

Schedule 1 Transitional Provisions

Part 1 Transitional provisions consequent on initial National Gas Rules

1 Definitions

(1) In this Part:

date of transition means:

- (a) for all jurisdictions except Western Australia - the day on which section 20 of the *National Gas (South Australia) Act 2008 (SA)* comes into operation;
- (b) for Western Australia – the day on which section 30 of the *National Gas Access (WA) Act 2009 (WA)* comes into operation.

former access regime means the legislative scheme consisting of:

- (a) the *Gas Pipelines Access Law*; and
- (b) the *Gas Pipelines Access Regulations*; and
- (c) the *National Third Party Access Code for Natural Gas Pipeline Systems*.

new access regime means the legislative scheme consisting of:

- (a) the *National Gas Law*; and
- (b) the regulations made for the purposes of the *National Gas Law*; and
- (c) these rules.

transitional access arrangement means an access arrangement:

- (a) that was in force under the former access regime immediately before the date of transition and continues in force:
 - (i) as a full access arrangement under clause 26 of Schedule 3 to the NGL; or
 - (ii) as a limited access arrangement under clause 27 of Schedule 3 to the NGL; or
 - (iii) subject to revisions made in accordance with the Gas Code under clause 29 of Schedule 3 to the NGL; or
- (b) that takes effect as a full access arrangement under clause 28 of Schedule 3 to the NGL or as a limited access arrangement under clause 32 of Schedule 3 to the NGL.

transitional access arrangement period means the access arrangement period for which a transitional access arrangement remains transitional – See subclause (2).

- (2) A transitional access arrangement remains transitional:
 - (a) for an access arrangement period that commences before and ends after the date of transition; and
 - (b) if the access arrangement is made or revised after the date of transition in accordance with the provisions of the Gas Code under Schedule 3 to the NGL – for the whole of the ensuing access arrangement period.

2 Effect to be given to transitional access arrangement under the rules

Subject to this Schedule, the rules are to be read subject to such adaptations and modifications as are necessary to give full effect to a transitional access arrangement under the rules.

3 Facilitation of transition from the former access regime to the new access regime

- (1) The following provisions are intended to facilitate the transition from the former access regime to the new access regime.
- (2) An agreement by the Relevant Regulator under section 8.21 of the Gas Code that actual or forecast new facilities investment meets or will meet the requirements of section 8.16(a) of the Gas Code will be taken to be:
 - (a) in the case of actual capital expenditure – a decision by the AER under rule 79 to the effect that the capital expenditure conforms with the new capital expenditure criteria; and
 - (b) in the case of forecast capital expenditure – a determination by the AER under rule 80 that, if the capital expenditure is made in accordance with the conditions of the agreement, it will meet the new capital expenditure criteria.
- (3) An application that remained undecided on the date of transition for the Relevant Regulator's agreement under section 8.21 of the Gas Code that forecast new facilities investment will meet the requirements of section 8.16(a) of the Gas Code becomes, on the date of transition, an application for a determination by the AER under rule 80 that the forecast capital expenditure will meet the new capital expenditure criteria.
- (4) A discount permitted by the Relevant Regulator under section 8.43 of the Gas Code will be taken to be a discount approved by the AER under rule 96.

- (5) An application that remained undecided on the date of transition for the Relevant Regulator's permission for a discount under section 8.43 of the Gas Code becomes, on the date of transition, an application for the AER's approval of a discount under rule 96.
- (6) A surcharge approved by the Relevant Regulator under section 8.25 of the Gas Code will be taken to be a surcharge approved by the AER under rule 83.
- (7) An application that remained undecided on the date of transition for the Relevant Regulator's approval of a surcharge becomes, on the date of transition, an application for the AER's approval of a surcharge under rule 83.
- (8) If:
 - (a) a proposal for variations to a reference tariff had been put, before the date of transition, to the Relevant Regulator under section 8.3B of the Gas Code; but
 - (b) the Relevant Regulator had not allowed, disallowed or specified a variation to the reference tariff under section 8.3D or 8.3E of the Gas Code,the Relevant Regulator must decide the matter under the Gas Code.
- (9) A date designated in a transitional access arrangement as a revisions submission date (including such a date extended under section 7.19 of the Gas Code) will be taken to be a review submission date for the purposes of the rules and a date designated in a transitional access arrangement as a revisions commencement date will be taken to be a revision commencement date for the purposes of the rules.
- (10) An event specified in a transitional access arrangement under section 3.17(ii) of the Gas Code as an event that triggers an obligation to submit revisions to the access arrangement prior to the revisions submission date will be taken to be a trigger event for the purposes of rule 51.
- (11) Access arrangement information submitted under the Gas Code (including access arrangement information amended under the Gas Code) will be taken to be access arrangement information for the purposes of the rules.
- (12) A speculative investment fund established under section 8.19 of the Gas Code will be taken to be a speculative capital expenditure account under rule 84.
- (13) A mechanism included in a transitional access arrangement under section 8.27 of the Gas Code for removing redundant capital from the capital base for a covered pipeline will be taken to be a corresponding mechanism under rule 85 for ensuring that assets that cease to contribute in any way to the delivery of services (redundant assets) are not reflected in the capital base.
- (14) If total revenue is calculated for the purposes of a transitional access arrangement under sections 8.4 and 8.9 of the Gas Code in accordance with the IRR or NPV methodology as described in those sections, the opening capital base for the first

access arrangement period to follow the transitional access arrangement period will be based on the value of the capital base at the end of the transitional access arrangement period arrived at in accordance with that calculation.

