



Australian Energy Market Commission

RULE DETERMINATION

NATIONAL GAS AMENDMENT (DWGM MAINTENANCE PLANNING) RULE 2020

PROPONENT

Australian Energy Market Operator (AEMO)

17 DECEMBER 2020

RULE

INQUIRIES

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ABOUT THE AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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SUMMARY

- 1 The Australian Energy Market Commission (AEMC or Commission) has made a rule to clarify the Australian Energy Market Operator (AEMO)'s existing maintenance coordination function in the Victorian Declared Wholesale Gas Market (DWGM) and remove minor inconsistencies in the National Gas Rules (NGR).
- 2 This follows AEMO submitting a rule change request to the AEMC on 30 June 2020 that identified several changes that could be made to improve the coordination of maintenance planning in the DWGM.¹
- 3 The rule makes amendments to rules 200, 324 and 326 of the NGR with the effect of:
 - Establishing 'minimise any threat' to system security as the threshold that AEMO and asset operators must meet during maintenance planning in the DWGM by removing the rule that requires AEMO to 'ensure there is no threat to system security'.
 - Incorporating producers in the maintenance planning coordination process that currently only applies to storage providers, the declared transmission system service provider and interconnected transmission pipeline service providers.
 - Simplifying the rules by replacing the need to list the various facilities types with one defined term, 'DWGM facility operator' (a collective term for storage providers, the declared transmission system service provider, interconnected transmission pipeline service providers and producers).
 - Amending the definitions of 'Producer' and 'Storage Provider' in rule 200 of Part 19 of the NGR to make it consistent with the registration categories in rule 135A of Part 15A of the NGR.
- 4 The changes will:
 1. Introduce a consistent standard for system security across the Victorian DWGM when evaluating potential threats to security posed by maintenance operations.
 2. Capture producers within the new definition of 'DWGM facility operator', removing the need for AEMO to issue extra maintenance directions under the NGL. This will reduce administrative burden on AEMO and improve the uniformity of obligations imposed on asset operators with regard to coordination of maintenance planning.
 3. Remove minor inconsistencies in the NGR.
- 5 The Commission has made minor amendments to the rule proposed by AEMO to clarify that the registered participants subject to the final rule are those registered in the Victorian DWGM, but in substance it is the same as that proposed by AEMO.
- 6 Having regard to the issues raised in the rule change request and during consultation with stakeholders, the Commission is satisfied that the final rule will, or is likely to, contribute to the achievement of the national gas objective (NGO) for the following reasons:

¹ AEMO, *DWGM maintenance planning*, rule change request, 30 June 2020.

- The rule will clarify and enhance the application of AEMO's maintenance coordination functions, facilitating the more efficient operation of maintenance planning in the Victorian DWGM and thereby improving the safe, reliable and secure supply of natural gas.
- The rule will incorporate producers into the maintenance coordination processes that currently apply to other asset operators in the DWGM, removing the need for AEMO to issue separate maintenance directions to producers under the NGL. This will enable better information sharing between asset operators and AEMO to the benefit of a more responsive system.
- The rule will remove differences in definitions in the NGR, simplifying the rules and improving consistency. More clear and consistent rules provide a greater degree of certainty and are easier to interpret and apply.

7 The Commission adopted an expedited process for this rule change request as it considered that the proposed rule was unlikely to have a significant impact on a market for gas or the regulation of pipeline services. No objections to using this process were received.

8 The Commission received four written submissions to this rule change request, which have been taken into account.

9 The transitional arrangements in schedule 2 of the final rule will commence on 21 January 2021. Under these arrangements, AEMO will have until 22 April 2021 to update the *Wholesale Market Maintenance Planning Procedures (Victoria)* to take into account the final rule. The operative provisions in schedule 1 of the final rule, which amend rules 200, 324 and 326 of the NGR, will then commence on 22 April 2021.

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1 AEMO'S RULE CHANGE REQUEST

1.1 The rule change request

On 30 June 2020, AEMO submitted a rule change request to the AEMC to amend Part 19 of the National Gas Rules (NGR).

The amendments would establish a consistent standard for system security in the maintenance operations of the DWGM, and create a new definition of 'DWGM facility operators' which would incorporate producers into Part 19 of the NGR as one of four Victorian DWGM categories of asset operators to which AEMO's powers of maintenance coordination can then apply.

Further, the amendments would remove inconsistencies between the definitions of participant categories in the DWGM set out in the NGR and the definitions in the National Gas Law (NGL). Part 19 of the NGR covers the Victorian Declared Wholesale Gas Market (DWGM) only.

The rule change request included a proposed draft rule.

1.2 Current arrangements

Rule 326(1) of the NGR states:

AEMO must, having regard to information provided by Registered participants (under rule 324(4) of the NGR or otherwise), coordinate all maintenance planned by the declared transmission service provider, interconnected transmission pipeline service providers and Storage Providers to ensure that system security is not threatened as a consequence of the unavailability of equipment undergoing maintenance.

The process that AEMO follows to coordinate maintenance in the Victorian DWGM is set out in the *Wholesale Market Maintenance Planning Procedures (Victoria)*.²

In accordance with the Procedure, AEMO uses a risk-based approach to assess all maintenance activities and ensure compliance of each company with its *Gas Safety Case*.³ Any significant impacts are discussed with the relevant parties and if deemed appropriate, AEMO may invite third parties to participate in a risk assessment.

If any maintenance proposed by a service provider or storage provider threatens system security, the service provider or storage provider must co-operate with AEMO in good faith to minimise any threat to system security.⁴ AEMO may direct a service provider or a storage provider to cancel, delay or suspend any maintenance in accordance with rule 326(5) of the NGR.

