

## **Part 24                    Facilitating capacity trades and the capacity auction**

### **Division 1                Preliminary**

#### **591                    Application**

- (1) This Part is made for Divisions 2D and 2E of Part 6 of Chapter 2 and Chapter 7A of the *NGL*.
- (2) This Part does not apply in Western Australia until the day an order under section 7A of the National Gas Access (WA) Act 2009 of Western Australia in relation to the National Gas (South Australia) (Capacity Trading and Auctions) Amendment Act 2018 of South Australia is published in the Western Australian Government Gazette or, if a later day is specified in the order, on that day.

#### **592                    Structure of this Part**

- (1) Division 1 deals with preliminary matters.
- (2) Division 2 provides for the Operational Transportation Service Code.
- (3) Division 3 provides for exemptions and for the registration of transportation facilities and transportation service providers as facility operators.
- (4) Division 4 provides for matters to be included in the Capacity Transfer and Auction Procedures to facilitate capacity trades and the capacity auction and for the allocation of service points to zones.
- (5) Division 5 sets out obligations of transportation service providers relating to standard OTSAs.
- (6) Division 6 sets out other obligations of transportation service providers in relation to facility agreements to facilitate capacity trades.

#### **593                    Definitions and interpretation**

- (1) In this Part:

**alteration** includes omissions and additions; and alter has a corresponding meaning.

**application date** means, in relation to a Part 24 facility, the date on which the circumstances occur by reason of which it becomes a Part 24 facility.

**Note:**

For example, a transportation facility may become a Part 24 facility when it is commissioned or an exemption is revoked.

**auction facility** has the meaning given in Part 25.

**auction service** has the meaning given in Part 25.

**auction service priority principles** has the meaning given in Part 25.

**backhaul auction service** has the meaning given in Part 25.

**backhaul pipeline segment** means a part of a pipeline between pipeline service points used for a backhaul auction service, as specified in the transportation service point register.

**backhaul service** means a pipeline service provided by means of a single direction pipeline pursuant to which the direction of service is predominantly opposite to the actual physical flow of natural gas in the pipeline. If a transportation service falls within the definition of backhaul service it is not a firm forward haul service.

**capacity auction** means the capacity auction established by AEMO under Part 25.

**Capacity Trading Platform** or **CTP** means the gas trading exchange, in its role as a platform for trading transportation capacity.

**Capacity Transfer and Auction Procedures** means the Procedures of that name made by AEMO pursuant to the *NGL*.

**Code** means the Operational Transportation Service Code.

**Code amendment decision** means a decision by the AER to amend the Code.

**Code amendment proposal** means a proposal for an amendment to the Code given in accordance with rule 601(1).

**Code objective** means the objective in rule 595(1).

**commissioned** means:

- (a) for a transportation facility that is not a pipeline, when the transportation facility is first used on a commercial basis (whether for the benefit of a person who owns or operates the transportation facility or for someone else); and
- (b) for a pipeline, when the pipeline is commissioned as defined in the *NGL*.

**compression delivery zone** means one or more compression service points which comprise a compression delivery zone as determined by AEMO and specified in the transportation service point register.

**compression receipt zone** means one or more compression service points which comprise a compression receipt zone as determined by AEMO and specified in the transportation service point register.

**compression service** means a service provided by means of a compression service facility.

**compression service point** means a point, or combination of points (sometimes known as a notional point) at which a transportation service provider receives (takes delivery of) or may receive natural gas, or delivers or may deliver natural gas, for the provision of a compression service.

**compression zone** means a compression receipt zone or a compression delivery zone.

**conditionally exempt facility** means an exempt transportation facility that is the subject of an exemption granted by the AER under Subdivision 3.1 of Division 3 and where:

- (a) the transportation facility (or relevant part) qualified for the exemption under rule 611(3)(b) because it is a single user facility; or
- (b) the transportation facility (or relevant part) qualified for the exemption under rule 611(3)(c) because it has a nameplate rating less than 10 TJ per day.

**Corporations Act** means the Corporations Act 2001 of the Commonwealth.

**CTP application date** is defined in rule 638(4).

**curtailment** includes curtailment of a nomination during scheduling before the start of the gas day and curtailment or interruption during the course of the gas day; and **curtail** has a corresponding meaning.

**day-ahead nomination** means a nomination given on a gas day about intended use of a transportation service on the following gas day or any part of the following gas day.

**delivery zone** means a pipeline delivery zone or a compression delivery zone.

**designated compression service facility** has the meaning given in the *NGL*.

**DWGM interface point** has the meaning given in rule 630(1).

**election procedures** means the election procedures for the OTS Code Panel published by AEMO under rule 599(1)(b).

**exempt transportation facility** means a transportation facility, or part of a transportation facility, that is the subject of an exemption under rule 610, for so long as the exemption continues.

**facility agreement** means a primary facility agreement or an operational transportation service agreement and, to avoid doubt, includes a facility agreement made pursuant to an access arrangement or an access determination.

**facility operator** means, in relation to a Part 24 facility, the transportation service provider registered under this Part as the facility operator for the Part 24 facility.

**facility specific terms** means terms and conditions that are:

- (a) incorporated in or to be incorporated in a standard OTSA for a transportation facility; and
- (b) developed or to be developed for the transportation facility in accordance with this Part and the Code.

**firm**, in relation to a transportation service, has the meaning given in Part 25.

**forward haul pipeline segment** means a part of a pipeline between pipeline zones, as specified in the transportation service point register.

**gas day** means, for a transportation facility, the period of 24 consecutive hours used for the nomination, scheduling and provision of services provided by means of the transportation facility.

**impact and implementation report** has the meaning given in rule 601(6).

**nameplate rating:**

- (a) when used in the context of a pipeline, has the meaning given in Part 18;
- (b) when used in the context of a service point, means the maximum quantity of natural gas that can be received or delivered through the service point on a gas day for the service point; and
- (c) when used in the context of a compression service facility, means a set of values describing the maximum quantity of natural gas that can be compressed by the compression service facility on a gas day for the compression service facility under a corresponding set of expected standard operating conditions.

**nomination** means a nomination for use of a transportation service and may include the quantity of natural gas and service points in respect of which the transportation service will be used.

**nomination cut-off time** means, for a transportation service, the time by which a day-ahead nomination for a gas day for use of the transportation service must be made for the purposes of scheduling for that gas day.

**operating manual** means the operating manual for the OTS Code Panel published by AEMO under rule 599(1)(c).

**operational capacity** has the meaning given in Part 25.

**operational transfer** means a transfer of transportation capacity for use under an operational transportation service agreement.

**operational transportation service** has the meaning given in the *NGL*.

**operational transportation service agreement** has the meaning given in the *NGL*.

**Operational Transportation Service Code** has the meaning given in the *NGL*.

**Operational Transportation Service Code Panel** or **OTS Code Panel** means the panel of persons established by AEMO in accordance with rule 599(1) and having the functions specified in rule 600.

**park service** means a transportation service under which transportation capacity in a pipeline is made available for use as a storage service and which may also permit a transportation facility user to loan natural gas from the pipeline.

**park service point** means, in relation to a park service, a service point at which a transportation facility user must have transportation capacity in order to use the park service.

**Part 24 commencement date** means the date this Part commences.

**Part 24 facility** means a transportation facility other than an exempt transportation facility.

**Note:**

Refer to subrule (6).

**Part 24 information standard** means the practices, methods and acts that would reasonably be expected from an experienced and competent person engaged in the ownership, operation or control of a transportation facility of the applicable type acting with all due diligence, prudence and foresight and in compliance with all applicable legislation (including these rules), authorisations and industry codes of practice.

**permitted alteration** means an alteration to the standard terms or form of agreement in the Code of a kind specified or referred to in the Code as a permitted alteration.

**pipeline delivery zone** means one or more pipeline service points which comprise a pipeline delivery zone as determined by AEMO and specified in the transportation service point register.

**pipeline receipt zone** means one or more pipeline service points which comprise a pipeline receipt zone as determined by AEMO and specified in the transportation service point register.

**pipeline segment** means a forward haul pipeline segment or a backhaul pipeline segment.

**pipeline service point** means a point, or combination of points (sometimes known as a notional point) at which a transportation service provider receives (takes delivery of) or may receive natural gas, or delivers or may deliver natural gas, for

the provision of a pipeline service, including *receipt or delivery points* and in-pipe trading points.

**pipeline zone** means a pipeline receipt zone or a pipeline delivery zone.

**primary facility agreement** means an agreement between a transportation service provider and a transportation facility user under which the transportation service provider provides or may provide a transportation service to the transportation facility user using primary transportation capacity of the transportation facility user. If an agreement provides for the use of primary transportation capacity and other transportation capacity, a reference to a primary facility agreement means that agreement as it applies in relation to primary transportation capacity.

**primary shipper** means a transportation facility user in its capacity as a party to a primary facility agreement.

**primary transportation capacity** means transportation capacity acquired by a transportation facility user from the transportation service provider for the transportation capacity. For the purposes of this Part and Part 22:

- (a) transportation capacity ceases to be primary transportation capacity if it is transferred by means of an operational transfer (even if re-acquired by the transportation facility user for whom it was primary transportation capacity); and
- (b) once transferred, the transportation capacity is taken to have been first derived from the primary facility agreement under which the primary transportation capacity was acquired.

**prospective secondary shipper** means a person who seeks or wishes to be provided with an offer to enter into a standard OTSA or an operational transportation service agreement for a conditionally exempt facility and includes a person who is already provided with an operational transportation service under a standard OTSA or any other agreement.

**publish**, by a person, means to make publicly available on the person's website and in the case of AEMO, includes to make publicly available on the Natural Gas Services Bulletin Board.

**receipt zone** means a pipeline receipt zone or a compression receipt zone.

**related body corporate** has the meaning given in the Corporations Act.

**related entity** means, in relation to an entity, an entity that controls or is controlled by that first mentioned entity; where "control" has the meaning given in the Corporations Act.

**renomination** means a request made after the nomination cut-off time for a gas day to vary a nomination for the gas day, including variation to a deemed or default day-ahead nomination.

**required alteration** means an alteration to the standard terms or form of agreement in the Code of a kind specified or referred to in the Code as a required alteration.

**required amendment** means, in relation to a standard OTSA, an amendment to:

- (a) the standard terms made by a Code amendment decision; or
- (b) any provision in a standard OTSA of a kind specified or referred to in the Code or a Code amendment decision as a required amendment.

**reserved** has the meaning given in Part 25.

**schedule** means, according to the context:

- (a) the process of determining the scheduled quantities for a gas day and includes determining any variation before or during a gas day due to curtailment or renomination; and **scheduling** has a corresponding meaning; and
- (b) the information provided by the transportation service provider to a transportation facility user about the scheduled quantities in respect of that transportation facility user.

**scheduled quantity** has the meaning given in Part 25.

**secondary shipper** means a transportation facility user in its capacity as a party to an operational transportation service agreement.

**Note:**

The term 'secondary shipper' includes transportation facility users who have acquired transportation capacity through the auction (as well as bilaterally or through the gas trading exchange).

**service continuity period** means, in relation to traded capacity, a period commencing on the gas day after the gas day on which AEMO is notified under the Capacity Transfer and Auction Procedures of the termination of the primary facility agreement from which the traded capacity is first derived and ending on the first to occur of:

- (a) the expiry of the service term applicable to the traded capacity; and
- (b) the expiry of 14 gas days (including the first gas day in that period).