- (15) A transitional access arrangement approved or made in accordance with section 3.34 of the Gas Code will, from the date of transition, be taken to be CTP access arrangement for the purposes of the rules and a date designated in such an access arrangement as a revisions commencement date will be taken to be an expiry date for the purposes of the rules.
- (16) A service provider who was, immediately before the date of transition, required to maintain a public register by or under section 5.9 of the Gas Code is taken to have been required by the AER, on the date of transition, to maintain a public register of spare capacity under rule 111.
- (17) For the avoidance of doubt:
 - (a) subclauses (9), (10) and (11) are not intended to apply to a transitional access arrangement that is being revised under clause 29 of Schedule 3 to the NGL; and
 - (b) the clause is not intended to affect in any other way the operation of clause 28(2) or 29(2) of Schedule 3 to the NGL.

4 Displacement of certain provisions of the Gas Code during transitional period

Despite the continued operation of certain provisions of the Gas Code under clause 30 of Schedule 3 to the NGL, the following rules operate to exclude the application to a transitional access arrangement of corresponding provisions of the Gas Code:

- (a) rule 80;
- (b) rule 83;
- (c) rule 96.

5 Access arrangement revision proposal for transitional access arrangement

- (1) In deciding whether to approve an access arrangement revision proposal for a transitional access arrangement, or in making its own proposal for revision of a transitional access arrangement under rule 63 or 64, the AER must:
 - (a) take into account the operation of an incentive mechanism approved for the transitional access arrangement under section 8.44 of the Gas Code and ensure, in particular, that revenue calculations made for the next access arrangement period properly reflect increments or decrements resulting from the operation of the incentive mechanism; and

- (b) take into account (subject to rule 99(4)(b)) any provisions of the transitional access arrangement that were fixed principles under section 8.47 of the Gas Code and the period for which they were fixed; and
 - (c) if a period has been specified in the transitional access arrangement for the purpose – take into account the difference between projected and actual capital expenditure for the relevant period to the extent necessary to ensure an accurate roll forward of the capital base from the period of the transitional access arrangement to the commencement of the new access arrangement period; and
 - (d) take into account the set of depreciation schedules that constitute the Depreciation Schedule for the transitional access arrangement under section 8.32 of the Gas Code.
- (2) For the avoidance of doubt, this clause is not intended to affect in any way the operation of clause 29(2) of Schedule 3 to the NGL.

6 Fixed principle in access arrangement for Dampier to Bunbury Natural Gas Pipeline

Rule 99(4)(b) does not apply to the fixed principle referred to in clause 7.13(a)(ii) of the Revised Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline dated 21 November 2006.

7 Additional criteria related to capital expenditure for WA transmission pipelines

- (1) In this clause:

relevant access arrangement means a transitional access arrangement for a WA transmission pipeline or an access arrangement for a WA transmission pipeline that was formerly a transitional access arrangement.

relevant decision means a decision relevant to whether the AER should approve, or give effect to, a relevant proposal.

relevant proposal means:

- (a) an access arrangement revision proposal for revision of a relevant access arrangement for the first or second access arrangement period to commence after the date of transition; or
- (b) a proposal by the AER under rule 63 or 64 for revision of a relevant access arrangement for the first or second access arrangement period to commence after the date of transition; or
- (c) a relevant transitional application for a determination under rule 80 to the effect that proposed capital expenditure will meet the new capital expenditure criteria.

relevant transitional application means an application by the service provider for a WA transmission pipeline made during the access arrangement period for which the access arrangement remains transitional or the ensuing access arrangement period.

WA transmission pipeline means a transmission pipeline within Western Australia.

- (2) In making a relevant decision under rule 79(3) on whether the overall economic value of capital expenditure is positive, the AER must consider not only economic value directly accruing to the service provider, gas producers, users and end users (as required by rule 79(3)) but also material economic value that is likely to accrue directly to electricity market participants and end users of electricity from additional gas fired generation capacity.

8 Access arrangement variation proposal raising previously settled issues

If:

- (a) a service provider submits an access arrangement variation proposal in relation to a transitional access arrangement; and
- (b) it appears to the AER that the proposal raises again an issue previously decided under the Gas Code,

the AER must reject the proposal unless satisfied that changes of circumstance occurring since the issue was decided under the Gas Code justify reconsideration of provisions of the access arrangement affected by the previous decision.

Part 2 Transitional provisions consequent on Australian Energy Market Operator Amendments

9 Review of operation of clause 10

- (1) The NSW Minister must have periodic reviews of the operation of clause 10 carried out.
- (2) The reviews are to be carried out:
 - (a) in the case of the first review – within 5 years after the commencement of the Procedures governing the NSW/ACT retail gas market; and
 - (b) in the case of a later review – within one year after the conclusion of the previous review.
- (3) The reviews will be designed to ascertain whether clause 10 continues to be required to ensure:

- (a) that the provision of services to participants in the NSW/ACT retail gas market is efficient and cost-effective; and
- (b) that service providers are able to recoup material costs of performing obligations under the rules or the Procedures related to the NSW/ACT retail gas market.