² https://www.aemo.com.au/-/media/files/gas/dwgm/2009-15/wholesale_market_maintenance_planning_procedures_victoria_v2oct13.pdf

³ Under the Victorian *Gas Safety Act 1997*, all gas companies are required to prepare safety cases that set out how they will meet their general duties for the safe conveyance, sale, supply, measurement, control and use of gas as detailed under the Act.

⁴ See rule 326(4) of the NGR.

1.3 Rationale for the rule change request

In the rule change request, AEMO raised three key issues with the current legal framework for maintenance planning in the DWGM:

1. There are different thresholds for system security in different places in Part 19 of the NGR.⁵
 - a. Rule 326(1) requires AEMO to ensure there is *no threat* to system security.
 - b. Rules 326(4), (5), and (6) requires AEMO and service providers to cooperate to *minimise any threat* to system security resulting from proposed maintenance.
2. Producers are not included in the parties identified as required to cooperate with AEMO over system security issues from proposed maintenance, requiring AEMO to issue producers with separate directions to cancel, delay or suspend maintenance under section 91BC of the NGL.⁶
3. There is inconsistency in the definitions of 'Producer' and 'Storage Provider' in Part 19 of the NGR and the NGL.⁷

The intent of the rule change request is to improve the safe, reliable and secure supply of natural gas by clarifying the standard for system security that must be met during planned maintenance in the DWGM, and incorporating all DWGM asset operators into the process of collaboration over planned maintenance. This would create equal obligations on all asset operators and reduce the administrative and operational costs associated with AEMO issuing separate directions to producers.

1.4 Solutions proposed in the rule change request

AEMO sought to resolve the issues discussed above by proposing a draft rule (proposed ruled) that aims to align the NGR with the NGL, Australian Standards (regarding frequency of maintenance outages), Victorian legislation and current practice. The proposed rule would:

1. **Introduce a consistent standard for system security.**

The proposed rule would amend the wording of rule 326(1) of the NGR to achieve consistency with the more realistic threshold to *minimise any threat* to system security in rules 326(4), (5) and (6) of the NGR and Australian Standards. This recognises that all outages for proposed maintenance will pose some element of risk, which AEMO minimises as far as reasonably practicable through cooperation with market participants.⁸

2. **Incorporate producers into the current maintenance coordination process applicable to other facility operators.**

The proposed rule would introduce the new definition 'DWGM facility operators', which would encompass producers, storage providers and service providers. According to AEMO, this change would make the NGR consistent with section 91BA(1)(e) of the NGL;

⁵ AEMO, *DWGM maintenance planning*, rule change request, 30 June 2020, p. 4.

⁶ *Ibid*, pp. 4-5.

⁷ *Ibid*, p. 5.

⁸ *Ibid*, p. 4.

simplify the rules by replacing the need to list the various facility operators in all relevant Rules with one defined term; reduce the need for AEMO to issue producers with directions under section 91BC of the NGL; and clarify AEMO's current maintenance practice to coordinate with all asset operators to ensure a safe, secure, reliable and efficient declared transmission system.⁹

3. **Introduce consistency of definitions across the NGR and NGL.**

The proposed rule would remove the definition of 'Producer' and 'Storage Provider' in Part 19, rule 200 of the NGR and change all references to Producer and Storage Provider to 'producer' and 'storage provider' so that only NGL definitions apply to Part 19 of the NGR.¹⁰

1.5 Relevant background

AEMO noted in the rule change request that this rule change proposal was discussed with the Gas Wholesale Consultative Forum (GWCF)¹¹ members on two separate occasions: 12 June 2018 and 19 March 2020. AEMO noted that no issues were raised or feedback provided by members of the GWCF on both occasions.¹²

1.6 The rule making process

On 22 October 2020, the Commission published a notice advising of its commencement of the rule making process and consultation in respect of the rule change request.¹³ A consultation paper identifying specific issues for consultation was also published.¹⁴ Submissions closed on 19 November 2020. The Commission received four submissions as part of this consultation.

AEMO requested that the rule change request be considered a non-controversial rule change request and, as a result, be assessed under an expedited rule change process.¹⁵

The Commission accepted that the rule change request was a request for a non-controversial rule as defined in section 290 of the NGL. Accordingly, the Commission commenced an expedited process, subject to any written requests not to do so. The closing date for receipt of written requests was 5 November 2020. No requests were received. Accordingly, the rule change request was progressed under an expedited process.¹⁶

⁹ AEMO, *DWGM maintenance planning*, rule change request, 30 June 2020, p. 6.

¹⁰ Ibid.

¹¹ The Gas Wholesale Consultative Forum (GWCF) is a forum that meets quarterly and enables collaboration between AEMO, AEMC, the Australian Energy Regulator (AER), relevant jurisdictional bodies, industry participants, and other interested parties on the development and implementation of changes to AEMO's east coast wholesale gas markets and related market systems.

¹² AEMO, *DWGM maintenance planning*, rule change request, 30 June 2020, p. 13.

¹³ This notice was published under s. 303 of the National Gas Law (NGL).

¹⁴ AEMC, *DWGM maintenance planning*, consultation paper, 22 October 2020.

¹⁵ Section 290 of the NGL.

¹⁶ Section 304 of the NGL.

The Commission considered all issues raised by stakeholders in submissions and feedback provided at bilateral meetings. These issues are discussed and responded to in the relevant sections of this final rule determination.

2 FINAL RULE DETERMINATION

This chapter outlines:

- the Commission's final rule determination
- the rule making test for changes to the NGR
- the assessment framework for considering the rule change request
- the Commission's consideration of the final rule against the national gas objective

2.1 The Commission's final rule determination

Having considered views expressed by stakeholders in submissions and bilateral meetings and undertaken further analysis, the Commission has determined to make a final rule to address the issues identified in the rule change request, which incorporates the majority of elements of the solution proposed by AEMO.

The Commission has made some minor drafting changes to the rule suggested by AEMO in order to clarify the intent of the policy to apply exclusively to the Victorian DWGM.