**service point** means a compression service point or a pipeline service point.

**service term** means, in relation to traded capacity, the period of time during which the buyer of the transportation capacity has a right to use the traded capacity, as provided for in the arrangements applicable to the gas trading exchange.

**single direction pipeline** has the meaning given in Part 25.

**single user facility** has the meaning given in rule 611(4).

**stand-alone compression service facility** means a compression service facility that is or may be used to facilitate the flow of natural gas between transmission pipelines and in respect of which compression services are or may be provided.

**standard operational transportation service** means an operational transportation service for which a service description, standard terms and conditions for provision and use of the service and a description of and requirements for facility specific terms applicable to the service, are included in the Code. To avoid doubt, each auction service is also a standard operational transportation service.

**standard operational transportation service agreement** or **standard OTSA** means, for a transportation service provider and a transportation facility, the standard OTSA for the transportation facility published by the transportation service provider from time to time in accordance with the *NGL* and this Part.

**standard terms** means the terms and conditions for the use of operational transportation services described in the Code as standard terms and comprising:

- (a) the description of the standard operational transportation services in the Code; and
- (b) other terms and conditions described as standard terms in the Code.

**standardisation costs** has the meaning given in rule 634(1).

**STTM interface point** has the meaning given in rule 630(1).

**terminated seller** means, in relation to traded capacity that was first derived from a terminated primary facility agreement, a transportation facility user who was a party to the terminated primary facility agreement.

**third party access facility** has the meaning given in rule 611(4).

**traded capacity** means transportation capacity that has been sold through the gas trading exchange and transferred to a buyer such that it has ceased to be primary transportation capacity, including by means of a pre-matched trade, as that term is defined in the exchange agreement for the gas trading exchange.

**transfer**, in relation to transportation capacity, has the meaning given in the *NGL*.

**transfer point** means the point where gas is transferred between a declared transmission system and a transmission pipeline that is not part of the declared transmission system.

**transportation service point register** means the register of service points, pipeline segments and zones maintained by AEMO under rule 629.

**transportation service provider group** has the meaning given in rule 620(1).



**zone** means a pipeline zone or a compression zone.

- (2) Each part of a pipeline classified under the *NGL* or another Part is taken to have the same classification for the purposes of this Part.

**Note:**

Refer to sections 18 and 19 of the *NGL* and rule 550 in Part 23.

- (3) For the purposes of this Part, a pipeline that is not classified under the *NGL* or another Part is classified as a transmission pipeline or a distribution pipeline applying the pipeline classification criterion in section 13 of the *NGL*.
- (4) A transportation service provider or transportation facility user required by a provision of this Part to make a record or give information or data to AEMO or the AER, including information resulting from calculations, must make the record or prepare and submit that information or data and perform those calculations in accordance with the Part 24 information standard.
- (5) AEMO is not required to verify the accuracy of information provided to it for the purposes of performing its functions under this Part, except as expressly provided in this Part or the Capacity Transfer and Auction Procedures.
- (6) For the purposes of this Part, a reference to a Part 24 facility:
  - (a) in the case of a pipeline registered as a single facility under rule 623(3) or multiple transportation facilities registered as a single facility under rule 623(4), means the single Part 24 facility so registered; and
  - (b) in the case of a Part 24 facility registered as two or more separate facilities under rule 623(4), means each separate Part 24 facility so registered.

**594 Part 23 does not apply**

- (1) Subject to subrule (2), for the purposes of rule 563(2)(e), an access dispute about the terms and conditions of a standard OTSA is excluded from the operation of Part 23.
- (2) Subrule (1) does not apply to an access dispute about the terms and conditions for the provision of a transportation service that is not a standard operational transportation service (whether or not incorporated or to be incorporated in an agreement that is otherwise in the form of a standard OTSA).

## **Division 2      Operational Transportation Service Code**

### **Subdivision 2.1   Objective and content**

#### **595      Code objective, effective date, amendment and publication**

- (1) The Code objective is to provide for access to operational transportation services on reasonable terms, which for the purposes of this Part, is taken to mean at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market.
- (2) The initial Operational Transportation Service Code comes into effect when it is made.
- (3) The AER may amend the Code, subject to and in accordance with this Division.
- (4) The AER must publish:
  - (a) the initial Operational Transportation Service Code and each subsequent version of the Code; and
  - (b) each Code amendment decision.

#### **596      Content of the Code**

- (1) The Code must make provision for or with respect to:
  - (a) the terms and conditions for the provision of standard operational transportation services; and
  - (b) any other matter that the *NGL* or the rules requires to be addressed in the Code.
- (2) The Code must contain:
  - (a) a description of each standard operational transportation service, if applicable identifying it as an auction service;
  - (b) terms and conditions for the provision and use of standard operational transportation services;
  - (c) a description of, and the requirements for, facility specific terms for the provision and use of standard operational transportation services; and
  - (d) a form of agreement for execution by the parties, incorporating:
    - (i) the standard terms;
    - (ii) the facility specific terms applicable to the transportation facility or facilities to which the agreement relates; and

- (iii) amendments to the standard terms or those facility specific terms made from time to time.
- (3) The Code must, to the extent reasonably practicable, provide for the terms and conditions for the provision of a standard operational transportation service to be specified in the standard terms (in preference to facility specific terms).
- (4) The service descriptions and the terms and conditions for provision and use of standard operational transportation services in the Code, including standard terms and the description of, and the requirements for, facility specific terms, must be consistent with:
  - (a) this Division;
  - (b) in the case of auction services, Part 25, including the auction service priority principles; and
  - (c) the Capacity Transfer and Auction Procedures.

## **597 Standard operational transportation services and auction services**

- (1) The standard operational transportation services must include all the auction services.

**Note:**

The auction service priority principles are in Part 25.

- (2) The standard operational transportation services (other than auction services) may include forward haul services, park services, compression services or any other transportation service capable of being provided by means of a Part 24 facility.
- (3) The standard operational transportation services (other than auction services) for forward haul services and compression services must be provided using the zonal model as described in this subrule. Under the zonal model:
  - (a) when an operational transfer is notified to the transportation service provider:
    - (i) the seller of the transportation capacity must specify the service point within each zone from which the transportation capacity must be released to give effect to the sale; and
    - (ii) the buyer of the transportation capacity must specify the service points within the receipt zone and delivery zone respectively at which the buyer wishes to have the transportation service provided;
  - (b) the service points referred to in paragraph (a)(ii) do not have to be the same service points as those specified by the seller for the release of the transportation capacity; and

- (c) where the operational capacity at a service point is insufficient to meet all the nominations or renominations of transportation facility users for the use of the transportation capacity at that point on a gas day, then in scheduling or curtailing services for the gas day, the transportation service provider must give priority to:
  - (i) first, nominations and renominations for the use of firm forward haul services, firm backhaul services or firm compression services (as applicable) provided using primary transportation capacity under a primary facility agreement with transportation capacity reserved at that service point; and
  - (ii) then, nominations and renominations for the use of the service point for any other firm forward haul service, firm backhaul service or firm compression service (as applicable).
- (4) For the purposes of subrule (3)(c)(i), a reference to a firm forward haul service or firm backhaul service includes a reference to a firm forward haul service or firm backhaul service supplied together with a firm park service as a single service.
- (5) To avoid doubt, the gas trading exchange agreement made in accordance with Part 22 may require a seller or buyer to specify the service points referred to in subrule (3)(a) at the time the transaction is entered into through the gas trading exchange for notification by AEMO under the Capacity Transfer and Auction Procedures.

## **598 Standard terms and facility specific terms**

- (1) Subject to rules 596 and 597, the standard terms may make provision for or with respect to any matter that it is necessary or convenient to deal with as standard terms, which may include:
  - (a) conditions precedent to the provision of service;
  - (b) the provision of credit support and evidence of insurance;
  - (c) obligations of transportation service providers and transportation facility users with respect to the provision and use of transportation services under the agreement;
  - (d) operational matters including nominations, renominations, scheduling, curtailment, reporting and allocation of receipts and deliveries of natural gas and transportation facility maintenance;
  - (e) gas quality, pressure and temperature and arrangements with respect to off-specification gas including liabilities;
  - (f) title to gas, risk in and responsibility for gas and coordination of operations;
  - (g) invoicing and payment; and

- (h) general contractual matters including limitations and exclusions of liability, indemnities, termination and representation and warranties.
- (2) The description of, and the requirements for, facility specific terms in the Code:
  - (a) must include principles that must be complied with when making the facility specific terms that are consistent with the Code objective;

**Note:**

For example, the Code may require facility specific terms to be consistent with equivalent terms in an access arrangement approved by the AER under Part 8 or to not discriminate against secondary shippers.

- (b) may make further provision with respect to matters that are provided for in the standard terms and are specific to the transportation facility;
- (c) subject to rule 634, may make provision for charges relating to the recovery of standardisation costs; and
- (d) subject to rule 596(3), may make provision for or with respect to any other matter that it is necessary or convenient to deal with as facility specific terms.

## **Subdivision 2.2 How the Code is amended**

### **599 Establishment and operation of the OTS Code Panel**

- (1) AEMO must:
  - (a) establish the Operational Transportation Service Code Panel (also known as the OTS Code Panel), the composition of which must be in accordance with this Subdivision;
  - (b) develop and publish and may amend the election procedures for the OTS Code Panel, to provide for:
    - (i) the identification of persons eligible to nominate or be appointed as members and persons eligible to vote;
    - (ii) nomination procedures for members selected by vote, the voting procedures and the determination and publication of election results;
    - (iii) the term of a member, the removal or resignation of a member and ad-hoc appointments to the OTS Code Panel in those circumstances; and
    - (iv) any other matter that it is convenient to deal with in the election procedures;

- (c) develop and publish and may amend the operating manual for the OTS Code Panel, to provide for the manner in which the OTS Code Panel performs its functions, including the arrangements for:
    - (i) assessing, developing if necessary, consulting on and making recommendations in relation to Code amendment proposals;
    - (ii) preparation of impact and implementation reports;
    - (iii) panel administration including communications, meetings and the development of budgets; and
    - (iv) any other matter that it is convenient to deal with in the operating manual; and
  - (d) maintain a register of members of the OTS Code Panel that includes the name of each current member, their category of membership and the name of any alternate appointed by that member.
- (2) Before making or amending the election procedures or the operating manual, AEMO must consult in accordance with the *standard consultative procedure*.
- (3) AEMO must establish and manage the arrangements for:
- (a) receipt and initial assessment of Code amendment proposals in accordance with rule 601;
  - (b) providing Code amendment proposals to the OTS Code Panel; and
  - (c) publication of information by or on behalf of the OTS Code Panel.
- (4) AEMO may provide advice to the OTS Code Panel or the AER in relation to Code amendment proposals including whether:
- (a) the Code amendment proposal is consistent with the Capacity Transfer and Auction Procedures and the arrangements for the gas trading exchange and the capacity auction; and
  - (b) changes are required to any AEMO systems or procedures in order to deliver the Code amendment proposal and, if so, the likely costs of making the changes.
- (5) Subject to subrule (6), the following costs must be incurred and paid by AEMO in the first instance and recouped by AEMO as part of the capacity trading and auction costs under Part 15A:
- (a) the costs of the establishment and operation of the OTS Code Panel (including the costs of specialist advisors);
  - (b) the costs relating to the AEMO member's participation in the OTS Code Panel; and

- (c) the operational costs associated with any service provided by AEMO to facilitate the functioning of the OTS Code Panel.
- (6) The costs of any member (other than the AEMO member) relating to the member's participation in the OTS Code Panel is not to be borne by AEMO or recouped by AEMO as part of the capacity trading and auction costs under Part 15A.