Note:

A finding that clause 10 is no longer necessary to ensure the above objectives is described below as a positive finding.

- (4) The NSW Minister must:
 - (a) publish the results of each review in the NSW Government Gazette;
 - (b) give a copy of the results of each review to AEMO for publication on AEMO's website.
- (5) If a review results in a positive finding:
 - (a) no further review is required under this clause; and
 - (b) the NSW Minister must make an order fixing a date for the expiry of this clause and clause 10.
- (6) This clause will expire on the date fixed for its expiry under subrule (5).
- (7) The NSW Minister must consult with AEMO and the ACT Minister on the conduct of reviews, and the exercise of Ministerial powers, under this clause.

10 Obligations imposing additional costs on service providers in NSW/ACT

- (1) This clause applies to new Procedures governing the operation of the NSW/ACT retail gas market if AEMO is satisfied on the application of a service provider that:
 - (a) the new Procedures add to, or otherwise change, the service provider's obligations; and
 - (b) the changes would (apart from this clause) increase the service provider's material costs of participation in the relevant market; and
 - (c) the service provider is not able to recoup the increase under the existing regulatory framework.
- (2) An application cannot be made more than 20 business days after the date fixed for the commencement of the new Procedures.

- (3) The Procedures governing the operation of the NSW/ACT retail gas market continue to apply to the applicant service provider as if the new Procedures had not been made until:
 - (a) the regulatory framework is changed to allow for recovery of the increased costs by the service provider; or
 - (b) AEMO takes other steps that have the effect of relieving the service provider from the obligation to incur the increase in costs.
- (4) In this clause:

new Procedures means Procedures governing the operation of the NSW/ACT retail gas market made after the first such Procedures are made under section 294A of the NGL.
- (5) On the day on which clause 9 expires, this clause also expires.

11 Presumptive exemption from registration

- (1) An exemption from registration is taken to have been granted on the relevant changeover date under rule 135AG(1)(b) in favour of the following participants in the NSW/ACT retail gas market:
 - (a) a person who holds a supplier's authorisation but does not supply gas by means of a designated distribution pipeline;
 - (b) a person who holds a reticulator's authorisation but not in respect of a designated distribution pipeline;
 - (c) a supplier of gas by means of a distribution pipeline specified in the reticulator's authorisation held by the Albury Gas Co;
 - (d) the Albury Gas Co;
 - (e) a person that holds a licence, approval or authorisation under the *Utilities Act 2000* of the Australian Capital Territory corresponding to a supplier's authorisation but does not supply gas.
- (2) An exemption from registration as a participant in the Victorian retail gas market is taken to have been granted on the relevant changeover date under rule 135AG(1)(b) in favour of the service provider for the distribution pipeline that serves Mildura and its environs.
- (3) An exemption under this clause is subject to revocation in the same way as if granted by AEMO on the changeover date.
- (4) In this clause:

Albury Gas Co means The Albury Gas Co Limited (ACN 000 001 249).

designated distribution pipeline means a pipeline to which a reticulator's authorisation held by any of the following relates:

- (a) ACTEW/AGL Distribution (a partnership between Actew Distribution Limited (ACN 073 025 224) and AGL Gas Company (ACT) Pty Ltd);
- (b) AGL Gas Networks Limited (ACN 003 004 322);
- (c) the Albury Gas Co;
- (d) Country Energy Gas Pty Ltd (ACN 083 199 839);
- (e) Central Ranges Pipeline Pty Ltd (ACN 108 218 355).

reticulator's authorisation means a reticulator's authorisation under the *Gas Supply Act 1996* (NSW).

supplier's authorisation means a supplier's authorisation under the *Gas Supply Act 1996* (NSW).

12 Examination and assessment of proposals for the making of Procedures

- (1) AEMO is not required to comply with the approved process for examining, assessing, and reporting on, a proposal for the making of Procedures if the proposal is made within 6 months of the first changeover date.
- (2) However, in examining, assessing, and reporting on such a proposal, AEMO must act as AEMO considers reasonable and appropriate having regard (where applicable) to procedures for regulatory change that were observed before the changeover date.
- (3) In this clause:

approved process means the process contemplated by rule 135EC for examining and assessing a proposal for the making of Procedures and the preparation of an impact and implementation report.

Part 3 Transitional provisions consequent on short term trading market amendments

13 Definitions

- (1) Terms defined in rule 364 have the same meanings when used in this Part.
- (2) In this Part:

Brisbane hub commencement date means:

- (a) the date specified by the Queensland Government in a notice published in the Queensland Government Gazette; or
- (b) a later date determined and published by AEMO not less than 20 business days before the Brisbane hub commencement date in effect immediately prior to that determination, after consultation with persons AEMO considers would be materially affected by the determination.

Brisbane hub market trial means a market trial conducted by AEMO at the Brisbane hub prior to the Brisbane hub commencement date.

effective date means the date on which Part 20 of the rules comes into effect.

first Brisbane hub financial year means the period from the first Brisbane hub gas day to the next 30 June.

first Brisbane hub gas day means the gas day commencing on the Brisbane hub commencement date.

first financial year means the period from the first STTM gas day to the next 30 June.

first STTM gas day means the gas day commencing on the STTM commencement date.

market trial means the short term trading market trial conducted by AEMO prior to the STTM commencement date.