Key features of the final rule

The final rule made by the Commission is published with this final rule determination. The key features of the final rule are:

- Clarification of the threshold for system security that must be met by AEMO and DWGM participants during maintenance planning in the DWGM.
- Incorporation of producers into the maintenance coordination processes that currently apply to all other asset operators in the DWGM, creating equal obligations across all asset operators and removing the need for AEMO to issue separate maintenance directions to producers under the NGL.
- Introduction of the new definition 'DWGM facility operators' as a collective term for producers, storage providers, the declared transmission system service provider and interconnected transmission pipeline service providers in the Victorian DWGM.
- Alignment of definitions in rule 200 of the NGR with the registration categories in rule 135A of the NGR, simplifying the rules and improving consistency. More clear and consistent rules provide a greater degree of certainty and are easier to interpret and apply.

The final rule is largely the same as the proposed rule. The differences between the final rule and the proposed rule are the alignment of definitions in rule 200 of the NGR with the registration categories in rule 135A of the NGR, as opposed to the definitions in the NGL, to ensure that the category of 'DWGM facility operator' can be interpreted as applying to registered participants operating within the Victorian DWGM.

The Commission's reasons for making this final rule determination are set out in section 2.4. More details of the final rule are also set out in chapters 3, 4 and 5 of this final determination. The Commission considered all issues raised by stakeholders in submissions, which are discussed and responded to throughout this final rule determination.

Further information on the legal requirements for making this final rule determination is set out in appendix A.

2.2 Rule making test

2.2.1 Achieving the NGO

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 national gas objective (NGO).¹⁷ This is the decision-making framework that the Commission must apply.

The NGO is:¹⁸

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, safety, reliability and security of supply of natural gas.

2.3 Assessment framework

In assessing the rule change request against the NGO the Commission has considered the following principles:

- **Reducing administrative and regulatory burden:** reducing the number of separate directions to producers required from AEMO could reduce costs for participants and contribute to cost savings being passed on to customers. The Commission has had regard to the extent to which the proposed changes reduce the administrative and regulatory burden.
- **Improving clarity, transparency, and certainty of the rules:** the provision of clear, accurate and consistent rules is important as it enables participants to understand their own and others' intended obligations with respect to maintenance procedures and the transactions they undertake. This will promote confidence in, and efficiency of, the market. The Commission has had regard to the extent to which the proposed changes provide regulatory certainty.

2.4 Summary of reasons

Having regard to the issues raised in the rule change request and during consultation with stakeholders, the Commission is satisfied that the final rule will, or is likely to, contribute to the achievement of the NGO for the following reasons:

- The rule will clarify and enhance the application of AEMO's maintenance coordination functions, facilitating the more efficient operation of maintenance planning in the Victorian DWGM and thereby improving the safe, reliable and secure supply of natural gas.

¹⁷ Section 291(1) of the NGL.

¹⁸ Section 23 of the NGL.

- The rule will incorporate producers into the maintenance coordination processes that currently apply to other asset operators in the DWGM, removing the need for AEMO to issue separate maintenance directions to producers under the NGL. This will enable better information sharing between asset operators and AEMO to the benefit of a more responsive system.
- The rule will remove differences in definitions in the NGR, simplifying the rules and improving consistency. More clear and consistent rules provide a greater degree of certainty and are easier to interpret and apply.

2.5 Implementation of the final rule

The transitional arrangements in schedule 2 of the final rule will commence on 21 January 2021. Under these arrangements, AEMO will have until 22 April 2021 to update the *Wholesale Market Maintenance Planning Procedures (Victoria)* to take into account the final rule. The main operative provisions in schedule 1 of the final rule, which amend rules 200, 324 and 326 of the NGR, will then commence on 22 April 2021.

3 THREATS TO SYSTEM SECURITY AND MAINTENANCE

3.1 AEMO's view

Rule 326(1) of the NGR states:

AEMO must, having regard to information provided by Registered participants (under rule 324(4) of the NGR or otherwise), coordinate all maintenance planned by the declared transmission service provider, interconnected transmission pipeline service providers and Storage Providers to ensure that system security is not threatened as a consequence of the unavailability of equipment undergoing maintenance.

Currently, AEMO may direct the declared transmission service provider, an interconnected transmission pipeline service provider or storage provider to cancel, delay or suspend any maintenance in accordance with rule 326(5) of the NGR.

While rule 326(1) of the NGR requires that AEMO must ensure there is *no threat* to system security, rules 326(4), (5) and (6) of the NGR requires service providers and Storage Providers to cooperate with AEMO in good faith to *minimise any threat* to system security that in AEMO's reasonable opinion would be likely to result from proposed maintenance (and associated outages).

AEMO provided a few examples of risk minimisation exercises previously conducted by AEMO in the Victorian DWGM, as follows:

1. The coordination of maintenance outages that are required at certain frequencies according to Australian Standards (*AS 2885.3:2018*)¹⁹ or Victorian Legislation (*Pipelines Act 2005*),²⁰ such as at the Brooklyn compressor station.²¹ Outages and the pigging²² of pipelines at the Brooklyn compressor station may require out of merit gas to satisfy locational demand. In these circumstances, AEMO is required to issue a "Notice of a Threat to System Security" to inject out of merit order gas to facilitate this maintenance, thereby minimising any threat to system security.
2. Where proposed equipment maintenance presents a potential risk to the safe operation of the Victorian DWGM, AEMO completes a risk assessment using the methodology described in AS 2885.6:2018 (*Pipelines — Gas and liquid petroleum, Part 6: Pipeline safety management*) and puts in place risk mitigation measures to ensure that the risk to supply is "As Low As Reasonably Practicable" (ALARP), as required under the AEMO's Gas Safety Case.²³

19 <https://www.standards.org.au/getmedia/9040df7a-0457-42f1-b7d4-8486e21e4292/standards-australia-case-study-oil-gas.pdf.aspx> - visit standards.org.au for full section access.