## **600 Functions of the Operational Transportation Service Code Panel**

- (1) The OTS Code Panel has the following functions:
  - (a) assessing and consulting on Code amendment proposals and, to the extent necessary, developing Code amendment proposals;
  - (b) preparing impact and implementation reports;
  - (c) making recommendations in relation to Code amendment proposals;
  - (d) reporting to the AER, in accordance with the rules, on Code amendment proposals;
  - (e) further developing Code amendment proposals at the request of the AER;
  - (f) establishing working groups, where appropriate, to assist with the work of the OTS Code Panel;
  - (g) making recommendations to AEMO for changes to the Capacity Transfer and Auction Procedures or the arrangements for the gas trading exchange or capacity auction where relevant to the effective operation of standard OTSAs;
  - (h) providing advice to the AER in response to a request under rule 604(2)(a); and
  - (i) any other functions conferred on it under the rules.
- (2) In performing its functions, the OTS Code Panel must comply with the operating manual.

## **601 Code amendment proposals**

- (1) Any person, other than a person who is at the time a member of the OTS Code Panel, may propose an amendment to the Code by providing a Code amendment proposal to AEMO. A Code amendment proposal must be in writing and must include details of the proposed amendment and supporting information, including reasons. A Code amendment proposal may include a draft of the proposed amendment.

- (2) Subject to subrule (3), AEMO must within 10 business days of receipt of a Code amendment proposal refer it to the OTS Code Panel for assessment and recommendation in accordance with the rules and the operating manual.
- (3) AEMO may, within the 10 business day period in subrule (2), reject a Code amendment proposal without referring it to the OTS Code Panel if AEMO reasonably considers that the Code amendment proposal is misconceived or lacking in substance.
- (4) If AEMO decides to reject a Code amendment proposal under subrule (3), AEMO must:
  - (a) give the proponent written notice of the decision and the reasons for it; and
  - (b) send to the AER and the OTS Code Panel the decision and the reasons for it, together with the Code amendment proposal received under subrule (1).
- (5) The OTS Code Panel must assess a Code amendment proposal referred to it and to the extent necessary, may consult on and develop the proposal.
- (6) Within 50 business days of a Code amendment proposal being referred to the OTS Code Panel, the OTS Code Panel must submit a report to the AER (an **impact and implementation report**) containing:
  - (a) a critical examination of the Code amendment proposal;
  - (b) an assessment of the likely effect of the amendment, if made;
  - (c) the recommendation of the OTS Code Panel on whether the amendment should be made and if so, the timing and transitional arrangements for implementation; and
  - (d) details of how the OTS Code Panel has had regard to the matters in rule 605 and relevant and material comments that it receives by the closing date for submissions under rule 602.
- (7) AEMO may, at the request of the OTS Code Panel, by publishing a notice, extend the time limit in subrule (6) if:
  - (a) the relevant proposal raises questions of such complexity or difficulty that an extension of the time limit is justified; or
  - (b) a material change of circumstances occurs justifying the extension of the time limit.
- (8) A notice published under subrule (7) must state the reasons for the extension.
- (9) If the OTS Code Panel is unable to make a recommendation in respect of a Code amendment proposal within the time limit in subrule (6) (as may have been extended), AEMO must refer the matter to the AER.



- (10) If the matter is referred to the AER under subrule (9), the AER must either:
  - (a) treat the matter as a recommendation by the OTS Code Panel not to make the Code amendment; or
  - (b) extend the time limit for the OTS Code Panel to consider and make a recommendation about the Code amendment proposal.
- (11) If a proponent withdraws its Code amendment proposal, the process established pursuant to this rule and rule 602 in relation to that Code amendment proposal lapses.

## **602 Consultation by the OTS Panel**

- (1) The OTS Code Panel may invite the AEMC, AEMO (in addition to its representation on the OTS Code Panel) and any consumer or industry representative body the OTS Code Panel considers appropriate, to provide advice in relation to a Code amendment proposal.
- (2) Subject to subrule (3), before the OTS Code Panel submits its impact and implementation report to the AER in relation to a Code amendment proposal, the OTS Code Panel must publish a notice:
  - (a) setting out the proposed Code amendment together with the draft impact and implementation report; and
  - (b) inviting interested persons to submit written comments on or before a closing date for submission specified in the notice, which must be a reasonable time after the notice is published having regard to the nature of the proposal and must be at least 20 business days.
- (3) No notice under subrule (2) is required to be published for an amendment that is:
  - (a) urgently necessary to ensure the proper operation of the capacity auction or the gas trading exchange or the safe and reliable operation of 1 or more transportation facilities; or
  - (b) non-material (that is, the amendment corrects a minor error in the Code or is unlikely to have a significant financial or operational impact).
- (4) In preparing the final impact and implementation report for the AER in relation to a Code amendment proposal, where the OTS Code Panel has consulted on the proposed Code amendment:
  - (a) the OTS Code Panel must take into account all relevant and material comments it receives by the closing date for submission and include a summary of those comments; and
  - (b) in its discretion, the OTS Code Panel may take into account any comments it receives after the closing date for submission.

**Note:**

This rule represents the minimum requirements. The OTS Code Panel is not prevented from seeking commentary on the proposal by other means and from other sources.

**603 AER response to OTS Code Panel recommendations**

- (1) Subject to subrule (2), the AER must make and publish its decision as provided for in this rule not later than 40 business days after receipt of a recommendation from the OTS Code Panel about a proposed Code amendment.
- (2) The AER may, by publishing a notice, extend the time limit in subrule (1) if further time to consult is required having regard to the nature of the proposed Code amendment, the issues raised in the impact and implementation report and any other matters raised with the AER.
- (3) The AER may conduct further consultation about a proposed Code amendment the subject of a recommendation from the OTS Code Panel before making its decision and may request advice from AEMO (in addition to any provided through the OTS Code Panel) or advice from the AEMC or any other person with relevant expertise.
- (4) The AER may decide to:
  - (a) accept the recommendation of the OTS Code Panel; or
  - (b) reject the recommendation of the OTS Code Panel and, where the recommendation from the OTS Code Panel is not to make a Code amendment, make a Code amendment on its own initiative under rule 604; or
  - (c) remit the proposal to the OTS Code Panel for further consideration, either in the same form or in a modified form, in which case the AER must also notify the OTS Code Panel of the AER's expected time frame for completion of that further work.

**604 Code amendments**

- (1) The AER may make an amendment to the Code on the recommendation of the OTS Code Panel or on its own initiative.
- (2) Before making an amendment to the Code on its own initiative, the AER must:
  - (a) request advice from the OTS Code Panel and AEMO (separately from advice provided through its representation on the OTS Code Panel) and may request advice from the AEMC and any consumer or industry representative body the AER considers appropriate;
  - (b) subject to subrule (3), publish a notice:

- (i) setting out the proposed Code amendment together with a critical examination of the proposed Code amendment and an assessment of the likely effect of the amendment if made; and
  - (ii) inviting interested persons to submit written comments on or before a closing date for submission specified in the notice, which must be a reasonable time after the notice is published having regard to the nature of the proposal and must be at least 20 business days; and
- (c) where it has consulted under paragraph (b), publish its decision in accordance with subrule (4).
- (3) No consultation is required for an amendment that has been the subject of prior consultation by the OTS Code Panel or that is:
  - (a) urgently necessary to ensure the proper operation of the capacity auction or the gas trading exchange or the safe and reliable operation of 1 or more transportation facilities; or
  - (b) non-material (that is, the amendment corrects a minor error in the Code or is unlikely to have a significant financial or operational impact).
- (4) Where the AER conducts consultation, the AER must take into account all relevant and material comments it receives by the closing date for submission and must include a summary of the comments in its decision. The AER may in its discretion take into account any comments it receives after the closing date for submission.

## **605 Principles for making Code amendment decisions**

- (1) In deciding whether to make an amendment to the Code, the AER must:
  - (a) take into account the Code objective;
  - (b) give effect to the requirements for the Code in Subdivision 2.1; and
  - (c) take into account the operational and technical requirements necessary for the safe and reliable operation of transportation facilities.
- (2) In deciding whether to make an amendment to the Code, the AER may also take into account:
  - (a) the legitimate business interests of transportation service providers in relation to transportation facilities; and
  - (b) the interests of all persons who have a right to use transportation facilities.
- (3) The AER's decision in relation to a proposal to make an amendment to the Code must state the reasons for the AER's decision.

- (4) Where the AER has decided to make an amendment to the Code, the Code amendment decision must state:
  - (a) the time the amendment takes effect or, if different provisions in the amendment take effect at different times, those times; and
  - (b) the time by which transportation service providers must prepare and publish new standard OTSAs giving effect to the amendment, which must not be earlier than 30 business days after the Code amendment decision is published by the AER.
- (5) A Code amendment decision may provide for matters consequent on the amendment including required amendments and provisions of a savings or transitional nature.
- (6) An amendment to the Code takes effect at the time or times specified by the AER in the Code amendment decision.
- (7) The AER may specify that an amendment to the Code takes effect at different times for different classes of transportation capacity (for which purpose the same type of transportation capacity purchased at different times may comprise different classes).

**Note:**

For example, a Code amendment may apply to transportation capacity purchased after the date it takes effect, but not to transportation capacity purchased before that date with a service term that starts or continues after that date.

- (8) A Code amendment decision must not have the effect of altering the rights and obligations of the parties in relation to the provision or use of a standard operational transportation service accrued prior to the date on which the amendment to the Code takes effect.
- (9) An amendment to the Code is effective notwithstanding any defect in the process followed by the AER, AEMO or the OTS Code Panel in relation to the amendment.
- (10) If the Court orders (by declaration or otherwise) that a provision of the Code is invalid, the order of the Court does not affect the previous operation of the Code or affect a right, privilege or liability accrued or incurred under an operational transportation service agreement.

## **Subdivision 2.3 OTS Code Panel membership and procedures**

### **606 Members of the OTS Code Panel**

- (1) The OTS Code Panel must consist of:

- (a) two persons nominated and elected as members by transportation service providers who are registered with AEMO under this Part as facility operators, to represent transportation service providers;
  - (b) two persons nominated and elected as members by transportation facility users who are also Registered participants or gas trading exchange members, one of whom must be appointed to represent transportation facility users generally and one of whom must be appointed to represent large users of natural gas; and
  - (c) one person appointed as a member by AEMO to represent AEMO, who must be an authorised employee of AEMO.
- (2) Each member must serve on the OTS Code Panel for the term specified in the election procedures, subject to the member's resignation, removal or replacement in accordance with the rules, election procedures or operating manual.
  - (3) Subject to subrule (4), a member may appoint a person to act on the member's behalf as the member's alternate if the member is unable to attend or vote at a meeting of the OTS Code Panel due to a material conflict of interest or otherwise.
  - (4) An alternate appointed under subrule (3):
    - (a) must meet the qualification requirements under rule 607(4) and where applicable, the election procedures;
    - (b) other than in the case of an alternate appointed by the AEMO member, must be approved by simple majority of the OTS Code Panel; and
    - (c) may attend and vote at meetings of the OTS Code Panel and otherwise may exercise all the powers, and must perform all the duties, of a member represented by that alternate (including, but not limited to, acting as chair of the OTS Code Panel where the relevant member is the AEMO member), when the member is not present at the meeting.