Queensland effective date means the date on which Queensland becomes an adoptive jurisdiction in respect of AEMO's STTM functions.

14 **Registration of participants and allocation agents in a short term trading market through market trial process**

- (1) If a person to whom rule 135ABA(2) applies:
 - (a) was registered by AEMO for the purposes of the market trial in a registrable capacity; and
 - (b) remained registered in that registrable capacity immediately before the effective date; and
 - (c) provides evidence satisfactory to AEMO that it complies with the applicable requirements of rule 135AC(f) and (if applicable) rule 373 no later than 10 business days before the STTM commencement date,

that person is not required to apply for registration in that registrable capacity after the effective date, and is taken to be registered by AEMO in that registrable capacity under Division 1 of Part 15A with effect from the date on which AEMO confirms that person's compliance with paragraph (c).

- (2) If a person was registered by AEMO as an allocation agent for the purposes of the market trial and remained so registered immediately before the effective date, that person is taken to be registered by AEMO as an allocation agent under rule 389.
- (3) A person who is taken to be registered in a registrable capacity under subclause (1) or as an allocation agent under subclause (2) must notify AEMO of any changes to the details that were registered for the purposes of the market trial as soon as the person becomes aware that those details are incorrect.

15 Registration of STTM information through market trial process

- (1) This clause applies to:
 - (a) an STTM facility operator who has provided the information contemplated in rule 376(1) to AEMO for the purposes of the market trial; and
 - (b) an STTM distributor who has provided the information contemplated in rule 376(2) to AEMO for the purposes of the market trial; and
 - (c) a contract holder who has provided the information contemplated in rule 380, 384 or 385 to AEMO for the purposes of the market trial.
- (2) A person to whom this clause applies is not required to comply with an obligation to provide information to AEMO after the effective date under rule 376(1), 376(2), 380, 384 or 385 to the extent that:
 - (a) AEMO has registered that information for the purposes of the market trial; and
 - (b) any confirmation of the information required by these rules, or that would have been required had that information been provided after the effective date, has been provided to AEMO; and
 - (c) the information registered by AEMO is correct.

16 Gas days to which Part 20 applies

- (1) Unless otherwise specified in this Part, the first STTM gas day is the first gas day in respect of which an obligation under Part 20 of the rules applies.
- (2) Where a provision of Part 20 requires a thing to be done in respect of the first STTM gas day or any subsequent gas day, that thing must be done in accordance with the relevant provision, even if the gas day on which it is done occurs before the first STTM gas day.

Example

Submissions under rule 410 in respect of the first STTM gas day must be made on and from the gas day that is 3 gas days before the first STTM gas day.

17 First billing period

The first billing period commences on the first STTM gas day and ends at the end of the gas day commencing on the last day of the calendar month in which the first STTM gas day occurs.

18 Market Operator Service

- (1) For the MOS period beginning on the first STTM gas day, rules 397, 398 and 401 apply with the following modifications:
 - (a) AEMO must publish its estimate under rule 397(1) no later than 20 business days before the start of that MOS period; and
 - (b) AEMO may publish updated estimates under rule 397(2) at any time up to 20 business days before the start of that MOS period; and
 - (c) AEMO must publish a notice under rule 398(1) no later than 20 business days before the start of that MOS period; and
 - (d) for the purposes of rule 398(2)(b), the date specified by AEMO must be no later than 10 business days before the start of that MOS period; and
 - (e) AEMO must publish the MOS stack and make information available to STTM pipeline operators under rule 401(2) no later than 5 business days before the commencement of that MOS period.
- (2) An estimate or notice published by AEMO before the commencement of Part 20 of the rules that:
 - (a) is expressed to apply to the MOS period beginning on the first STTM gas day; and
 - (b) complies with the requirements of rule 397 or rule 398 as modified by subclause (1),

is taken to have been published under subclause (1).

19 Ex ante offers, ex ante bids and price taker bids

- (1) An ex ante offer, ex ante bid or price taker bid that:
 - (a) is submitted by a Trading Participant during the market trial but before the effective date; and
 - (b) is for the first STTM gas day or a subsequent gas day; and
 - (c) would have complied with the applicable requirements of rule 406 had it been submitted after the effective date,

is taken to have been submitted under rule 410, and will be a valid ex ante offer, ex ante bid or price taker bid (as applicable) for that gas day.

- (2) A multiple-day offer or bid that:
 - (a) is submitted by a Trading Participant during the market trial but before the effective date; and
 - (b) includes an ex ante offer or ex ante bid for the first STTM gas day or a subsequent gas day; and
 - (c) would have complied with rule 412 had it been submitted after the effective date,

is taken to have been submitted under rule 412, and will be a valid ex ante offer or ex ante bid for those gas days.

20 Allocations

- (1) An allocation agent for an STTM facility must provide the first allocation notice to AEMO under rule 419(1) on the gas day after the first STTM gas day (in respect of the first STTM gas day).
- (2) An allocation agent for a registered facility service must provide the first allocation notice to AEMO under rule 420(2) on the gas day after the first STTM gas day (in respect of the first STTM gas day).
- (3) An allocation agent for an STTM pipeline must provide the first MOS step allocation to AEMO under rule 421(7) on the gas day after the first STTM gas day (in respect of the first STTM gas day).
- (4) AEMO must determine the first STTM distribution system allocation under rule 422(1) on the gas day after the first STTM gas day (in respect of the first STTM gas day).

