently classified as civil penalty provisions under the *National Gas (South Australia) Regulations*. Consequently, the Commission will not recommend to the MCE that the proposed amendment in the Rule as Made be classified as a civil penalty provision.

3.4 Conduct Provisions

The Rule as Made amends Rules that are currently classified as conduct provisions under the *National Gas (South Australia) Regulations*. The Commission will recommend to the MCE that the proposed amendment in the Rule as Made remain classified as a conduct provision.

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).

The Commission's assessment of this Rule change request must consider whether the proposed Rule promotes the achievement of the NGO as set out under section 23 of the NGL. The proposed Rule will be assessed against the relevant counterfactual arrangements, which in this case are the existing provisions in the Rule. In assessing the Rule change request against the NGO the Commission has considered the following principles:

- Efficient operation of natural gas services - assessing whether the proposed Rule improves the operation of natural gas services in the STTM; and
- Administrative efficiency - assessing whether the proposed Rule improves the administrative efficiency involved in calculating PCF contributions.

5 Treatment of MOS in the Calculation of STTM Participant Compensation Fund Contributions

This Chapter addresses the principal issue of this Rule change request: the treatment of MOS (and overrun MOS) in the calculation of STTM Participant Compensation Fund contributions.

5.1 Rule Change proponent's view

The Proponent's view is that MOS gas and overrun MOS should be excluded, as inputs, from the calculation of PCF contributions payable by STTM Shippers. The Proponent's view is that MOS and overrun MOS are physical gas balancing mechanisms and should be separate from the calculation of PCF contributions. The Proponent stated that the calculation of PCF contributions made by STTM trading participants should be based on withdrawals of gas from the hub and should not be adjusted by physical gas balancing mechanisms.

However, under current arrangements in the Rules, MOS gas and overrun MOS are included in the calculation of PCF contributions for STTM Shippers. The Proponent stated that the consequence of these current arrangements raises the following issues:

- STTM Shippers and STTM Users are treated inconsistently in terms of calculating their PCF contributions;
- MOS decrease providers and MOS increase providers are treated inconsistently because the former is subject to a PCF contribution (based on withdrawals of gas) whereas the latter is not subject to a PCF contribution;
- PCF contributions are treated inconsistently with STTM Participant fees, where the latter is, in part, based on withdrawals of gas.

By excluding MOS gas and overrun MOS from the calculation of PCF contributions for STTM Shippers, the Proponent claims that the above issues would be resolved.

The Proponent also indicated that in order for MOS gas and overrun MOS to be included as inputs into the calculation of STTM Shippers' PCF contributions, it is necessary that a STTM Shipper be registered to withdraw gas from the STTM hub and be concurrently registered as a MOS provider. However, currently, there are no market participants that are registered both as a STTM Shipper withdrawing gas from the STTM hub and as a MOS provider.

5.2 Stakeholder views

There were no submissions received regarding this Rule change request.

5.3 Analysis

The STTM Participant Compensation Fund is designed to pay compensation to trading participants for scheduling errors. Under the Rules, the PCF is funded by trading participants (STTM Shippers and STTM Users) who pay an amount to AEMO that is determined, in part, by the aggregate amount of gas withdrawn from the hub over the relevant billing period.⁹ Therefore, trading participants make contributions to the PCF on the basis of aggregate withdrawals of gas.

For STTM Shippers, the aggregate withdrawals of gas are determined on the basis of its STTM facility allocation. Under the Rules, STTM facility allocations are defined to include MOS gas and overrun MOS.¹⁰ In this way, through the drafting of the Rules, MOS gas and overrun MOS are included as inputs or adjustments to the aggregate amount of gas withdrawn and thus affects the PCF contributions of STTM Shippers.

In contrast, for STTM Users, the aggregate withdrawals of gas are based in accordance with their STTM distribution system allocations. Under the Rules, STTM distribution system allocations do not include MOS gas and overrun MOS. Therefore, for STTM Users, the aggregate amounts of gas withdrawn and their consequent PCF contributions do not include MOS gas and overrun MOS. For STTM Users, their PCF contributions are solely based on aggregate withdrawals of gas. Consequently, there is an inconsistency between STTM Shippers and STTM Users with respect to the treatment of MOS (and overrun MOS) in the calculation of their PCF contributions; that is, MOS (and overrun MOS) is part of STTM Shippers' PCF contributions while it is not a part of STTM Users' PCF contributions.