## **607 Nomination, election and appointment of members**

- (1) A person may only be nominated and elected as a member in accordance with the rules and the election procedures.
- (2) If two or more persons are related bodies corporate or related entities and belong to the same voter category (**related voters**), then only one of the related voters may nominate and vote in respect of an election for the relevant voter category.
- (3) A person may only be nominated as a member if the person satisfies the requirements for the voter category for which the person is nominated as set out in the rules and the election procedures.
- (4) A person nominated or appointed to be a member of the OTS Code Panel or as an alternate must be a natural person and must have:

- (a) the experience and the skills to perform the member's role and where applicable, to consider the issues that affect the voter category that the person is being nominated to represent;
- (b) knowledge of the subject matter of the Code; and
- (c) knowledge and understanding of the rules and related legislative and regulatory framework.

## **608 Obligations of OTS Code Panel members**

- (1) Each member of the OTS Code Panel in performing any duties or in exercising any right, power or discretion as a member must:
  - (a) at all times act honestly;
  - (b) exercise the degree of care and diligence that a reasonable person in a like position would exercise;
  - (c) not make improper use of information acquired by virtue of being a member to gain, directly or indirectly, an advantage for the member, or a person or body by whom the member is employed and/or who nominated the member to be a member;
  - (d) not make improper use of the member's position as a member to gain, directly or indirectly, an advantage for the member or a person or body by whom the member is employed and/or who nominated the member to be a member; and
  - (e) not take part in any decision of the OTS Code Panel where the member has, or would reasonably be considered to have, a material conflict of interest in the matter to be decided by the OTS Code Panel.
- (2) For the purposes of this Subdivision, a conflict will be material if it detracts from, or would reasonably be considered to be likely to detract from, the member's capacity to exercise independent judgment in respect of the relevant matter.
- (3) For the purposes of subrule (2), a member does not have a material conflict of interest in relation to a Code amendment proposal merely by reason of the Code amendment proposal having been submitted by a person or body by whom that member is employed and/or who nominated the person to be a member.

**Note:**

The member may nonetheless have a material conflict of interest in such a proposal.

- (4) Notwithstanding subrules (1) and (2), a member may take into account the interests of persons it has been elected to represent in performing the member's duties and exercising any right, power or discretion as a member.

- (5) A member who has a material conflict of interest in a matter to be decided or determined by the OTS Code Panel must give the other members notice of the conflict of interest.
- (6) A contravention of subrule (1)(e) or subrule (5) by a member does not affect the validity of any decision or determination of the OTS Code Panel.
- (7) No personal liability attaches to a member of the OTS Code Panel for an act or omission done in good faith in the performance or exercise, or purported performance or exercise, of a function or power with respect to the OTS Code Panel.
- (8) In this rule, a reference to a member of the OTS Code Panel includes a reference to a person appointed to the OTS Code Panel as an alternate, as if that person were a member of the OTS Code Panel.

## **609 Meetings of the OTS Code Panel**

- (1) The OTS Code Panel must meet at least once every six months and may meet in person or by video link or by other means provided for in the operating manual.
- (2) Subject to subrule (3), the AEMO member is the chair of the OTS Code Panel.
- (3) If the AEMO member and that person's alternate (if any) are unable to act as chair at a meeting of the OTS Code Panel because the member or alternate has, or would reasonably be considered to have, a material conflict of interest in the matter to be decided or determined by the OTS Code Panel at that meeting, then a member chosen by an ordinary majority may preside as chair of the meeting for the relevant matter.
- (4) The quorum for a meeting of the OTS Code Panel consists of 3 members and must include the AEMO member, except where the AEMO member and that person's alternate (if any) are unable to attend the meeting because the AEMO member and that person's alternate (if any) have, or would reasonably be considered to have, a material conflict of interest in the matters to be decided or determined by the OTS Code Panel at the meeting.
- (5) Decisions of the OTS Code Panel may be made by simple majority of those present and voting. Each member of the OTS Code Panel has one vote. In the event that votes are tied, the chair of the meeting has a casting vote.

## Division 3 Exemptions and registration

### Subdivision 3.1 Exemptions

#### 610 Scope of exemptions

- (1) The transportation service provider for a transportation facility, or a part of a transportation facility, specified in subrule (2) is exempt from the following obligations, for so long as the exemption continues:
  - (a) the obligations in section 228B of the *NGL* with respect to the preparation and publication of a standard OTSA in respect of the transportation facility;
  - (b) the obligations in section 228C of the *NGL* with respect to offering to enter into, and entering into, a standard OTSA in respect of the transportation facility; and
  - (c) the obligations in section 91BRR of the *NGL* to register the transportation facility with AEMO and to register as the transportation service provider for that transportation facility.
- (2) The transportation facilities specified for the purposes of subrule (1) are:
  - (a) a pipeline classified as a distribution pipeline;
  - (b) a transportation facility, other than a transfer point, that forms part of a declared transmission system;
  - (c) a compression service facility that is not:
    - (i) a stand-alone compression service facility; or
    - (ii) a designated compression service facility;
  - (d) subject to subrule (3), a transportation facility located in the Northern Territory; and
  - (e) a transportation facility, or a part of a transportation facility, that is the subject of an exemption granted by the AER under this Subdivision.

**Note:**

Paragraphs (c)(i) and (ii) do not preclude the grant of an exemption by the AER under this Subdivision for a stand-alone compression service facility or a designated compression service facility.

- (3) The exemption for transportation facilities referred to in subrule (2)(d) expires on the date on which the first transmission pipeline capable of transporting natural gas between the Northern Territory and a location in Queensland, New South Wales or South Australia, is commissioned.



## 611 Exemptions granted by the AER

- (1) The AER must, on the application of the transportation service provider for a transportation facility, grant an exemption under this Subdivision in respect of the transportation facility or a part of the transportation facility, if:
  - (a) the transportation service provider has demonstrated to the reasonable satisfaction of the AER that the transportation facility (or relevant part) qualifies for an exemption under subrule (3); and
  - (b) in the case of part of a transportation facility, the grant of the exemption in respect of that part of the transportation facility will not hinder access to operational transportation services on any other part of the transportation facility; and
  - (c) the AER is otherwise satisfied that in all the circumstances the exemption should be granted.
- (2) Subject to this Subdivision, the AER may grant an exemption under this Subdivision in respect of a class or group of transportation facilities on the application of a transportation service provider for one or more of the transportation facilities or on its own initiative.
- (3) A transportation facility (or relevant part) qualifies for an exemption under this Subdivision, and the AER must only grant an exemption under this Subdivision for the transportation facility (or relevant part), if:
  - (a) the transportation facility (or relevant part) is not a third party access facility; or
  - (b) the transportation facility (or relevant part) is a single user facility and the exemption is subject to the condition in subrule (6); or
  - (c) the transportation facility (including each part) has a nameplate rating less than 10 TJ per day and the exemption is subject to the condition in subrule (6).
- (4) For the purposes of subrule (3):
  - (a) a transportation facility (or the relevant part) is a **third party access facility** if any transportation services on the transportation facility are offered or provided, directly or indirectly to any person other than:
    - (i) the transportation service provider for the transportation facility;
    - (ii) a related body corporate of the transportation service provider for the transportation facility; or
    - (iii) a joint venture in which the transportation service provider for the transportation facility or a related body corporate of the transportation

service provider for the transportation facility is a joint venture participant; and

- (b) a transportation facility (or the relevant part) is a **single user facility** if:
  - (i) the transportation facility is a third party access facility; and
  - (ii) all transportation services on the transportation facility are provided to a single transportation facility user, taking into account transportation services provided both directly and indirectly by the transportation service provider.
- (5) For the purposes of subrule (4):
  - (a) the circumstances in which a transportation service provider for a transportation facility provides a transportation service to a transportation facility user indirectly include where:
    - (i) an associate of the transportation service provider provides the transportation service to the transportation facility user; and
    - (ii) the transportation service is bundled with the supply of natural gas; and
  - (b) the circumstances in which transportation services on a transportation facility are provided to a transportation facility user include where the transportation facility user has a current operational transportation service agreement in relation to that transportation facility, even if the transportation facility user has no transportation capacity for the transportation facility.

**Note:**

Section 2 of the *NGL* defines associate and supply.

- (6) An exemption granted for a transportation facility (or the relevant part) that is a single user facility or has a nameplate rating less than 10 TJ per day must be subject to a condition that the transportation service provider for the transportation facility (or if there is more than one, a transportation service provider named in the exemption) must, if it or another transportation service provider named in the exemption receives an eligible request for an operational transportation service agreement in the form of a standard OTSA for the transportation facility:
  - (a) prepare an agreement satisfying the requirements for a standard OTSA under the rules and the Code for the transportation facility (or the relevant part) as if the transportation facility were a Part 24 facility; and
  - (b) make an offer to enter into the agreement with the prospective secondary shipper in accordance with, and subject to, rule 637 as if the transportation facility were a Part 24 facility and the agreement were a standard OTSA for the purposes of that rule,

within 60 business days after receiving the request and information reasonably required to demonstrate to the transportation service provider that the request is an eligible request.

For the purposes of this subrule, a request for an operational transportation service agreement in the form of a standard OTSA is an **eligible request** if the request is made by a prospective secondary shipper who is eligible under rule 636(5) and who intends to enter into the agreement and use its reasonable endeavours to procure transportation capacity on the transportation facility.

- (7) An exemption granted by the AER in accordance with this Subdivision:
  - (a) takes effect on a date specified by the AER in the exemption; and
  - (b) ends on the expiry date specified in the exemption or, if earlier, the date a revocation of the exemption made under this Subdivision comes into effect.
- (8) The AER must notify AEMO of each exemption granted under this Subdivision and each exemption revocation.
- (9) The AER must establish, publish and maintain a register of exemptions granted by the AER under this Subdivision and exemption revocations.
- (10) The transportation service provider for a transportation facility for which an exemption has been granted under this Subdivision must notify the AER without delay if circumstances change such that the transportation facility (or the relevant part) no longer qualifies for the exemption under this Subdivision.

## **612 Exemption conditions**

- (1) Subject to rule 611(6), an exemption under this Subdivision may be granted subject to any conditions determined by the AER.
- (2) The transportation service provider for a transportation facility for which an exemption has been granted under this Subdivision must comply with any conditions of the exemption.
- (3) The AER may on the application of the transportation service provider for a transportation facility the subject of an exemption or on its own initiative vary the conditions of an exemption.
- (4) A variation to the conditions of an exemption takes effect on the date specified by the AER in its decision to grant the variation.

## **613 Revocation**

- (1) The AER may revoke an exemption granted by it under this Subdivision where in the AER's reasonable opinion, the relevant transportation facility no longer qualifies for the exemption.