20 <https://www.legislation.vic.gov.au/in-force/acts/pipelines-act-2005/016>

21 AEMO, *DWGM maintenance planning*, rule change request, 30 June 2020, p. 4.

22 Pigging is the practice of using pipeline inspection gauges (known as pigs or scrapers) to perform various maintenance operations without stopping the flow of the product in the pipeline.

23 AEMO, *DWGM maintenance planning*, rule change request, 30 June 2020, p. 4.

3. AEMO also works collaboratively with APA Group²⁴ and industry participants to schedule planned maintenance activities at a time that minimises market impact and threats to system security. Registered participants are notified as soon as practicable with details of the nature and location of the potential threat either through the Gas Wholesale Consultative Forums, industry conferences or market notices.

According to AEMO, in each of the cases described above, the proposed maintenance approach seeks to *minimise any threat* to system security as compared to the alternative option of deferring maintenance. AEMO states this is particularly important when maintenance is required to meet critical safety requirements.²⁵

3.2 Stakeholder views

Major Energy Users (MEU) indicated that a shift from *no threat* to *minimise any threat* as the standard for system security would change the rules to reflect what happens in practice in the DWGM.²⁶

However, MEU submitted that there needs to be some controls on how AEMO exercises its 'reasonableness' when minimising the threat to security of supply.²⁷ MEU's suggestion for determining the standard was for AEMO to evaluate the cost of minimising the threat to the security of supply against the cost to consumers of losing supply. If the cost of minimising the threat is higher than the potential cost to consumers, then actions should not be taken.²⁸

Jemena was of the opinion that, while maintenance planning is important and necessary, safety and asset integrity must take precedence in any consideration or instruction by AEMO.²⁹

3.3 Analysis

Currently, in accordance with the *Wholesale Maintenance Planning Procedures (Victoria)*, AEMO uses a risk-based approach to assess all maintenance activities and ensure the compliance of each participant with its Gas Safety Case, which must be submitted to Energy Safe Victoria in accordance with the *Gas Safety (Safety Case) Regulations 2018* of the *Gas Safety Act 1997 (VIC)*.

The 2018 Regulations set out the following standards as the basis for each gas safety case:

- Australian Standard 4564–2011, *Specification for general purpose of natural gas* — which sets out the prescribed standard of quality for natural gas conveyed through a transmission pipeline or a distribution pipeline, and for the supply or sale of natural gas supplied to a customer.³⁰

24 The Victorian Transmission System is owned and maintained by APA Group but operated by the Australian Energy Market Operator (AEMO) under a market-based centrally coordinated carriage system under the National Gas Rules.

25 AEMO, *DWGM maintenance planning*, rule change request, 30 June 2020, p. 4.

26 Major Energy Users, *submission to consultation paper*, 2 November 2020, p. 1.

27 Major Energy Users, *submission to consultation paper*, 2 November 2020, p. 1.

28 Ibid.

29 Jemena, *submission to consultation paper*, 19 November 2020, p. 1.

30 State Government of Victoria, *Gas Safety (Safety Case) Regulations 2018*, p. 19.

- Australian Standard 4670:2018, *Commercial propane and commercial butane for heating purposes* — which sets out the prescribed standard of quality for LP Gas supplied or sold to a customer for use in an appliance.³¹

The exercise of AEMO's 'reasonable opinion' is therefore underpinned by safety evaluation standards that are established in Victorian law. The precedence of safety and asset integrity is embedded in AEMO's assessment process by deference to legally enforceable Gas Safety Cases and Australian Standards that govern the prescribed quality of gas sold or conveyed through gas pipelines.³²

Further, AEMO's reasonable opinion is an established threshold used in other parts of the NGR. For example, intervention reports are required for events that, in AEMO's reasonable opinion, are or may be a threat to system security.³³

The Commission considers that AEMO's decision-making process for assessing threats to system security in the DWGM is procedurally sound and is not dependent on a high degree of discretion. However, the Commission recommends that AEMO provides greater visibility of its decision-making process through the update of its *Wholesale Market Maintenance Planning Procedures (Victoria)*. This would improve clarity of the system security standard in the NGR and encourage more transparent cooperation over maintenance planning in the DWGM.

3.4 Conclusions

Taking into consideration feedback provided by stakeholders through submissions and further analysis carried out by the AEMC, the Commission has made a final rule to make the system security standard for maintenance planning in the DWGM consistent across Part 19 of the NGR. The final rule amends rule 326(1) of the NGR to read:

AEMO must, having regard to information provided by Registered participants (under rule 324(4) or otherwise), coordinate all maintenance planned by DWGM facility operators to minimise any threats to system security as a consequence of the unavailability of equipment undergoing maintenance.

The final rule also requires AEMO to update its *Wholesale Market Maintenance Planning Procedures (Victoria)* to incorporate the final rule.

In addition, the Commission recommends that AEMO include a clarification of the decision-making process followed by AEMO when determining threats to the security of the gas supply in the DWGM, including reference to the *Gas Safety (Safety Case) Regulations 2018* and the Australian Standards used as the minimum threshold for system security.

³¹ State Government of Victoria, *Gas Safety (Safety Case) Regulations 2018*, p. 19.

³² AEMO, *Wholesale Market Maintenance Planning Procedures (Victoria)*, October 2013, p. 10.

³³ See rule 351 of the NGR.

4 INCLUSION OF PRODUCERS IN THE MAINTENANCE PLANNING PROCESS

4.1 AEMO's view

Section 91BA(1)(e) of the NGL states that AEMO's declared system functions are to coordinate the interaction of producers, storage providers and service providers for ensuring a safe, secure, reliable and efficient declared transmission system.