21 MOS allocation service costs

- (1) An STTM pipeline operator must give AEMO its estimate for MOS allocation service costs:
 - (a) for the period before the STTM commencement date; and
 - (b) for the period from the STTM commencement date to 30 June 2011,
no later than the STTM commencement date.
- (2) An estimate given in accordance with subrule (1) is taken to be an estimate given by the STTM pipeline operator under rule 424(1).

- (3) An STTM pipeline operator must not issue a tax invoice under rule 424(4) before 1 July 2011.
- (4) Any tax invoice issued by an STTM pipeline operator under rule 424(4) in respect of the financial year ending on 30 June 2011 may also include MOS allocation service costs incurred in the financial year ending on 30 June 2010, whether before or after the STTM commencement date.

22 Ex post imbalance price

AEMO must publish the first ex post imbalance price under rule 426(1) on the gas day after the first STTM gas day (in respect of the first STTM gas day).

23 Contingency gas trigger event

A person is not required to comply with Division 8, Subdivision 2 unless a contingency gas trigger event is expected to affect the first STTM gas day or any subsequent gas day.

24 Participant compensation fund

For the purposes of rule 452, the funding requirement for a participant compensation fund does not apply for a financial year prior to the financial year ending on 30 June 2011.

25 Amount of security

For the purposes of rule 480(1) in respect of the first financial year, AEMO must, no later than 15 business days before the first STTM gas day, determine and provide written confirmation to each Trading Participant of that Trading Participant's minimum exposure, calculated as AEMO's reasonable estimate of the participant fees payable by the Trading Participant to AEMO in respect of a billing period in the first financial year.

26 Matched allocation agreements

- (1) In this clause 26, "Amending Rule commencement date" means the date the National Gas Amendment (Matched allocation process in the STTM) Rule 2015 commences operation.
- (2) Any matched allocation agreement that is registered with AEMO immediately prior to the Amending Rule commencement date is deemed to have been registered by AEMO under rule 500A.

27 [Deleted]

28 Consultation and publication before the effective date

- (1) If a provision of these rules requires AEMO to consult on any matter with, or make available any thing to, all or any of:
 - (a) Registered participants, where the matter or thing relates solely to the STTM;
 - (b) Trading Participants;
 - (c) STTM facility operators;
 - (d) STTM distributors;
 - (e) allocation agents,

AEMO is taken to have complied with that requirement if it has, before the effective date, consulted on that matter with, or made that thing available to, persons who AEMO considers are likely to be Trading Participants, STTM facility operators, STTM distributors or allocation agents (as applicable) on or shortly after the STTM commencement date.

- (2) If AEMO has, before the effective date, published any thing that is required to be published under a provision of these rules, AEMO is taken to have published that thing in accordance with the relevant provision of these rules.

29 Commencement of STTM at Brisbane hub

- (1) The STTM will operate at the Brisbane hub on and from the Brisbane hub commencement date.
- (2) Unless otherwise specified in this clause, the first Brisbane hub gas day is the first gas day in respect of which an obligation under Part 20 of the rules applies in respect of the Brisbane hub.
- (3) Clauses 16(2), 17, 18, 20, 22, 23 and 25 apply in respect of the Brisbane hub as if:
 - (a) references to the STTM commencement date were to the Brisbane hub commencement date; and
 - (b) references to the effective date were to the Queensland effective date; and
 - (c) references to the first STTM gas day were to the first Brisbane hub gas day; and
 - (d) references to the first financial year were to the first Brisbane hub financial year; and
 - (e) references to the market trial were to the Brisbane hub market trial.

- (4) For the purposes of rule 424(1), an STTM pipeline operator that wishes to recover its MOS allocation service costs in respect of the Brisbane hub for the first Brisbane hub financial year must give AEMO an estimate of those costs no later than the Brisbane hub commencement date.
- (5) Any estimate or tax invoice issued by an STTM pipeline operator under rules 424(1) or 424(4) in respect of the first Brisbane hub financial year may also include MOS allocation service costs incurred in respect of the Brisbane hub before the Brisbane hub commencement date.
- (6) For the purposes of rule 452, the funding requirement for the participant compensation fund at the Brisbane hub does not apply for the first Brisbane hub financial year if the first Brisbane hub financial year is less than 6 months.

Part 4 Transitional provisions consequent on the National Gas Amendment (Short Term Trading Market - Market Schedule Variation) Rule 2011

30 Definitions

- (1) Terms defined in rule 364 have the same meaning when used in this Part.
- (2) In this Part:

commencement date means the 13 October 2011.

new rules 423(1), 423(5)(b)(i) and 423(6) mean rules 423(1), 423(5)(b)(i) and 423(6) of the rules after the commencement date.

old rules 423(1), 423(5)(b)(i) and 423(6) means rules 423(1), 423(5)(b)(i) and 423(6) of the rules as in force immediately before the commencement date.

31 Purpose

The purpose of this Part is to enable the efficient and effective transfer of the relevant time periods for the provision and confirmation of proposed market schedule variations from the rules to the STTM Procedures.