- (2) In deciding whether to revoke an exemption under subrule (1), the AER may take into account the circumstances by reason of which the transportation facility ceases to qualify for the exemption and whether the circumstances are reasonably likely to continue and if so, for how long.
- (3) The AER may revoke an exemption granted by it under this Subdivision on its own initiative or following an application made by any person.
- (4) A revocation of an exemption under this rule takes effect on the date specified by the AER in its decision to revoke the exemption.

#### **614 Making and form of application**

- (1) A transportation service provider for a transportation facility may apply to the AER for:
  - (a) the grant of an exemption for its transportation facility; or
  - (b) a variation to any condition of an exemption for its transportation facility.
- (2) Any person may apply to the AER for the revocation of, or a variation to, an exemption.
- (3) An application under this Subdivision must be in the form, and contain the information, specified in any guidelines issued by the AER for the purposes of this rule.
- (4) The AER may, within the period for making a decision on the application under rule 615, ask the applicant to provide further information or clarification in support of the application if the AER considers that the application is incomplete or requires clarification.
- (5) If the AER asks for further information or clarification under subrule (4), the application is taken to have been made when the further information or clarification is provided to the AER's satisfaction.

#### **615 Decision on application**

- (1) The AER must decide whether to grant or refuse to grant an application made under rule 614 within 40 business days after the application is made.
- (2) The AER may extend the time period in subrule (1) by a further period of up to 20 business days by giving the applicant written notice of the extension not later than 30 business days after the application is made.
- (3) The AER must:
  - (a) give the applicant written notice of its decision to grant or refuse to grant an application made under rule 614, including any conditions imposed in accordance with rule 611(6) or rule 612; and

- (b) if the AER imposes conditions on the grant of an exemption or a variation of an exemption in accordance with rule 612, or refuses to grant an exemption or variation in response to an application made under rule 614, give the applicant written reasons for its decision.

## **616 Decision to vary or revoke an exemption**

- (1) If the AER proposes to vary or revoke an exemption other than on the application of the transportation service provider for the transportation facility concerned, it must notify the transportation service provider for the transportation facility and invite the transportation service provider to make submissions about the proposed variation or revocation within 20 business days of the notice.
- (2) If a transportation service provider given a notice under subrule (1) provides written submissions to the AER within the period required by the notice, the AER must have regard to those submissions in deciding whether to vary or revoke the exemption.
- (3) If the AER varies or revokes an exemption it must give the transportation service provider for the transportation facility written reasons for its decision.

## **Subdivision 3.2 Registration for transaction support arrangements and the capacity auction**

### **617 AEMO to maintain register and publish guide**

- (1) AEMO must, in accordance with this Part and the Capacity Transfer and Auction Procedures, establish, maintain and publish a register of facility operators and Part 24 facilities registered under this Part.
- (2) The register must include:
  - (a) the name and contact details for each facility operator;
  - (b) a description of each Part 24 facility and the facility operator for the Part 24 facility;
  - (c) a list of pending applications for registration under Part 24; and
  - (d) any further information required by these rules or the Capacity Transfer and Auction Procedures.
- (3) AEMO must develop and publish and may amend a guide for transportation service providers about the process and timing for registration under this Part, the functions of facility operators under this Part, Part 25 and the Capacity Transfer and Auction Procedures and the role of transportation service providers under this Part (even if not registered as a facility operator).

## **618 Registration of transportation service providers**

- (1) A transportation service provider must apply to AEMO to register under this Part as a facility operator if:
  - (a) any of its transportation facilities is a Part 24 facility; and
  - (b) the transportation service provider is not already registered under this Part as a facility operator.
- (2) An application under subrule (1) must be made no later than 20 business days after the person becomes a transportation service provider for a Part 24 facility.
- (3) For the purposes of subrules (1) and (2), in relation to a transportation service provider, a Part 24 facility for which another transportation service provider has been appointed as the responsible transportation service provider in accordance with rule 620 should be disregarded.

## **619 Obligation to register Part 24 facilities**

- (1) A transportation service provider for a Part 24 facility must apply to AEMO to:
  - (a) register the Part 24 facility under this Part, if the Part 24 facility is not already registered under this Part; and
  - (b) be registered under this Part as the facility operator for the Part 24 facility, unless another transportation service provider has been appointed as the responsible transportation service provider for the Part 24 facility in accordance with rule 620.
- (2) An application under subrule (1) must be made no later than 20 business days after the application date for the Part 24 facility.

## **620 Multiple transportation service providers for a Part 24 facility**

- (1) If there is more than one transportation service provider for a Part 24 facility, each transportation service provider for the Part 24 facility is taken to be a member of a **transportation service provider group** for that Part 24 facility (the **relevant Part 24 facility**).
- (2) The members of a transportation service provider group must appoint one of their members in writing (the **responsible transportation service provider**) to register as the facility operator for the relevant Part 24 facility.

### **Note:**

The facility operator is not required to be the same transportation service provider who publishes a standard OTSA for the relevant Part 24 facility. However refer to subrule (9).

- (3) For the purposes of the rules and the Capacity Transfer and Auction Procedures, the members of a transportation service provider group are taken to have authorised the responsible transportation service provider appointed in accordance with subrule (2) to perform the obligations and exercise the rights of a facility operator under this Part, Part 25 and the Capacity Transfer and Auction Procedures in relation to the relevant Part 24 facility, including any right to receive payment from AEMO.
- (4) A transportation service provider appointed by a transportation service provider group as the responsible transportation service provider for a relevant Part 24 facility must apply to:
  - (a) register the relevant Part 24 facility under rule 619; and
  - (b) register as the facility operator for the relevant Part 24 facility under rule 619.
- (5) An application for registration under this Part made by a transportation service provider in the capacity of responsible transportation service provider of a transportation service provider group must contain the information about the transportation service provider group specified in the Capacity Transfer and Auction Procedures.
- (6) The responsible transportation service provider must as soon as practicable update the information about the transportation service provider group provided under subrule (5) if the information changes or is otherwise inaccurate.
- (7) If a responsible transportation service provider has been appointed for a relevant Part 24 facility in accordance with subrule (2) and has registered as the facility operator for the relevant Part 24 facility, for so long as that registration remains in effect, each other member of the transportation service provider group for the relevant Part 24 facility is exempt from the requirement to register the relevant Part 24 facility and as the facility operator for the relevant Part 24 facility.

**Note:**

A member of a transportation service provider group who is not also the facility operator may have obligations under the rules in its capacity as a transportation service provider for the relevant Part 24 facility.

- (8) If a responsible transportation service provider has registered as the facility operator for a relevant Part 24 facility, for so long as that registration remains in effect AEMO may fulfil AEMO's obligations under this Part, Part 25 and the Capacity Transfer and Auction Procedures in relation to the relevant Part 24 facility, including any obligation to make a payment, by performing those obligations in relation to the facility operator for the relevant Part 24 facility.
- (9) If a responsible transportation service provider has registered as the facility operator for a relevant Part 24 facility in accordance with subrule (4), for so long as that registration remains in effect:

- (a) each member of the transportation service provider group must procure and where necessary facilitate, the compliance of the facility operator for the relevant Part 24 facility with its obligations under this Part, Part 25 and the Capacity Transfer and Auction Procedures as the facility operator for the relevant Part 24 facility; and
- (b) the facility operator for the relevant Part 24 facility must procure and where necessary facilitate, the compliance of each other transportation service provider for the relevant Part 24 facility with the transportation service provider's obligations under this Part, Part 25 and the Capacity Transfer and Auction Procedures in relation to the relevant Part 24 facility.

## **621 Change of facility operator**

- (1) If the identity of the transportation service provider for a Part 24 facility registered under this Part changes:
  - (a) the outgoing facility operator must notify AEMO of the change; and
  - (b) the new transportation service provider must apply to register under rule 619 as the facility operator for the Part 24 facility.
- (2) If the identity of the responsible transportation service provider for a Part 24 facility changes:
  - (a) the outgoing facility operator must notify AEMO of the change; and
  - (b) the new responsible transportation service provider (if any) must apply to register under rule 619 as the facility operator for the Part 24 facility.
- (3) A notice under subrule (1) or (2) must be given no later than 5 business days after the change takes effect.
- (4) An application for registration referred to in subrule (1) or (2) must be made no later than 5 business days after the change takes effect.

## **622 Application for registration**

- (1) An application for registration under this Part must:
  - (a) be in the form and contain the information specified by AEMO in the Capacity Transfer and Auction Procedures; and
  - (b) in relation to an application to register a Part 24 facility, contain:
    - (i) a description of the Part 24 facility; and
    - (ii) unless the information is already provided under Part 18, the nameplate rating of the Part 24 facility.



- (2) An application for registration under this Part may be made:
  - (a) by a person who intends to become a transportation service provider or a responsible transportation service provider;
  - (b) in respect of a proposed Part 24 facility; or
  - (c) by a person intending to register under this Part as a facility operator for a Part 24 facility.
- (3) AEMO may, within 10 business days of receiving an application, ask the applicant to provide further information or clarification in support of the application if AEMO considers that an application is incomplete or requires clarification.
- (4) If a notice is given under subrule (3), the applicant must, within 10 business days of the notice, provide to AEMO the information or clarification required to complete or clarify the application. If the information is not provided in that period, the application is taken to have been made when further information or clarification is provided to AEMO's satisfaction.
- (5) A person registered under this Part must give AEMO updated information as soon as practicable if any information provided in accordance with this rule changes or is otherwise inaccurate.

## **623 AEMO to register applicants and their facilities**

- (1) AEMO must register an applicant as a facility operator pursuant to rule 618 or as the facility operator for a Part 24 facility pursuant to rule 619(1)(b) if the applicant has applied for registration under this Part in that capacity in accordance with this Part.
- (2) Subject to subrules (3) and (4), AEMO must register a Part 24 facility the subject of an application under rule 619(1)(a) if an application for registration of the Part 24 facility pursuant to that rule has been made in accordance with this Part.
- (3) AEMO may register a pipeline that is the subject of multiple pipeline licences as a single Part 24 facility and may require applications for registration to be consolidated for that purpose.
- (4) AEMO may on the application of a facility operator made in relation to its transportation facility (including a transportation facility that is already registered under this Part):
  - (a) register the transportation facility, together with one or more other transportation facilities in respect of which an application under this subrule is made, as a single Part 24 facility; or
  - (b) register a part (or parts) of a transportation facility as a separate Part 24 facility,

in each case, if AEMO is reasonably satisfied that such registration is not likely to hinder access to one or more operational transportation services, having regard to information provided by the facility operator and any other matter that AEMO considers appropriate.

- (5) Where an application for registration is made pursuant to this Part by an intending transportation service provider, intending facility operator for a Part 24 facility or in respect of a proposed Part 24 facility, the registration takes effect at the time determined by AEMO.
- (6) AEMO must confirm registration details to the applicant as provided for in the Capacity Transfer and Auction Procedures.

## **624 Revocation of registration**

- (1) A facility operator must apply to AEMO to revoke its registration under this Part if the facility operator is no longer required by this Part to be registered.
- (2) A facility operator must apply to AEMO to revoke the registration of its transportation facility under this Part if the transportation facility is no longer required by this Part to be registered.
- (3) An application under subrule (1) or (2) must:
  - (a) be in the form specified by AEMO in the Capacity Transfer and Auction Procedures; and
  - (b) contain the information specified by AEMO.
- (4) AEMO must revoke the registration the subject of an application under subrule (1) or (2) if AEMO is satisfied based on the information in the application that the person or transportation facility is no longer required by this Part to be registered.

