RULE

Australian Energy Market Commission

DRAFT RULE DETERMINATION

NATIONAL GAS AMENDMENT (NT EMERGENCY GAS SUPPLY ARRANGEMENTS) RULE 2019

PROPONENT

NT Government

23 MAY 2019

INQUIRIES

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Reference: GRC0052

CITATION

AEMC, NT Emergency Gas Supply Arrangements, Draft rule determination, 23 May 2019

ABOUT THE AEMC

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

SUMMARY

1 The Australian Energy Market Commission (AEMC or Commission) has made a more preferable draft rule that amends the National Gas Rules (NGR) to provide the Northern Territory (NT or Territory) LNG (liquefied natural gas) projects upstream of their connection with the domestic gas market via the Wickham Point Pipeline with exemptions from registration and reporting requirements under the Bulletin Board rules under part 18 of the NGR. The requirements would have required them to register as a Bulletin Board participant and report on gas production and transmission facilities upstream of the connection point of these projects with the domestic gas market.

2 Under the draft rule the exemption will cease to operate and the Bulletin Board (BB) registration and reporting requirements will apply to the NT LNG projects, if the AER determines that one or more events specified in the draft rule (BB application events) occur. The BB application events are defined to include events that indicate that the connection of the NT LNG projects to the NT domestic gas market is for purposes other than emergency back-up supply.

3 The draft rule is made in relation to a rule change request submitted by the NT government. The proposed rule was aimed at exempting the facilities from reporting on the Bulletin Board to preserve the commercial incentives for the two LNG projects to continue with emergency gas supply to the domestic market. The emergency gas supply is a critical component in the security and reliability of gas supply to NT gas consumers. The Commission invites submissions on this draft determination including the draft rule by 4 July 2019.

Background and rationale

4 Gas facilities are required to be registered on the Bulletin Board based on a minimum size threshold of 10 TJ per day. NT facilities, which were not connected to the east coast gas markets and therefore exempt from reporting requirements under part 18 of the NGR, are now required to be registered participants by 6 May 2019, following the completion of the Northern Gas Pipeline in January 2019, which connects the NT market to the rest of the east coast gas market.

5 The AER provided guidance in July 2018 that the new rules classified the pipeline connection between the projects and the domestic market as Bulletin Board pipelines and in addition, interconnected upstream facilities that also exceed the reporting threshold are Bulletin Board facilities that are required to report under Part 18 of the NGR. In this advice the AER acknowledged that the circumstances surrounding the Territory LNG producers may be unique given the purposes for which the connection between the NT LNG projects and the NT domestic gas market was established. The AER recommended the most appropriate course of action would be determined through a rule change process.

6 In November 2018 the Northern Territory government submitted a rule change request to the Commission. The rule change request seeks to introduce changes to the NGR that would exempt LNG related facilities in the NT, upstream of their connections to the NT gas market, from provisions within part 18 of the NGR requiring them to be registered as Bulletin Board

participants and from reporting information on their operations on the Bulletin Board.

7 The key benefits anticipated from the draft rule are the continued supply of the NT domestic market with emergency back-up gas supply from the two NT LNG projects by virtue of the physical connection and contractual arrangements for emergency supply between the two projects and Power and Water Corporation.

8 In the event that a rule was not made, the NT government was concerned that the administrative costs of reporting on the Bulletin Board and the potential detriment to the projects from revealing their commercial position to the international LNG market might result in one or both of the LNG projects terminating their emergency supply to the domestic market. As a consequence the gas supply to the NT domestic market could be expected to be less secure, less reliable and higher cost than if a rule was not made.

Features of the rule

9 The draft rule addresses the same issues identified by the proponent, but provides for circumstances in which the AER may determine that the exemptions no longer apply. Under the draft rule the AER may issue a notice to the NT LNG projects that the exemption no longer applies if one or more "BB application events" occurs. The BB application events are defined to include events that indicate that the connection of the NT LNG projects to the NT domestic gas market is for purposes other than emergency back-up supply, being, in summary terms:

- Flow from the projects is into the domestic market only, and not the other way around, with the exception of remaining commissioning gas flow during 2019 to the Ichthys LNG project.
- Flow to the NT LNG projects from the domestic gas market only in the event of planned or unplanned outages to the Blacktip gas field and associated supply infrastructure, including the Bonaparte gas pipeline.
- The quantity of gas supplied from emergency supply must correspond to the shortfall in production resulting from the outage of Blacktip and its associated infrastructure.

10 In order to provide the AER with the information it needs to determine if "BB application events" have occurred, Power and Water Corporation is required to provide notice to the AER of the reasons for emergency supply on each day of emergency supply (an "emergency gas flow notice" under the draft rule).

Summary of reasons

11 Having regard to the issues raised in the rule change request, the Commission is satisfied that the draft rule will, or is likely to, contribute to the achievement of the National Gas Objective (NGO) by ensuring that emergency supply continues from the NT LNG projects to the domestic market. The Commission considers the possibility of emergency gas supply being withdrawn is credible. While the costs of reporting on the Bulletin Board are difficult to determine, they are likely to be greater than zero. The benefits to the domestic market of information on daily gas flows upstream of the connection point with the domestic market

are negligible. Further, when flow does occur, this flow will be reported at the receipt points of the connecting domestic Wickham Point Pipeline (WPP).

12 Alternative sources of supply, in the event that supply is withdrawn, are likely to provide less security of supply and potentially at a higher cost.

13 On balance, the Commission considers the exemption is likely to contribute to the achievement of the national gas objective and to better meet the national gas objective than the rule proposed by the rule proponent.