32 Time period for the provision of proposed market schedule variations

- (1) From the commencement date to the date on which the STTM Procedures are amended to specify the time periods for the provision and confirmation of proposed market schedule variations:
 - (a) old rules 423(1), 423(5)(b)(i) and 423(6) continue to apply; and
 - (b) new rules 423(1), 423(5)(b)(i) and 423(6) have no effect.

Part 5 **Transitional provisions consequent on the National Gas Amendment (Price and Revenue Regulation of Gas Services) Rule 2012**

33 **Definitions**

In this Part:

next access arrangement revision proposal, for a service provider, means an *access arrangement revision proposal* that is first submitted by that service provider after the commencement of the National Gas Amendment (Price and Revenue Regulation of Gas Services) Rule 2012.

34 **Modification of rule 52(3)**

Rule 52(3) is varied so as to provide that the period for submitting an *access arrangement revision proposal* under rule 52 may be extended by the AER by a period (or aggregate period) of no more than 18 months with respect to the next access arrangement revision proposal that is required to be submitted by the relevant service provider for:

- (1) the Mid-West and South-West Gas Distribution System;
- (2) the Goldfields Gas Pipeline; and
- (3) the ACT, Queanbeyan and Palerang gas distribution network.

35 **Extension of time**

- (1) The AER must exercise its power under rule 52(3) (as modified by clause 34 of this Schedule 1) to extend the period for submitting the next access arrangement revision proposal for the Mid-West and South-West Gas Distribution System to the date that is 3 months after the date the first *rate of return guidelines* are published under rule clause 37 of this Schedule 1.
- (2) The AER must exercise its power under rule 52(3) (as modified by clause 34 of this Schedule 1) to extend the period for submitting the next *access arrangement revision proposal* for the Goldfields Gas Pipeline (including any *access arrangement revision proposal* that is required to be submitted due to the occurrence of a trigger event under rule 51) to the date that is 6 months after the date the first *rate of return guidelines* are published under rule clause 37 of this Schedule 1.
- (3) The AER must exercise its power under rule 52(3) (as modified by clause 34 of this Schedule 1) to extend the period for submitting the next access arrangement revision proposal for the ACT, Queanbeyan and Palerang gas distribution network to 30 June 2015.

36 Modification of rule 92(3)

If a trigger event occurs under the access arrangement for the Goldfields Gas Pipeline before the next access arrangement revision proposal is submitted, then in applying rule 92(3), the "interval of delay" is the period between the date that is 12 months after the date that the *review submission date* advances to, by virtue of the operation of rule 51(1) and that access arrangement, and the date on which revisions to the access arrangement actually commence.

37 Rate of return guidelines

- (1) The AER must make and publish on its website the first *rate of return guidelines* by 29 November 2013.
- (2) By no later than 21 December 2012, the AER must publish on its website a paper that sets out:
 - (a) a schedule setting out the key dates and milestones for the making of the first *rate of return guidelines* by the date specified in paragraph (1); and
 - (b) the specific consultation procedure that the AER will follow in making the first *rate of return guidelines*, which must be consistent with the *rate of return consultative procedure*.

Part 6 Transitional Provisions consequent on the National Gas Amendment (STTM Brisbane Participant Compensation Fund) Rule 2013

38 Commencement of amendments to funding requirements for participant compensation fund for Brisbane hub

- (1) For the purposes of rules 452(4) and (5), the funding requirement, as amended by the National Gas Amendment (STTM Brisbane Participant Compensation Fund) Rule 2013 (**Amending Rule**), is to be used, including for the calculation of the contribution rate, for the financial year commencing 1 July 2013.
- (2) despite the Amending Rule, for the purposes of rule 452(6), from the date the amending Rule commences operation until 1 July 2013, the contribution rate for the purposes of that rule is the contribution rate calculated for the financial year ended 30 June 2013.

Part 7 **Transitional Provisions consequent on the National Gas Amendment (MOS timing and eligibility) Rule 2013**

39 **Definitions**

(1) Unless otherwise specified, terms defined in rule 364 have the same meaning when used in this Part.

(2) In this Part:

commencement date means 1 April 2014.

new rules 396, 397, 398, 401 means rules 396, 397, 398, 401 of the rules after the commencement date.

new MOS period definition means the definition of "MOS period" in rule 364 after the commencement date.

old rules 396, 397, 398, 401 means rules 396, 397, 398, 401 of the rules before the commencement date.

old MOS period definition means the definition of "MOS period" in rule 364 before the commencement date.

40 **Commencement of amendments to MOS timing**

(1) From the commencement date to the end of the gas day on 31 May 2014:

(a) old rule 396 and old MOS period definition continue to apply in respect of a MOS period commencing before the end of the gas day on 31 May 2014; and

(b) new rule 396 and new MOS period definition only have effect in respect of a MOS period commencing after the end of the gas day on 31 May 2014.

(2) From the commencement date to the date on which the STTM Procedures are amended to specify the time periods for the publication and provision of estimates, notices and information for MOS:

(a) old rules 397, 398(2)(b), 401(2) (but not 401(2)(b)) continue to apply;

(b) new rules 397, 398(2)(b) and 401(2) have no effect; and

(c) new rule 398(1) applies as if the reference to "within the time period specified in the STTM Procedures" is a reference to "no later than 40 business days before".