## **Division 4 Determination of zones and matters for the Capacity Transfer and Auction Procedures**

### **625 Information about facility agreements**

A facility operator for a Part 24 facility must provide to AEMO and keep up to date in accordance with the Capacity Transfer and Auction Procedures, information about facility agreements for the Part 24 facility to allow the accurate identification of those agreements for the purposes of the transaction support arrangements.

### **626 Service point specifications**

- (1) A facility operator for a Part 24 facility must, in accordance with the Capacity Transfer and Auction Procedures, provide to AEMO and keep up to date a specification of each service point at or between which transportation services are

or may be provided by means of the Part 24 facility and each park service point, in a form that complies with the Capacity Transfer and Auction Procedures and is suitable for publication in the transportation service point register.

- (2) A facility operator for a Part 24 facility may from time to time amend the specification of a service point or a park service point in accordance with the Capacity Transfer and Auction Procedures.

## **627 Determination of zones and pipeline segments**

- (1) AEMO must from time to time determine:
  - (a) the allocation of pipeline service points and compression service points to zones, in accordance with rule 628; and
  - (b) the forward haul pipeline segments and backhaul pipeline segments.
- (2) Before making a determination under subrule (1), AEMO must consult in accordance with the Capacity Transfer and Auction Procedures.
- (3) The Capacity Transfer and Auction Procedures must set out the arrangements for AEMO to consult on and determine the proposed allocation of service points to zones and proposed pipeline segments. The arrangements must include provisions with respect to:
  - (a) proposals to be made by a facility operator or any other person (including AEMO) for a determination (including a change to an existing determination);
  - (b) the provision of information by facility operators in connection with the determination;
  - (c) the time frame and process for AEMO to consult, which may allow for extensions of time in reasonable circumstances;
  - (d) an expedited process for AEMO to consult in circumstances where the matter is of a minor or administrative nature;
  - (e) rejection of proposals for change without consultation, including where in the reasonable opinion of AEMO the proposal is for a change proposed, but rejected, in the previous 12 months or is misconceived or lacking in substance;
  - (f) the information to be published in the consultation, including information relating to possible curtailment of capacity released for transfer from one service point in the zone when nominated for use at another service point in the zone;
  - (g) arrangements to maintain the confidentiality of confidential or commercially sensitive information provided to AEMO in connection with a determination; and

- (h) the time at which a determination takes effect and the matters to be taken into account for that purpose, including the impact on transactions occurring before the decision about the determination is made and on the gas trading exchange.
- (4) A facility operator for a Part 24 facility must, in accordance with the Capacity Transfer and Auction Procedures:
  - (a) provide information reasonably required by AEMO to analyse and assess a proposed zone or pipeline segment; and
  - (b) undertake modelling or other analysis of a proposed zone or pipeline segment and provide the results to AEMO, together with information reasonably required by AEMO to analyse the model and the results, including assumptions, inputs, pipeline configuration and methodology.

## **628 Principles for determining zones**

- (1) Pipeline service points for forward haul services must be allocated to pipeline zones.
- (2) In determining the allocation of pipeline service points to pipeline zones, AEMO may have regard to any matter relevant to that determination including:
  - (a) the impact of the proposed allocation on trade in products offered through the gas trading exchange or the capacity auction including the impact on demand or liquidity;
  - (b) possible curtailment of capacity released for transfer from one pipeline service point in the zone when nominated for use at another pipeline service point in the zone, whether over time or at particular times or in particular conditions; and
  - (c) technical or operational characteristics of the pipeline.
- (3) The allocation of pipeline service points to pipeline zones must comply with the following principles:
  - (a) pipeline service points used for receipt of gas must be allocated to pipeline receipt zones;
  - (b) pipeline service points used for delivery of gas must be allocated to pipeline delivery zones;
  - (c) a pipeline service point cannot be in more than one pipeline delivery zone or pipeline receipt zone (but if the point is used both for delivery and receipt, may be in both a pipeline delivery zone and a pipeline receipt zone); and
  - (d) a pipeline service point can be in both a pipeline delivery zone and a pipeline receipt zone where the pipeline is bidirectional.

- (4) Compression service points must be allocated to compression zones.
- (5) In determining the allocation of compression service points to compression zones, AEMO may have regard to any matter relevant to that determination including:
  - (a) the impact of the proposed allocation on trade in products offered through the gas trading exchange or the capacity auction including the impact on demand or liquidity;
  - (b) possible curtailment of capacity released for transfer from one compression service point in the zone when nominated for use at another compression service point in the zone, whether over time or at particular times or in particular conditions; and
  - (c) technical or operational characteristics of the compression service facility.
- (6) The allocation of compression service points to compression zones must comply with the following principles:
  - (a) compression service points used for receipt of gas must be allocated to compression receipt zones;
  - (b) compression service points used for delivery of gas must be allocated to compression delivery zones; and
  - (c) a compression service point cannot be in more than one compression receipt zone or compression delivery zone (but if the point is used both for delivery and receipt, may be in both a compression receipt zone and a compression delivery zone).
- (7) A zone may consist of only one service point.
- (8) In assessing the ability for transportation capacity to be transferred between service points within a zone, AEMO may assume the relevant transportation service provider operates the service points in accordance with the transportation service provider's usual operating practices and that those practices are not required to be adjusted by reason only that the service point is allocated to a zone with other service points.

**629 Transportation service point register and information about curtailment of capacity in a zone**

- (1) The service points, pipeline segments and zones must be specified in a register maintained by AEMO under the Capacity Transfer and Auction Procedures (the transportation service point register).
- (2) The Capacity Transfer and Auction Procedures must provide for:
  - (a) a facility operator for a Part 24 facility to provide to AEMO in accordance with the Capacity Transfer and Auction Procedures; and

(b) AEMO to publish on the Natural Gas Services Bulletin Board,

information relating to the curtailment of transportation capacity released for transfer from one service point in a zone when nominated for use at another service point in the zone.

### **630 Interface with the STTM and the DWGM**

- (1) The transportation service point register must specify for each pipeline service point and zone if it is:
  - (a) a service point or zone at which the receipt or delivery of gas is subject to the declared wholesale gas market under Part 19 (a **DWGM interface point**); or
  - (b) a service point or zone at which the receipt or delivery of gas is subject to the short term trading market under Part 20 (an **STTM interface point**).
- (2) The Capacity Transfer and Auction Procedures must provide for the arrangements under which, for the purposes of Part 19, a sale of transportation capacity through the capacity auction or the gas trading exchange at a DWGM interface point will be, or will be taken to have been, notified to AEMO and where necessary, confirmed, approved or accepted by AEMO or any other person.
- (3) The Capacity Transfer and Auction Procedures must provide for the arrangements under which, for the purposes of Part 20, a sale through the gas trading exchange of transportation capacity at an STTM interface point will be notified, or will be taken to have been notified, to AEMO and where necessary, confirmed, approved or accepted by AEMO or any other person.

**Note:**

Capacity at an STTM interface point purchased in the capacity auction will not result in a change to registered facility services or trading rights. The buyer may submit an MSV in relation to its use of the capacity.

## **Division 5 Obligations of transportation service providers relating to standard OTSAs**

### **Subdivision 5.1 Standard OTSAs and standardisation costs**

#### **631 Obligation to prepare and publish standard OTSAs**

- (1) A transportation service provider for a Part 24 facility must prepare and publish a standard OTSA for the Part 24 facility in accordance with the *NGL* and must do so no later than the date falling 40 business days after the application date for the Part 24 facility.

- (2) Where a transportation service provider becomes aware that a standard OTSA required to be published by it does not comply with the requirements of the rules or the Code, the transportation service provider must prepare and publish a revised standard OTSA that does comply as soon as practicable after the transportation service provider becomes aware of the non-compliance.
- (3) A transportation service provider for a Part 24 facility must notify the AER without delay upon publication of a standard OTSA or an amended standard OTSA for the Part 24 facility.

## **632 Content of standard OTSAs**

- (1) A standard OTSA for a Part 24 facility must:
  - (a) incorporate the standard terms in the Code with no alterations, other than permitted alterations or required alterations;
  - (b) incorporate facility specific terms applicable to the Part 24 facility made in accordance with subrule (2); and
  - (c) not incorporate any other terms or conditions except as permitted or required by the rules or the Code.
- (2) A transportation service provider for a Part 24 facility must ensure that the facility specific terms for the Part 24 facility:
  - (a) are consistent with the rules;
  - (b) give effect to the description of, and requirements for, facility specific terms in the Code;
  - (c) give effect to the auction service priority principles; and
  - (d) do not make alterations to the standard terms except to the extent:
    - (i) permitted by the rules or the Code; or
    - (ii) required to ensure the transportation service provider does not breach any Australian statutory obligation binding upon the transportation service provider.
- (3) A transportation service provider for a Part 24 facility must ensure that any charge specified by or determined in accordance with facility specific terms for the recovery of standardisation costs is separately identified and not included as an unidentifiable component of another charge.
- (4) A standard OTSA published under this Part must include the date of publication, the date to which the standard OTSA is current and, if the standard OTSA replaces an earlier version, notice of that fact.

### 633 Amendments to standard OTSAs

- (1) A transportation service provider may amend a standard OTSA for its Part 24 facility, subject to rule 632.
- (2) A transportation service provider must amend a standard OTSA for its Part 24 facility to make a required amendment by the date specified for that required amendment or as otherwise required by the rules.
- (3) If a transportation service provider amends a standard OTSA for a Part 24 facility, it must as soon as practicable publish the new standard OTSA.
- (4) When a transportation service provider publishes a new version of a standard OTSA, it must:
  - (a) at the same time publish a version showing the amendments made to the old version; and
  - (b) continue to publish the old version until the new version is replaced.
- (5) If a transportation service provider amends a standard OTSA for a Part 24 facility, to the extent that any amendment is not automatically incorporated in the terms and conditions for the provision and use of a standard operational transportation service provided under an agreement entered into before the amendment is made, the transportation service provider must on request by the other party to the agreement, offer to amend the agreement to incorporate the amendment.

### 634 Recovery of standardisation costs

- (1) The **standardisation costs** of a transportation service provider are the reasonable costs the transportation service provider incurs in establishing and maintaining the following arrangements:
  - (a) standard OTSAs for Part 24 facilities;
  - (b) operational transportation service agreements in the form of a standard OTSA for conditionally exempt facilities; and
  - (c) systems and processes to comply with obligations under this Part, Part 25, the Capacity Transfer and Auction Procedures and where applicable the conditions of an exemption,

to the extent that those costs are either incremental costs incurred exclusively in establishing and maintaining those arrangements or a proportionate share of any incremental costs reasonably attributable to establishing and maintaining those arrangements.

- (2) Subject to subrule (3), a transportation service provider should have a reasonable opportunity to recover its standardisation costs from transportation facility users.