However, rule 326 of the NGR only requires the declared transmission system service provider, interconnected transmission pipeline service providers and storage providers to cooperate with AEMO in good faith to minimise any threat to system security resulting from proposed maintenance. Although the definition of 'maintenance' under rule 200 of the NGR includes producers, rule 326 does not specify that producers must coordinate maintenance with AEMO, which is inconsistent with section 91BA(1)(e) of the NGL.

Capturing producers alongside storage providers, declared transmission system service provider and interconnected transmission pipeline service providers in Part 19 of the NGR will create equal obligations across all asset operators in the DWGM and remove the need for AEMO to issue separate maintenance directions to producers under the NGL.

4.2 Stakeholder views

The inclusion of producers in Part 19 of the NGR was not explicitly noted by stakeholders in submissions. However, stakeholders expressed support during bilateral meetings for the greater degree of transparency and collaboration to be achieved by incorporating all facility operators within the same process of maintenance coordination.

4.3 Analysis

Under the current arrangements, three categories of asset operators are required to cooperate with AEMO in good faith to minimise any threat to system security resulting from proposed maintenance: the declared transmission system service provider, interconnected transmission pipeline service providers and storage providers.³⁴ However, this obligation does not currently apply to producers.

AEMO's *Wholesale Market Maintenance Planning Procedure* covers two different types of maintenance:³⁵

- **Planned maintenance** is defined as maintenance, constraining or having potential to constrain gas injections into the declared transmission system (DTS) from a gas storage facility for a known period of time, and forecast work by the DTS service provider which is conditionally approved by AEMO.³⁶

³⁴ See rule 326 of the NGR.

³⁵ AEMO, *Wholesale Market Maintenance Planning Procedures (Victoria)*, October 2013, p. 8.

³⁶ Ibid.

- **Unplanned maintenance** is maintenance which has not been forecast or scheduled. This includes maintenance that constrains or has the potential to constrain gas injections, breakdowns and maintenance that is typically carried out to avert immediate safety or environmental hazards or to correct failures that cause a loss of system availability, reliability or spare capacity.³⁷

In addition, the Procedures describes the specific current requirement for obtaining consent for unplanned maintenance: asset operators must register changes to maintenance forecasts as soon as practicable and, after risk assessment and approval, all maintenance activities are generally approved 'on the day'.³⁸

The Commission notes that the Procedures do not provide an equivalent explanation of the requirement and timeline for asset operators to obtain consent from AEMO for planned maintenance. The Commission thus recommends that AEMO clarify the different processes for approving planned versus unplanned maintenance during the review process to align the Procedures with the final rule.

The Commission understands that, even though there is currently no obligations on producers, they already collaborate informally with AEMO. It is worth noting that the Natural Gas Services Bulletin Board (BB) also requires operators to supply information to AEMO, including short term capacity outlooks that capture planned maintenance (see more details in Box 1 below).

BOX 1: NATURAL GAS SERVICES BULLETIN BOARD

Set out in Part 18 of the NGR, the purpose of the Natural Gas Services Bulletin Board (BB) is to make information available to BB users to facilitate:

- trade in natural gas and natural gas services; and
- informed and efficient decisions in relation to the provision and use of natural gas and natural gas services.

All BB reporting entities are required to supply information to AEMO, including:

- Nameplate ratings and detailed facility information
- Pipeline and storage capacity bookings
- Short term and medium term capacity outlooks for each of its BB facilities
- Nominated and forecast use of storage and pipelines
- Actual production and flow data

Although reporting entities (including producers) do not currently require 'consent' for planned maintenance from AEMO under rule 178, a BB reporting entity must provide AEMO with a short term capacity outlook for each of its BB facilities. A short term capacity outlook is defined in rule 141 of Part 18 of the NGR as "for a BB facility, on any gas day, the facility

³⁷ AEMO, *Wholesale Market Maintenance Planning Procedures (Victoria)*, October 2013, p. 8.

³⁸ *Ibid*, p. 10.

operator's good faith estimate of the daily capacity of the BB facility for each of gas days D+1 to D+7" and are a consequence of asset availability, which is impacted by planned maintenance.

The BB therefore provides visibility of the operations of the gas market, including planned maintenance.

Source: Part 18 of the National Gas Rules.

Source: AEMO, *Gas Bulletin Board (GBB)*, <https://aemo.com.au/energy-systems/gas/gas-bulletin-board-gbb>, accessed November 2020.

However, the Commission recognises that this new obligation may cause concern that the time associated with obtaining consent from AEMO could introduce additional costs and delays in the gas supply chain from idle equipment and personnel. The AEMC has prepared the example below to illustrate this concern under a fictitious scenario:

A producer that has planned maintenance on offshore facilities is required to extensively coordinate the movement and availability of heavy equipment, machinery, and personnel, such as helicopter access to offshore rigs. The age and complexity of such facilities mean that the length of time required to conduct planned maintenance cannot always be predicted, and extra work may be required due to unforeseen complications. A producer then has to inform AEMO that an extension of time is required to complete the maintenance.

If AEMO were to take up to 5 days to give approval to the request, the resulting delay in addressing these complications could introduce cost and safety concerns. However, that will not be the case, because under this scenario, the additional maintenance required would be lodged within 5 days of forecast commencement and therefore it would be classified as 'unplanned maintenance'. Under this category, the request to carry out maintenance would proceed directly to AEMO's Control Room, which operates continuously (24 hours, 7 days a week). AEMO would conduct a risk assessment and approve the request as soon as practicable, which AEMO notes in the Procedure that requests are generally approved 'on the day'.³⁹

The Commission notes that 'planned maintenance' is the only category to which the coordination process under rules 324 and 326 of the NGR will be applied to producers by AEMO.

For the reasons explained above, the Commission considers that including producers in the coordination of maintenance planning processes should not translate into a significant burden to producers.