In assessing whether this inconsistency between STTM Shippers and STTM Users has any utility, it is necessary to consider what the relevance, if any, of MOS and overrun MOS is to the calculation of PCF contributions. To address this question, it is important to consider the role of MOS and overrun MOS in the design of the STTM.

Under the design of the STTM, AEMO procures MOS gas and overrun MOS from MOS providers as a means of balancing deviations between actual and scheduled gas flows for a particular gas day.¹¹ MOS and overrun MOS are thus physical gas balancing mechanisms to address deviations between actual and scheduled gas flows.

However, as stated above, contributions to the PCF are based on withdrawals of gas. There is no clear link as to why physical gas balancing mechanisms are relevant to determining PCF contributions for STTM Shippers. In fact, STTM Users do not include MOS and overrun MOS in the calculation of their PCF contributions. Given that PCF contributions are based on withdrawals of gas, there is a convincing counter argument

⁹ NGR 452(6).

¹⁰ NGR 419(2)

¹¹ Explanatory Material on the Draft Short Term Trading Rules:
http://www.ret.gov.au/Documents/mce/_documents/2009%20Bulletins/NGR%20explanatory%20material%208%20July.pdf (accessed 7 March 2011).

that physical balancing services (MOS and overrun MOS) are not relevant to the calculation of PCF contributions.

Indeed, excluding physical gas balancing mechanisms (MOS and overrun MOS) from the calculation of PCF contributions would lead to the more efficient operation of natural gas services because:

- MOS and overrun MOS can be used for their intended purpose of balancing the physical gas market and would not be used as an input into PCF contributions. Also, the funding of the PCF through contributions made by trading participants (STTM Shippers or STTM Users) would be properly based on gas withdrawals unadjusted by MOS gas or overrun MOS. This separation between the physical gas balancing service and funding of the PCF would lead to the more efficient operation of both these natural gas services;
- Excluding MOS gas and overrun MOS as inputs into the calculation of PCF contributions would remove any potential distortions in the pricing of gas purchased by STTM Shippers because PCF contributions would be excluded in STTM Shippers' bid amounts and thus contribute to the long term interests of consumers with respect to the price of natural gas services;
- Excluding MOS gas and overrun MOS as inputs into the calculation of PCF contributions would remove inconsistency between the treatment of MOS increase providers and MOS decrease providers. Specifically, MOS decrease providers would no longer be subject to a PCF contribution and would remove barriers to entry for MOS providers and thus contribute to the more efficient operation of natural gas services;
- Excluding MOS gas and overrun MOS as inputs into the calculation of PCF contributions would ensure consistency between STTM Shippers and STTM Users and thus contribute to the efficient administration of natural gas services; and
- Excluding MOS gas and overrun MOS as inputs into the calculation of PCF contributions would ensure consistency between the inputs and methodology for determining PCF contributions with STTM participant fees and thus contribute to the efficient operation and administration of natural gas services.

5.4 Conclusion

The Commission determines that MOS gas and overrun MOS should be excluded, as inputs, from the calculation of PCF contributions that are payable by STTM Shippers. The Commission makes this determination on the basis that MOS and overrun MOS are physical gas balancing services that are used to manage physical deviations on a STTM pipeline. Further, the Commission makes this determination on the basis that contributions to the PCF are based on withdrawals of gas made by STTM trading participants. It is therefore not appropriate for a physical gas balancing service (MOS and overrun MOS) to be used in the calculation of contributions to the PCF.

For the reasons cited above, excluding MOS gas and overrun MOS as inputs from the calculation of PCF contributions that are payable by STTM Shippers would ensure the more efficient operation of natural gas services and thus would be likely to contribute to the achievement of the NGO.

Abbreviations

AEMC	See Commission
AEMO	Australian Energy Market Operator
Commission	Australian Energy Market Commission
MCE	Ministerial Council on Energy
MOS	Market Operator Services
NGL	National Gas Law
NGO	National Gas Objective
NGR	See Rules
PCF	Participant Compensation Fund
Rules	National Gas Rules
STTM	Short Term Trading Market