- (3) A transportation service provider must:
  - (a) not seek to recover standardisation costs from transportation facility users more than once;
  - (b) treat amounts paid to a transportation service provider or a facility operator for any of the transportation service provider's Part 24 facilities on account of the proceeds of the capacity auction as a contribution to the recovery of standardisation costs by transportation facility users, up to the amount of those costs; and
  - (c) in setting charges to recover standardisation costs from transportation facility users, set charges that:
    - (i) insofar as practicable, reflect the outcomes of a workably competitive market;
    - (ii) allocate the standardisation costs among transportation facility users in a reasonable manner (whether under operational transportation service agreements or otherwise); and
    - (iii) recover the standardisation costs over time in a manner that promotes efficient trade in, and utilisation of, transportation capacity.
- (4) A transportation service provider required to publish a standard OTSA must also publish, at the same time it is required to publish the standard OTSA, and keep up to date:
  - (a) a schedule of the charges under which standardisation costs are sought to be recovered, including charges under standard OTSAs and other agreements; and
  - (b) information in reasonable detail to explain how the standardisation costs were incurred, how proceeds of the capacity auction have been taken into account and how the charges in the schedule of charges have been calculated.
- (5) A transportation service provider must make a record of its standardisation costs and how they were incurred, and the charges imposed by or on behalf of the transportation service provider to recover the standardisation costs from transportation facility users, and must maintain that record for a period of 5 years after the costs were incurred.

## **635 AER review of standard OTSAs**

- (1) The AER may at any time, at the request of a transportation facility user or prospective secondary shipper or on its own initiative, review a standard OTSA or an agreement prepared in accordance with the exemption condition provided for in rule 611(6) (including charges under the agreement).

- (2) Where a request for a review under subrule (1) is made, the AER must undertake an initial assessment of the request as soon as practicable and must within 20 business days notify the person making the request whether the AER:
  - (a) proposes to conduct a review; or
  - (b) does not propose to conduct a review, together with brief reasons.
- (3) If the AER is not satisfied that an agreement the subject of a review under subrule (1) complies with the rules or the Code or where applicable, the conditions of an exemption, the AER may give a notice to the transportation service provider requiring the transportation service provider to prepare a new standard OTSA for the Part 24 facility or a new agreement for the conditionally exempt facility (as applicable) that does so comply and submit it to the AER for approval within the time specified by the AER in the notice, which must not be less than 20 business days.
- (4) A transportation service provider given a notice under subrule (3) must comply with the notice.
- (5) The AER must only approve a new agreement submitted to it following a notice under subrule (3) if the AER is satisfied that the agreement complies with the rules and the Code and, where applicable, the conditions of the exemption.
- (6) If the AER approves a new standard OTSA for a Part 24 facility submitted to it following a notice under subrule (3), the transportation service provider must within 1 business day publish the agreement as a new version of its standard OTSA for the Part 24 facility.
- (7) Nothing in this rule:
  - (a) limits the powers of the AER under the *NGL* or the rules; or
  - (b) affects the validity or enforceability of an agreement.

## **Subdivision 5.2 Entering into standard OTSAs**

### **636 Requests for standard OTSAs**

- (1) A transportation service provider for a Part 24 facility must publish the information referred to in subrule (2) for the Part 24 facility at the same time it is required to publish the standard OTSA for the Part 24 facility under rule 631 and must keep the information up to date.
- (2) The information referred to in subrule (1) comprises:
  - (a) the contact details for a representative of the transportation service provider to whom a request for the standard OTSA can be sent;

- (b) subject to subrule (3), the information to be included with a request for the standard OTSA; and
  - (c) the identity of the facility operator for the Part 24 facility.
- (3) The information to be included with a request for a standard OTSA must be no more than is reasonably required to enable the transportation service provider to:
- (a) identify the prospective secondary shipper making the request;
  - (b) assess whether the person making the request is eligible under subrule (5); and
  - (c) make an offer to enter into the standard OTSA.
- (4) If the information included with a request for a standard OTSA is incomplete, the transportation service provider must within 5 business days inform the prospective secondary shipper, specifying the information required to be provided to complete the request.
- (5) To be eligible to be offered a standard OTSA, a prospective secondary shipper must:
- (a) be resident in Australia or have a permanent establishment in Australia;
  - (b) be incorporated or constituted under the Corporations Act or, if not, satisfy the transportation service provider (acting reasonably) that:
    - (i) it is duly incorporated; and
    - (ii) it has the legal capacity to enter into and perform the standard OTSA;
  - (c) not be an externally-administered body corporate (as defined in the Corporations Act) or under a similar form of administration under the laws of some other jurisdiction;
  - (d) be capable of being sued in its own name in courts established under the laws of Australia; and
  - (e) not enjoy any immunity from legal proceedings or legal process (including, but without limitation, any immunity from execution).

### **637 Offers for standard OTSAs**

- (1) Subject to subrules (2) and (4), the transportation service provider for a Part 24 facility in receipt of a request for the standard OTSA for the Part 24 facility from a prospective secondary shipper who is eligible to be offered the standard OTSA must prepare and make an offer that complies with subrule (3) to enter into the agreement within the longer of:

- (a) 20 business days after receiving the request or, if applicable, the information requested pursuant to rule 636(4); or
  - (b) any period agreed by the prospective secondary shipper and the transportation service provider.
- (2) If a request for a standard OTSA under subrule (1) is made:
- (a) before the date on which the transportation service provider is required to publish the relevant standard OTSA under rule 631, the offer must be made as soon as practicable after the standard OTSA is first published and in any event within 20 business days of that date; or
  - (b) under an exemption condition provided for in rule 611(6), the offer must be made within the time provided for in that exemption condition.
- (3) An offer under subrule (1) to enter into a standard OTSA must be in a form capable of acceptance by the prospective secondary shipper so as to constitute a new agreement in the form of the standard OTSA.
- (4) For the purposes of section 228C(2)(c) of the *NGL*, a transportation service provider may decline to make an offer to enter into a standard OTSA under subrule (1) in relation to a Part 24 facility:
- (a) where the request is made by a person who is not eligible under rule 636(5);
  - (b) where the request has been withdrawn;
  - (c) where:
    - (i) the transportation service provider and the prospective secondary shipper are or were parties to a facility agreement;
    - (ii) the transportation service provider has suspended or terminated the rights of the prospective secondary shipper under that agreement due to the prospective secondary shipper's failure to comply with the terms of that agreement; and
    - (iii) the matter that gave rise to the termination or suspension has not been rectified or otherwise been resolved to the satisfaction of the transportation service provider, acting reasonably; or
  - (d) where:
    - (i) the transportation service provider and the prospective secondary shipper are or were parties to a facility agreement;
    - (ii) the liability of the prospective secondary shipper to the transportation service provider that is subject to a liability cap has reached or exceeded the liability cap; and

- (iii) the prospective secondary shipper has failed to discharge its liability up to that cap.
- (5) If a transportation service provider declines to make an offer on a ground set out in subrule (4), it must notify the prospective secondary shipper within 10 business days of receipt of the request to which it relates.
- (6) If a transportation service provider declines to make an offer on a ground set out in paragraph (c) or (d) of subrule (4), the prospective secondary shipper may refer the matter to the AER who may reverse the transportation service provider's decision if the AER determines it was not made in accordance with the relevant paragraph.
- (7) Before making a determination under subrule (6), the AER must consult with the transportation service provider.
- (8) If the transportation service provider's decision is reversed by the AER, the transportation service provider may not rely on paragraph (c) or (d) of subrule (4) (as applicable) as the basis for declining to make an offer in response to the request made by the prospective secondary shipper.

## **Division 6            Other transportation service provider obligations**

### **638            Giving effect to operational transfers**

- (1) A transportation service provider for a Part 24 facility must give effect to an operational transfer of transportation capacity in relation to the Part 24 facility notified by AEMO under the Capacity Transfer and Auction Procedures to the facility operator for the Part 24 facility after the CTP application date for the Part 24 facility, except to the extent it is not required to do so in accordance with and subject to:
  - (a) the Capacity Transfer and Auction Procedures; or
  - (b) the terms and conditions of a facility agreement to which the notification relates, subject to rule 639.
- (2) Subject to rule 639, subrule (1) does not require a transportation service provider to give effect to an operational transfer of transportation capacity referred to in that subrule where the primary facility agreement from which that transportation capacity is first derived has been terminated.
- (3) A transportation service provider for a Part 24 facility or a conditionally exempt facility must give effect to an operational transfer of transportation capacity in relation to the transportation facility notified by the parties to the transaction except to the extent it is not required to do so in accordance with, and subject to, the terms and conditions of a facility agreement to which the notification relates.

- (4) For the purposes of this rule, the **CTP application date** for a Part 24 facility is the date falling 120 business days after the application date for the Part 24 facility.

**639 Service continuity for primary service termination or suspension**

- (1) Subrule (2) applies to a transportation service provider for a Part 24 facility in relation to traded capacity in respect of the Part 24 facility, where the primary facility agreement from which the traded capacity is first derived has been terminated.
- (2) Where this subrule applies, a transportation service provider for a Part 24 facility must, in relation to traded capacity in respect of the Part 24 facility:
- (a) give effect to each operational transfer of the traded capacity notified to the facility operator by AEMO under the Capacity Transfer and Auction Procedures during the service continuity period for the traded capacity, unless the seller or buyer of the traded capacity for the operational transfer has specified (or purported to specify) the terminated primary facility agreement as the agreement from or to which the traded capacity is to be transferred; and
  - (b) during the service continuity period for the traded capacity, provide transportation services in respect of the traded capacity, unless the transportation facility user nominating for use of the traded capacity is a terminated seller in relation to the traded capacity.
- (3) The Capacity Transfer and Auction Procedures must provide for AEMO to:
- (a) determine in accordance with the methodology made by AEMO under subrule (7) an amount for the provision of transportation services in accordance with subrule (2) during the period provided for in that subrule; and
  - (b) in its capacity as Operator under Part 22, pay that amount in accordance with the Capacity Transfer and Auction Procedures to the facility operator for the Part 24 facility.
- (4) Subrule (5) applies to a transportation service provider for a Part 24 facility in relation to traded capacity in respect of the Part 24 facility, where the primary facility agreement from which the traded capacity is first derived has been suspended.
- (5) Where this subrule applies, a transportation service provider for a Part 24 facility must, in relation to traded capacity in respect of the Part 24 facility:
- (a) give effect to each operational transfer of the traded capacity notified to the facility operator by AEMO under the Capacity Transfer and Auction Procedures, unless the seller of the traded capacity for the operational

transfer has specified the suspended primary facility agreement as the agreement from which the traded capacity is to be transferred; and

- (b) provide transportation services in respect of the traded capacity, unless the transportation facility user nominating for use of the traded capacity is nominating (or purporting to nominate) under the suspended primary facility agreement or another agreement under which the provision of transportation services by means of traded capacity has been suspended.
- (6) Notwithstanding anything in this rule, this rule does not prevent a transportation service provider exercising its rights in respect of a breach of an operational transportation service agreement, including rights to suspend or refuse service.
- (7) AEMO must specify in the Capacity Transfer and Auction Procedures a methodology for determining the amounts payable in accordance with subrule (3) for each gas day in the service continuity period for traded capacity, which must be:
- (a) determined by reference to the price or prices at which the terminated seller sold the traded capacity through the gas trading exchange; and
  - (b) payable in respect of the quantity of traded capacity for which the transportation service provider is required to continue to provide the transportation service under subrule (2).