Part 8 Transitional Provisions consequent on the National Gas Amendment (DWGM – AMDQ Allocation) Rule 2016

41 Definitions

(1) Unless otherwise specified, terms defined in rule 200 have the same meaning when used in this Part.

(2) In this Part:

Amending Rule means the National Gas Amendment (DWGM – AMDQ Allocation) Rule 2016.

current access arrangement means an access arrangement applying to the declared transmission system service provider with respect to the declared transmission system and which is in force on 24 March 2016.

effective date means 25 October 2016.

existing DWGM rules means Part 19 as in force immediately prior to the effective date.

old rule 330(6) means rule 330(6) as in force immediately prior to the effective date.

42 AMDQ credit certificate auction procedures

By no later than 30 September 2016, AEMO must make the AMDQ credit certificates auction procedures under rule 329G(5) of the Amending Rule in accordance with Part 15B.

43 AMDQ auction procedures

With effect from the effective date, the AMDQ auction procedures made under old rule 330(6) are taken to be the Authorised MDQ auction procedures made under rule 329F(5) of the Amending Rule.

44 AMDQ credit certificate register

By no later than 30 September 2016, AEMO must prepare the register of AMDQ credit certificates under rule 327A(2) of the Amending Rule.

45 Directions to allocate AMDQ credit certificates before the effective date

A direction by the declared transmission system service provider to AEMO to allocate AMDQ credit certificates under rule 329(4) of the existing DWGM rules that is made after 24 March 2016 but before the effective date will have no force or effect if the period specified for the AMDQ credit certificates is a period that

ends after the revision commencement date specified in the current access arrangement.

46 Existing AMDQ credit certificates

Nothing in the Amending Rule affects the rights associated with AMDQ credit certificates allocated prior to 24 March 2016.

Part 9 Transitional provisions consequent on the National Gas Amendment (Retailer Distributor Credit Support Requirements) Rule 2017 No. 1

47 Definitions

For the purposes of this Part 9:

Amending Rule means the National Gas Amendment (Retailer Distributor Credit Support Requirements) Rule 2017 No. 1.

effective date means 9 February 2017.

new Division 4 of Part 21 means Division 4 of Part 21 of the National Gas Rules and all related definitions in the National Gas Rules as in force immediately before the effective date.

old Division 4 of Part 21 means Division 4 of Part 21 of the National Gas Rules and all related definitions in the National Gas Rules as in force immediately before the effective date.

48 Continued operation of old Division 4 of Part 21

The *credit support* rules in old Division 4 of Part 21 continue to apply to any *credit support* held by a *distributor* immediately before the effective date.

49 Interaction with rule 520

(a) For the purposes of 520(2)(c) of the Amending Rule, *credit support* means where the context requires:

- (1) any *credit support* held by a *distributor* under the old Division 4 of Part 21; and/or
- (2) any *credit support* held by a *distributor* under new Division 4 of Part 21.

50 Application of new Division 4 of Part 21

For the avoidance of doubt, “the previous 12 months” referred to in rule 514(1) of new Division 4 of Part 21 may include months prior to the effective date.

Part 10 Transitional provisions consequent on the National Gas Amendment (Improvements to Natural Gas Bulletin Board) Rule 2017 No 3

51 Definitions

For the purposes of this Part 10:

Amending Rule means the *National Gas Amendment (Improvements to Natural Gas Bulletin Board) Rule 2017 No 3*.

new Part 18 means Part 18 as amended by the Amending Rule.

new BB Procedures means BB Procedures developed and made for the purposes of new Part 18.

52 New BB Procedures

AEMO must in accordance with Part 15B develop and publish the new BB Procedures by 30 April 2018.

Part 11 Transitional provisions regarding cross period smoothing for Jemena Gas Networks

53 Definitions

For the purposes of this Part 11:

2015 access arrangement decision means the decision of the AER, published on 3 June 2015, to approve revisions to the access arrangement in respect of Jemena for the 2015 access arrangement period.

2015 access arrangement period means the *access arrangement period* for the NSW gas distribution network owned by Jemena commencing on 1 July 2015.

adjustment amount means an amount determined by the AER under subclause 56(1) that operates as if it were:

- (a) a revenue increase; or
- (b) a revenue decrease,

to that portion of the total revenue that is allocated to reference services that may be earned by Jemena for the final regulatory year of the 2015 access arrangement period as determined under the remade 2015 access arrangement decision.

adjustment determination means the AER's determination of whether there is, and the relevant amounts of, an adjustment amount and a subsequent adjustment amount.

annual variation notice means the annual variation notice referred to in the remade 2015 access arrangement decision.

Jemena means Jemena Gas Networks (NSW) Limited (ABN 87 003 004 322).

remade 2015 access arrangement decision means the decision of the AER to approve revisions to the access arrangement in respect of Jemena for the 2015 access arrangement period, as remade by the AER following the Tribunal's decision.

revenue recovery principle means the principle that Jemena must be given the ability to recover the same, but no more, revenue (in net present value equivalent terms) as it would have recovered if the remade 2015 access arrangement decision had been in force from the commencement of the 2015 access arrangement period.

subsequent access arrangement decision means the access arrangement decision for Jemena that is made by the AER for the subsequent access arrangement period.

subsequent access arrangement period means the *access arrangement period* for Jemena immediately following the 2015 access arrangement period.

subsequent adjustment amount means an amount determined by the AER under subclause 56(1) that:

- (a) represents a revenue increase (where the adjustment amount is a negative amount) or a revenue decrease (where the adjustment amount is a positive amount) to that portion of the total revenue that is allocated to reference services that may be earned by Jemena in one or more regulatory years of the subsequent access arrangement period; and
- (b) at the time it is applied as an adjustment to that portion of total revenue that is allocated to reference services, is equivalent in net present value terms to the adjustment amount in order to achieve the revenue recovery principle in respect of Jemena.