4.3.1

Other

Under the current arrangements, rule 324(4) of the NGR sets out the participant disclosure obligations that are imposed on the declared transmission system service provider, interconnected transmission pipeline service providers and storage providers. The final paragraph of rule 324(4) reads:

³⁹ AEMO, *Wholesale Market Maintenance Planning Procedures (Victoria)*, October 2013, p. 10.

... this additional information must be provided to AEMO in accordance with subrule (1) and also in the form of week-ahead forecasts commencing from Monday in each week which must be provided to AEMO by no later than the immediately preceding Wednesday.

AEMO's proposed rule change would include an addition to rule 324(4) of the NGR which would provide an exception to the rule, as follows:

*"this additional information must be provided to AEMO in accordance with subrule (1) and also in the form of week-ahead forecasts commencing from Monday in each week which must be provided to AEMO by no later than the immediately preceding Wednesday **unless otherwise agreed under an operating agreement under NGR 277.**"*

However, the Commission notes that AEMO can already exempt asset operators from the obligations in rule 324(4) under rule 325(1) of the NGR. Rule 325(1) reads as follows:

AEMO, in its absolute discretion, may exempt a Registered participant from all or any of the disclosure obligations under rules 324(2), (3) and (4).

The AEMC confirmed with AEMO that rule 325(1) of the NGR already provides the intended effect of the proposed addition to rule 324(4) of the NGR. The Commission will therefore not include the addition to rule 324(4) in the final rule.

4.4 Conclusions

Taking into consideration feedback provided by stakeholders through bilateral meetings and analysis carried out by the AEMC, the Commission has made a final rule to incorporate producers in the maintenance planning coordination process detailed in rules 324 and 326 of the NGR.

This will be achieved through the inclusion of producers in the new definition 'DWGM facility operators' to which the maintenance coordination process and AEMO's powers of direction will be applied. This definition change is explained in further detail in chapter 5.

The Commission also recommends that AEMO clarify the different processes for approving 'planned' versus 'unplanned' maintenance during the review process to align the Procedures with the final rule.

5 DEFINITION INCONSISTENCIES AND NEW DEFINITIONS

5.1 AEMO's view

5.1.1 Definition inconsistencies

AEMO indicated in the rule change request that the difference in the definitions of 'producer' and 'storage provider' in the NGL and the definitions for 'Producer' and 'Storage Provider' in Part 19 of the NGR creates an inconsistency of meaning between the Law and the Rules. The terms are also inconsistent in their formatted capitalisation. AEMO's proposed rule would remove the definitions in Part 19 of the NGR so that NGL definitions apply, removing the source of discrepancy between the Rules and the Law. According to AEMO, removing the inconsistencies would have the benefit of clarifying and simplifying the NGR.⁴⁰

5.1.2 New definition

AEMO also proposed to introduce the new definition of 'DWGM facility operators' encompassing producers, storage providers and service providers. The proposed definition aimed at simplifying the Rules by replacing the need to list the various facility types in all relevant Rules with one defined term.⁴¹

5.2 Stakeholder views

5.2.1 Definition inconsistencies

Stakeholders were generally supportive of clarifying and removing duplication from the National Gas Rules.⁴²

However, as previously articulated in section 4.2 section 4.2 APA and Jemena were wary of the unintended consequences that could arise from removing NGR definitions and using NGL definitions instead.⁴³ By removing the jurisdictional limitation on the definitions that is provided for in rule 200 of the NGR, the proposed rule change could be interpreted as extending AEMO's powers to issue directions beyond the Victorian DWGM.

5.2.2 New definition

APA and Jemena expressed concern that the rules did not appear to clearly limit the definition of 'DWGM facility operator' to Victoria.

APA, for example, highlighted that by virtue of being part of the National Gas Law, the NGL definitions of producer, storage provider and service provider apply nationally.⁴⁴ The proposed rule creates a new definition, 'DWGM facility operators', which then incorporates these national definitions in Part 19 of the NGR. According to APA, by drawing on national NGL

40 AEMO, *DWGM maintenance planning*, rule change request, 30 June 2020, p. 5.

41 Ibid.

42 Submissions to consultation paper: AGL, p. 1; Jemena, p. 1; APA Group, p. 1.

43 Submissions to consultation paper: APA Group, p. 1; Jemena, p. 1.

44 APA Group, *submission to consultation paper*, 19 November 2020, p. 1.

definitions, rules that refer to 'DWGM facility operators' could be interpreted as applying to gas infrastructure throughout Australia. The unintended consequence would be to broaden AEMO's maintenance coordination and direction powers beyond the Victorian DWGM and Declared Transmission System (DTS).⁴⁵

APA then proposed a drafting change to the definition of 'DWGM facility operators' to align the intention of the rule change to the geographical boundaries of a DTS as declared in respective jurisdictional gas law provisions.⁴⁶ APA's proposed amendment would define 'DWGM facility operators' as '*declared transmission system service provider and service providers, producers and storage providers whose facilities are directly connected to the declared transmission system*'.

This would reconfirm APA's current practice of collaboration with AEMO to coordinate maintenance planning and minimise threats to system security in the Victorian DWGM, whilst protecting APA's ability to optimise maintenance planning of infrastructure outside of the bounds of the DWGM and DTS and cater to the needs of its customers throughout the east coast of Australia.

Similarly, Jemena noted that the use of the NGL definition for 'service providers' within the NGR definition 'DWGM facility operator' could have the unintended consequence of expanding obligations on 'interconnected transmission pipeline service providers' to service providers in general, a nationally applicable category.⁴⁷ Jemena asserted that the drafting of the rule change should clarify 'DWGM facility operator' would only incorporate service providers for a transmission pipeline that is connected to the declared transmission system under Part 19 of the NGR.