## **640 Amendment of facility agreements**

- (1) A transportation service provider for a Part 24 facility or a conditionally exempt facility must, within 30 business days of a request made by a party to a facility agreement for transportation services provided by means of the transportation facility, give the person making the request and each other party to the agreement an amending agreement that complies with subrule (2).
- (2) An amending agreement must:
- (a) make amendments to the facility agreement to permit a transportation facility user who is party to the agreement to sell transportation capacity the subject of the facility agreement for use under an operational transportation service agreement; and
  - (b) give effect to the principles in rule 642.
- (3) If a transportation service provider receives a request in accordance with subrule (1), the parties to the facility agreement must negotiate in good faith for the purposes of agreeing the terms of the amending agreement.
- (4) Once the terms of the amending agreement have been agreed the parties to the facility agreement must execute the amending agreement as soon as is reasonably practicable.

- (5) If there is a relevant dispute:
- (a) the relevant dispute must be resolved in accordance with the relevant contractual provisions for dispute resolution, insofar as those provisions apply to the relevant dispute of their own force and effect; and
  - (b) if the relevant contractual provisions for dispute resolution do not apply to the relevant dispute, each party to the relevant facility agreement is taken to have agreed (as a term of the relevant facility agreement) to refer the relevant dispute for determination by an expert under the expert determination rules.
- (6) For the purposes of this rule:
- (a) **expert determination rules** means the expert determination rules of the Resolution Institute ABN 69 008 651 232 (or its successor body) in the form those expert determination rules take at the time the relevant dispute is referred for determination;
  - (b) **relevant dispute** means a disagreement or dispute between the parties to a relevant facility agreement under or in connection with this rule, including a disagreement or dispute about the terms of an amending agreement the subject of negotiations under this rule, whether or not a party to negotiations under subrule (4) has negotiated in good faith;
  - (c) **relevant contractual provisions for dispute resolution** means provisions for dispute resolution contained in a relevant facility agreement; and
  - (d) **relevant facility agreement** means, in relation to an amending agreement, the facility agreement the subject of a request under subrule (1).

## **641 New facility agreements**

- (1) A facility agreement entered into after the Part 24 commencement date for transportation services provided by means of a Part 24 facility or a conditionally exempt facility must include provisions that permit a transportation facility user who is party to the agreement to sell transportation capacity the subject of the facility agreement for use under an operational transportation service agreement.
- (2) The provisions in a facility agreement referred to in subrule (1) must give effect to the principles in rule 642.

## **642 Principles for terms to facilitate sale by operational transfer**

- (1) Provisions in a facility agreement that permit a transportation facility user to sell transportation capacity the subject of the facility agreement for use under an operational transportation service agreement must give effect to the principles in subrule (2).
- (2) The principles referred to in subrule (1) are:



- (a) the provisions must permit the sale of transportation capacity by means of an operational transfer;
  - (b) the provisions must permit two or more transportation services provided as a single transportation service under the facility agreement to be sold as separate transportation services if:
    - (i) each separate transportation service is available as a separate transportation service to transportation facility users for that transportation facility; and
    - (ii) it is operationally and technically feasible to provide each such transportation service as a separate transportation service in a manner consistent with the safe and reliable operation of the transportation facility;
  - (c) the provisions must permit the sale to take place through the gas trading exchange or through negotiations between the transportation facility user and the person buying the transportation capacity;
  - (d) the provisions must permit a sale that takes place through negotiation to include a transfer of hourly entitlements, imbalance entitlements and other contractual entitlements to use the transportation capacity or use it in a given way, to the extent that transfer can occur in a manner consistent with the operational and technical requirements necessary for the safe and reliable operation of the transportation facility;
  - (e) any provisions regulating the transportation service provider's obligation to give effect to the operational transfer must be reasonable having regard to:
    - (i) the operational and technical requirements necessary for the safe and reliable operation of the transportation facility; and
    - (ii) the need to ensure an operational transfer is effected in a workable manner and consistently with the other provisions of the facility agreement;
  - (f) the transportation facility user must not be made liable for:
    - (i) any use by another person of the transportation capacity the subject of the operational transfer; or
    - (ii) any act or omission of another person which relates to the transportation capacity the subject of the operational transfer; and
  - (g) no indemnity or equivalent provision (as assessed by reference to the substantive effect of the provision) may be sought from a transportation facility user on account of any sale by the transportation facility user of transportation capacity by means of an operational transfer.
- (3) Notwithstanding anything to the contrary in subrule (2):

- (a) in the case of a transaction for the sale or purchase of transportation capacity concluded through the gas trading exchange and subject to rule 639, the transportation service provider may decline to give effect to the operational transfer in relation to the transportation facility user in the circumstances permitted by the Capacity Transfer and Auction Procedures;
  - (b) provisions in a facility agreement may suspend the obligation of the transportation service provider to give effect to an operational transfer during any period in which the transportation facility user is:
    - (i) in breach of the facility agreement; or
    - (ii) an externally-administered body corporate (as defined in the Corporations Act) or under a similar form of administration under the laws of some other jurisdiction;
  - (c) a primary shipper may be required to continue to pay any fixed charges related to reservation of transportation capacity under its primary facility agreement and irrespective of the fact that some of that transportation capacity has been the subject of an operational transfer;
  - (d) there is no requirement that a primary shipper be entitled to reduce the quantum of credit support it provides under its primary facility agreement for the period of an operational transfer; and
  - (e) to the extent a primary shipper is required under its primary facility agreement to pay a variable charge based on the quantity of a transportation service it uses on a day, then subject to subrule (4), in respect of any transportation capacity sold by means of an operational transfer, the primary shipper may be required to pay the transportation service provider the variable charge which would have been payable had the primary shipper used the entire amount of that transportation capacity on each day of the operational transfer.
- (4) Subrule (3)(e) does not permit a transportation service provider to recoup the same charge from a primary shipper and another person.
- (5) This rule prevails over anything inconsistent with this rule in rule 105, to the extent of the inconsistency.

### **643 Use of additional pipeline service points**

- (1) A transportation facility user is taken to have a right under a facility agreement for transportation services provided by means of a Part 24 facility or a conditionally exempt facility and to which it is a party to request, from time to time, the use of an additional pipeline service point in accordance with and subject to this rule.
- (2) This rule applies in addition to any other rights under an agreement to request use of an additional pipeline service point, which other right will be treated as a

separate contractual entitlement (which the transportation facility user may at its option exercise) to request use of an additional pipeline service point.

- (3) A transportation facility user may from time to time by notice to the transportation service provider under the facility agreement request use of an additional pipeline service point and request that transportation capacity it has reserved at another pipeline service point be transferred to the additional pipeline service point.
- (4) A transportation service provider in receipt of a request under subrule (3) must notify the transportation facility user as soon as practicable if it requires any additional information to process the request and the transportation facility user must, as soon as practicable, provide the additional information to the transportation service provider.
- (5) A transportation service provider in receipt of a request under subrule (3) must not unreasonably withhold or delay consent to the request or give consent on unreasonable conditions, having regard to:
  - (a) the operational and technical requirements necessary for the safe and reliable operation of the pipeline;
  - (b) whether giving consent reduces the revenue received by the transportation service provider from the transportation facility user or any other person; and
  - (c) the time required to give effect to the requested change.
- (6) A transportation service provider may make its consent conditional on obtaining the consent of a third party but only:
  - (a) where the transportation service provider would be in breach of contract if it gave effect to the request without the consent of the third party; and
  - (b) if the third party is another transportation facility user or an associate of another transportation facility user, the requirement to obtain that person's consent arises under a contractual provision that came into force before 19 March 2018.
- (7) If consent is conditional on the transportation service provider obtaining the consent of a third party as contemplated by subrule (6), the transportation service provider must use reasonable endeavours to obtain that consent. This subrule does not require the transportation service provider to pay an amount to the third party or otherwise waive or compromise any entitlement of the transportation service provider.
- (8) For the purposes of this rule, conditions which the transportation service provider may impose as a condition of giving consent to the request include:
  - (a) a condition relating to the temperature, pressure and hourly and daily constraint requirements at the delivery point or receipt point;

- (b) a condition giving priority to any transportation facility user who has transportation capacity reserved at the pipeline service point but only where the transportation service provider would be in breach of its contractual arrangements with the transportation facility user if it did not impose such conditions;
  - (c) a condition that the transportation facility user pay an additional charge reflecting any additional tariff or other charge applicable to the transportation of natural gas to that point (provided that charge is reflective of the charges applicable to the transportation facility);
  - (d) where the transportation service provider is required to provide a rebate to other transportation facility users on account of new transportation facility users using the pipeline service point, a condition that the transportation facility user pay an amount to the transportation service provider equal to the amount of the rebate payable on account of the transportation facility user's use of the pipeline service point;
  - (e) a condition that the transportation facility user reimburse the transportation service provider its reasonable costs of giving effect to the requested change; and
  - (f) a condition that the transportation facility user become a party to the allocation arrangements applicable at the pipeline service point.
- (9) The transportation service provider must provide information reasonably required by the transportation facility user to understand the additional charges that will be payable by the transportation facility user for use of the additional pipeline service point and must provide any other information in respect of the implications of use of the additional pipeline service point reasonably requested by the transportation facility user.
- (10) Within 5 business days of receipt of a request from the transportation facility user and provision to the transportation service provider of any information requested by the transportation service provider under subrule (4), the transportation service provider must notify the transportation facility user that it:
- (a) accepts the request and, if so, any conditions of the acceptance and the reasons for those conditions; or
  - (b) does not accept the request and the reasons why the request is not accepted; or
  - (c) on a reasonable basis, needs additional time to consider the request and undertake the necessary modelling, in which case:
    - (i) the transportation service provider must give reasons why the additional time is needed and must state the costs of undertaking the modelling, which must be reasonable; and
    - (ii) the additional time must not exceed 20 business days.

- (11) If the transportation service provider notifies the transportation facility user under subrule (10) that it needs additional time to consider a request the transportation facility user may:
  - (a) withdraw the request; or
  - (b) instruct the transportation service provider to proceed to consider the request further and undertake any necessary modelling, in which case the transportation facility user must (in accordance with the transportation service provider's reasonable requirements) reimburse the transportation service provider the reasonable costs of that modelling as notified to the transportation facility user under subrule (10)(c).
- (12) If the transportation service provider is instructed to consider the request further it must do so and within 20 business days from that instruction the transportation service provider must notify the transportation facility user that it:
  - (a) accepts the request and, if so, it must notify the transportation facility user of any conditions of the acceptance and the reasons for those conditions; or
  - (b) does not accept the request and, if so, it must notify the transportation facility user of the reasons why the request is not accepted.
- (13) A transportation facility user in receipt of a notice under subrule (12) may withdraw its request.
- (14) Nothing in this rule requires a transportation service provider to make capital improvements at a pipeline service point.
- (15) This rule prevails over anything inconsistent with this rule in rule 106, to the extent of the inconsistency.

#### **644 Obligations of transportation service providers in relation to auction facilities**

- (1) This rule applies to a transportation service provider for an auction facility where the transportation service provider is not also the facility operator for the auction facility.
- (2) A transportation service provider to whom this rule applies must comply with rule 650(2) and rule 650(3) in relation to the auction facility as if it were the facility operator for the auction facility.
- (3) A transportation service provider to whom this rule applies must comply with rule 655(3) in relation to the auction facility as if it were the facility operator for the auction facility.