Tribunal's decision means the decision of the Australian Competition Tribunal dated 26 February 2016 to set aside the 2015 access arrangement decision and remit the matter back to the AER, as varied as a consequence of the outcome of judicial review of that decision.

54 Expiry

- (1) If the AER has not made an adjustment determination on or before 1 March 2019, this Part 11 expires on that date.
- (2) If the AER has made an adjustment determination on or before 1 March 2019, this Part 11 expires on the date that immediately follows the end of the subsequent access arrangement period.

55 Application of Part 11

- (1) This Part 11 applies to Jemena in respect of the NSW gas distribution network owned by Jemena.
- (2) This Part 11 prevails to the extent of any inconsistency with:
 - (a) any other provision of the Rules; and
 - (b) a remade 2015 access arrangement decision.
- (3) Nothing in this Part 11 has the effect of changing the application of the Rules to the making of a remade 2015 access arrangement decision.

56 Adjustment determination

- (1) The AER may determine for Jemena:
 - (a) an adjustment amount; and
 - (b) a subsequent adjustment amount,if the AER is satisfied that the application of the adjustment amount and subsequent adjustment amount under subclause 57(2) and 57(3) respectively would:
 - (c) be reasonably likely to minimise variations in reference tariffs for Jemena between:
 - (i) the fourth and final regulatory year of the 2015 access arrangement period; and
 - (ii) the final regulatory year of the 2015 access arrangement period and the first regulatory year of the subsequent access arrangement period; and
 - (d) achieve the revenue recovery principle in respect of Jemena.

Note

When determining the adjustment amount and the subsequent adjustment amount, the AER must also take into account the national gas objective and may take into account the revenue and pricing principles if the AER considers it appropriate to do so: see *National Gas Law*, s 28(1)(a) and s 28(2)(b).

57 Recovery of revenue

- (1) This clause 57 applies to Jemena if the AER has made a determination of an adjustment amount and subsequent adjustment amount under clause 56.

- (2) Jemena must submit an annual variation notice for the final regulatory year of the 2015 access arrangement period in accordance with the remade 2015 access arrangement decision.
- (3) Subject to this clause 57, the annual variation notice is to be assessed in accordance with the procedure specified in the remade 2015 access arrangement decision.
- (4) The AER must approve the reference tariffs specified in the annual variation notice if they are compliant with the reference tariff variation mechanism specified in the remade 2015 access arrangement decision, subject to adjustments to provide for the recovery of:
 - (a) where the applicable adjustment amount operates as if it were a revenue increase:
 - (i) the portion of total revenue allocated to reference services for the final regulatory year under the remade 2015 access arrangement decision; plus
 - (ii) the adjustment amount; or
 - (b) where the applicable adjustment amount operates as if it were a revenue decrease:
 - (i) the portion of total revenue allocated to reference services for the final regulatory year under the remade 2015 access arrangement decision; minus
 - (ii) the adjustment amount.
- (5) The AER must include the subsequent adjustment amount determined under subclause 56(1) as:
 - (a) if subclause 57(2)(a) applies, a revenue decrease; or
 - (b) if subclause 57(2)(b) applies, a revenue increase,to the portion of total revenue allocated to reference services in one or more regulatory years of the subsequent access arrangement period subject to the revenue recovery principle.
- (6) Any subsequent adjustment amount included as a revenue increase or revenue decrease under subclause 57(5) must not be considered by the AER when determining whether any amount is payable or recoverable by Jemena under any incentive mechanism that applies to it in respect of the subsequent access arrangement period.

58 Requirements for adjustment determination

The AER must in respect of an adjustment determination made for Jemena:

- (1) make the adjustment determination after consulting with Jemena and any other persons as the AER considers appropriate;
- (2) publish its adjustment determination; and
- (3) include in its adjustment determination, the reasons for the AER's determination:
 - (a) of the adjustment amount and the subsequent adjustment amount; or
 - (b) not to determine an adjustment amount and subsequent adjustment amount.

59 Application of Parts 8 and 9 of the Rules

- (1) Except as otherwise specified in this Part 11, Parts 8 and 9 of the Rules applies to:
 - (a) the remainder of the 2015 access arrangement period; and
 - (b) the making of the subsequent access arrangement decision,
in respect of Jemena.
- (2) If clause 56 applies:
 - (a) the reference to 'the portion of total revenue allocated to reference services' in subrule 92(2)(b) will take into account the subsequent adjustment amount for the subsequent access arrangement period either as a revenue decrease or revenue increase, as applicable under rule 57(5);
 - (b) for the purposes of subrule 93(1), the subsequent adjustment amount will not be taken into account in determining total revenue to be allocated between reference and other services for the subsequent access arrangement decision; and
 - (c) subrule 94(3) and (4) do not apply to the extent that Jemena's tariffs would not comply with those subrules due to the application of this Part 11.