5.2.3

Other issues

Gas transparency measures

AGL indicated that the proposed DWGM rule change would not achieve consistency between the NGR and NGL, unless it was expanded to include the new participant category definitions that are to be introduced by the National Federation Reform Council's (formerly the COAG Energy Council) gas transparency measures.⁴⁸

The new measures will introduce the participant categories of 'LNG service provider' and 'LNG supplier' in the NGL, and the definitions of 'LNG import facility' and 'LNG processing facility' in the Natural Gas Services Bulletin Board provisions in Part 18 of the NGR.⁴⁹

According to AGL, an exclusion of these definitions would require AEMO to issue LNG import facilities with separate directions to cancel, delay or suspend maintenance, as is currently required for producers.

⁴⁵ APA Group, *submission to consultation paper*, 19 November 2020, p. 2.

⁴⁶ Ibid.

⁴⁷ Jemena, *submission to consultation paper*, 19 November 2020, p. 1.

⁴⁸ AGL, *submission to consultation paper*, 19 November 2020, p. 1.

⁴⁹ National Federation Reform Council (formerly the COAG Energy Council), *Measures to Improve Transparency in the Gas Market – Decision*, 24 March 2020.

5.3

Analysis

5.3.1

Definition inconsistencies

There are currently three different sets of definitions for categories of participants that could be incorporated in the new definition 'DWGM facility operators'.

At present, Part 1 of the NGL provides the following definitions:

producer means a person who carries on a business of producing natural gas;

storage provider means any person who owns, operates or controls a facility for storing natural gas or processable gas for injection into a pipeline.

Rule 200 in Part 19 of the NGR provides the following definitions:

Producer means a producer whose gas production facility is connected to the declared transmission system.

Storage Provider means a person who owns or operates a storage facility.

Rule 135A in Part 15A of the NGR sets out the registrable capacities under which a party can participate in the declared wholesale gas market of an adoptive jurisdiction and states the following:

declared transmission system service provider: The service provider for the declared transmission system.

interconnected transmission pipeline service provider: A service provider for a transmission pipeline that is connected to the declared transmission system.

Producer: A producer that injects natural gas into the declared transmission system.

Storage provider: A storage provider whose storage facility is connected to the declared transmission system.

AEMO's proposed rule would remove the definitions of 'Producers' and 'Storage Provider' from Part 19 of the NGR and instead refer to those terms as defined in the NGL with the intent of removing the inconsistencies that currently exist between the NGR and the NGL.

However, given the possibility of the unintended consequences elaborated in the following section, the Commission does not support this approach. Instead, the Commission determined that a clearer approach is to align the definitions in rule 200 of the NGR with the registration categories in rule 135A of the NGR. For example, by amending the definition of 'Producer' in rule 200 to read:

Producer means a person that injects natural gas into the declared transmission system.

This will have a similar effect as the proposed rule, whilst avoiding the unintended consequence of possibly expanding AEMO's powers to coordinate maintenance planning beyond the DWGM.

5.3.2

New definition

Presently, rule 200 of the NGR is contained within Part 19 of the NGR, which applies exclusively to the DWGM. The definitions of 'Storage Provider', 'Producer', 'declared transmission system service provider' and 'interconnected transmission pipeline service provider' in rule 200 of the NGR can therefore only be interpreted as referring to those participants that are registered to operate in the DWGM.

AEMO proposed to introduce the new definition 'DWGM facility operator' in rule 200 as a collective category capturing all asset operators required to cooperate over the coordination of maintenance planning in the DWGM. This would remove the need for each type of asset operator to be listed separately on each occasion in the new rules.

However, stakeholders argued that the lack of explicit reference to 'Victoria' could mean that a very broad interpretation of the new definition could be possible. For example, the South West Queensland Pipeline or Moomba gas processing and storage facility both fall under the definitions of 'service provider' and 'producer' in Sections 2 and 8 of the NGL, which AEMO's proposed new definition of 'DWGM facility operator' would draw upon.⁵⁰ This could be interpreted as giving AEMO powers to direct maintenance in jurisdictions outside of Victoria.

AEMO clarified in bilateral meetings that the intended scope of the rule change is restricted exclusively to the Victorian DWGM. Despite this, the AEMC decided to provide further clarity and avoid any doubt by changing the new definition, to ensure it is contained within the NGR, and does not refer to the NGL. This will be achieved by:

1. Introducing the definition 'DWGM facility operator' as a collective term for asset operators in the DWGM in order to capture all parties with the same requirements to share information with AEMO to be used in the coordination of maintenance planning.
2. Aligning the definition 'DWGM facility operator' with the participant categories in rule 135A of the NGR. As explained above, the definitions in rule 200 of the NGR that refer to the same participant categories contained in rule 135A of the NGR will be amended if they are not already the same.

5.3.3

Other issues

Gas transparency measures

AGL highlighted in its submission that the registration of LNG import terminals is currently not possible as there are no existing NGR categories that appropriately capture the proposed facilities.⁵¹

⁵⁰ APA Group, *submission to consultation paper*, 19 November 2020, p. 2.

⁵¹ AGL, *submission to consultation paper*, 19 November 2020, p. 1.

The Commission agrees that Part 19 of the NGR will require further amendments to incorporate LNG processing facilities in the maintenance planning coordination of the DWGM.

However, the National Federation Reform Council's gas transparency measures have not yet passed into law. The categories proposed by the gas transparency measures will only become available once the measures have been passed through the South Australian Parliament. After that, a specific rule change request will be necessary in order to add these categories to Part 19 of the NGR.

Nevertheless, AEMO has indicated the definition 'storage provider' will apply on an interim basis, in case registration is required before the necessary law changes and rule changes are in place.

BOX 2: GAS TRANSPARENCY MEASURES

In March 2020, the National Federation Reform Council (formerly the COAG Energy Council) endorsed the Regulatory Impact Statement (RIS) on measures to improve transparency in the gas market. The RIS focused on addressing information gaps and asymmetries relating to gas and infrastructure prices, supply and availability of gas, gas demand, and infrastructure used to supply gas to end-markets.

Amendments to the NGL, existing regulations that apply to the gas markets and the NGR were considered by the National Federation Reform Council in mid-2020. This process commenced in December 2018 in response to a range of information gaps and asymmetries across the eastern and northern Australian gas markets identified in reports by the AEMC, Australian Competition and Consumer Commission (ACCC), and Gas Market Reform Group (GMRG).

Formal consultation on draft rules began on 19 November 2020, with submissions due by 17 December 2020.

Despite the fact that there are no set deadlines for the new law and rules to be approved by the South Australian Parliament, the Commission understand that there are expectations that the new reporting obligations could start as soon as 2021.

Source: See <http://www.coagenergycouncil.gov.au/publications/measures-improve-transparency-gas-market-consultation>

Other differences between proposed and final rule

In AEMO's proposed rule, rules 216(4)(b) and (c) of the NGR regarding 'Failure to conform to scheduling instructions' also replaced the references to 'Producer, Storage Provider, or interconnected transmission pipeline service provider' with 'DWGM facility operator'.

However, as the proposed definition of 'DWGM facility operator' captures Producers, Storage Providers, interconnected transmission pipeline service providers *and* the declared transmission system service provider, this would have the effect of bringing these obligations to bear on the declared transmission system service provider, where these obligations do not exist under current arrangements.

The Commission consulted with AEMO to confirm that it was not the intent of the rule change to extend these obligations to the declared transmission system service provider. Therefore, the Commission has not included amendments to rule 216 in the final rule.

5.4

Conclusion

Taking into consideration feedback provided by stakeholders through submissions, the Commission has made a final rule to introduce the definition 'DWGM facility operator' in the NGR and to align the definitions of 'Producer' and 'Storage Provider' in rule 200 with the registration categories in rule 135A of the NGR, noting that the definitions of 'interconnected transmission pipeline service provider' and 'declared transmission system service provider' are already consistent with rule 135A.

The new definition reads:

DWGM facility operator means the declared transmission system service provider, interconnected transmission pipeline service provider, Producer and Storage Provider.

This will create a higher level of consistency between the NGR and NGL and, as discussed in the preceding chapter, incorporate producers in the maintenance planning coordination process that currently only applies to storage providers, the declared transmission system service provider and interconnected transmission pipeline service providers.

In addition, the definitions in rule 200 will now read:

Producer means a person that injects natural gas into the declared transmission system.

Storage Provider means a person whose storage facility is connected to the declared transmission system.

ABBREVIATIONS

ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
BB	Natural Gas Services Bulletin Board
Commission	See AEMC
DTS	Declared Transmission System
DWGM	Victorian Declared Wholesale Gas Market
GMRG	Gas Market Reform Group
GWCF	Gas Wholesale Consultative Forum
MEU	Major Energy Users
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
RIS	Regulatory Impact Statement

A LEGAL REQUIREMENTS UNDER THE NGL

This appendix sets out the relevant legal requirements under the NGL for the AEMC to make this final rule determination.

A.1 Final rule 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.

The Commission's reasons for making this final rule determination are set out in section 2.4.

A copy of the final rule is attached to and published with this final rule determination. Its key features are described in section 2.1.

A.2 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 within section 74 of the NGL as it relates to AEMO's declared system functions and the operation of a declared wholesale gas market⁵² and the activities of Registered participants, users, end users and other persons in a regulated gas market.⁵³ Further, the final rule falls within the matters set out in Schedule 1 to the NGL as it relates to AEMO's functions, powers and duties, and the duties and obligations of Registered participants, exempted participants and others, in regard to the operation of a declared transmission system or a regulated gas market.⁵⁴

A.3 Commission's considerations

In assessing the rule change request the Commission considered:

- its powers under the NGL to make the rule
- the rule change request
- submissions received during consultation
- the Commission's analysis as to the ways in which the rule will or is likely to, contribute to the NGL.

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change request.⁵⁵

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of AEMO's

52 Section 74(1)(a)(v) of the NGL.

53 Section 74(1)(a)(vi) of the NGL.

54 Item 55D, Schedule 1 of the NGL.

55 Under section 73 of the NGL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated council is now called the National Federation Reform Council (formerly COAG Energy Council).

declared system functions.⁵⁶ The final rule is compatible with AEMO's declared system functions because it does not affect AEMO's ability to perform its obligations.

A.4 Civil penalties

The Commission cannot create new civil penalty provisions. However, it may recommend to the National Federation Reform Council that new or existing provisions of the NGR be classified as civil penalty provisions.

The final rule does not amend any clauses that are currently classified as civil penalty provisions under the NGL or National Gas (South Australia) Regulations. The Commission does not propose to recommend to the National Federation Reform Council that any of the proposed amendments made by the final rule be classified as civil penalty provisions.

A.5 Conduct provisions

The Commission cannot create new conduct provisions. However, it may recommend to the National Federation Reform Council that new or existing provisions of the NGR be classified as conduct provisions.

The final rule amends:

- rule 324(4) to substitute the reference to 'The declared transmission system service provider, interconnected transmission pipeline service providers, and Storage Providers' with 'DWGM facility operators';
- rules 326(3) and 326(6) to substitute the references to 'service provider' and 'Storage Provider' with 'DWGM facility operator'.

These rules are currently classified as conduct provisions under the NGL or National Gas (South Australia) Regulations. The Commission considers that rules 324(4), 326(3) and 326(6) should continue to be classified as conduct provisions and therefore does not propose to recommend any change to their classification to the National Federation Reform Council.

The Commission does not consider any other provisions of the final rules should be classified as conduct provisions.

⁵⁶ Section 295(4) of the NGL.