14 Advanced notification to the market of future shutdowns either of the Blacktip facilities and their associated infrastructure or the NT LNG projects is not required under the exemption. At the current time, the benefits of providing such information are unlikely to outweigh the costs. The high level of redundancy in the current supply and emergency supply arrangements contracted to PWC mean that the benefits of information on future shutdowns in relation to these supply sources is unlikely to be of material benefit to the domestic market. In the event that these circumstances change, a rule change request can be submitted to the Commission to assess the bearing of the changed circumstances on the rule.

15 Further gas market reforms (known as "tranche 2") were recommended to the COAG Energy Council by the Australian Competition and Consumer Commission (ACCC) and Gas Market Reform Group (GMRG) in December 2018. It is expected that public consultation on the recommendations and draft legislation will be undertaken in 2019. The tranche 2 reforms may result in legislative changes being approved by the COAG Energy Council that impose reporting obligations on the NT LNG facilities. This is a matter to be considered by the COAG Energy Council as part of the process of developing tranche 2 reforms.

16 The draft rule does not prohibit flows of gas between the NT LNG projects and the domestic market over and above emergency back up supply requirements. But if a “BB application event” occurs the AER may make a determination that the exemption from the Bulletin Board registration and reporting requirements will no longer apply for the relevant NT LNG project. The BB application events are defined to include events that indicate that the connection of the NT LNG projects to the NT domestic gas market is for purposes other than emergency back-up supply and are summarised under “Features of the rule” above.

17 The Commission notes that market conditions in the NT may change in the future such that there is reduced reliance on the NT LNG projects as a source of emergency back-up supply and that therefore a key argument for exempting those facilities from Bulletin Board requirements may cease to exist. While the Commission expects that such changed circumstances might also result in changes to the arrangements the NT Government has in place to supply emergency back-up gas supply (potentially rendering a rules-based exemption redundant) it would also be open to any person to request the removal of the exemption through another rule change process.

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APPENDICES

TABLES

1 THE RULE CHANGE REQUEST

The rule change request, received from the Northern Territory Government in November 2018, proposes to amend the National Gas Rules (NGR) such that those LNG related facilities upstream of their connections to the NT gas market and which may be captured by registration and information provision requirements within Part 18 of the NGR, are exempt from such provisions.

The Territory Government considers these rule changes are necessary to preserve the commercial incentives for Territory LNG producers to maintain their connections to the NT gas market and to continue with the emergency back-up gas supply agreements which underpin security of gas supply in the NT. See appendix A.4 for an overview of the physical and contractual links between the NT LNG projects and the domestic market. The rule change request may be found on the AEMC website, www.aemc.gov.au.

1.1 Rationale for the rule change request

In the rule change request, the Northern Territory Government provides the rationale for the rule change. The proponent states that part 18 of the NGR as amended by the 'Improvements to the Natural Gas Bulletin Board' rule change is not fit for purpose for the NT.

The proponent claims that the LNG projects located in the NT operate differently to their east coast counterparts. The projects source gas from offshore, not from the domestic gas market, and engage in limited trade with the domestic gas market and no trade with any participant in the east coast market. The proponent maintains the Territory LNG producers have entered into emergency back-up supply arrangements with PWC to supply gas to the NT "in the event of an interruption to supply".[1]

As such, the benefits of providing information on the activities of the plants to the domestic market would be negligible, according to the proponent.

In the proponent's view, the reporting requirements under part 18 impose a heavy administrative burden that the LNG projects will have to bear. Further, the provision of this operational data may also put the LNG producers at a commercial disadvantage in the international LNG market.

The connection points for these facilities are, for Darwin LNG, the flange connection between the boundary of Darwin LNG and the APA operated Wickham Point Pipeline, and for Ichthys LNG, the point at which the lateral pipeline from the Wickham Point Pipeline to Ichthys LNG crosses the boundary between the Inpex and PWC properties.[2]

As a consequence of the new reporting obligations, the proponent maintains the NT LNG facilities may choose to cease providing emergency back-up gas supply to the domestic market, in order to avoid the reporting obligations. The proponent considers that this emergency gas supply is critical to the NT gas and electricity market, given the dependence

1 Rule change request p.4.

2 Rule change request p.1.

on gas as a source of fuel for electricity generation, and the low diversity of supply sources with almost 90 per cent of the Territory's domestic gas requirements sourced from the offshore Blacktip field.[3]

1.2 Proposed solution

The Northern Territory government requests that changes be made to the NGR such that LNG related facilities upstream of their connections to the NT gas market, and which may be captured by registration and information provision requirements within part 18 of the NGR, are exempt from such provisions to the extent the facilities are:

- principally operated as part of a LNG operation, and
- connected to the NT gas market solely through a pipeline facility at the location of the LNG producing operation.

The rule change would result in all LNG related facilities upstream of the connection point, to be exempt from such provisions.

The rule change request does not include rule drafting for a draft rule.

1.3 Contribution to the NGO

Benefits

The proponent argues the proposed rule change would contribute to the price, reliability and security of supply elements of the National Gas Objective by virtue of preserving the commercial incentives for the Territory LNG producers to continue with the emergency back-up gas supply arrangements currently in place, which underpin security of gas supply in the NT.

In this context, consumers of natural gas include gas fired electricity generators.

In the proponent's view, preservation of the emergency back-up supply arrangements between the Territory LNG producers and PWC would safeguard the NT's currently strong gas supply security for the benefit of consumers. Without the emergency back-up supply arrangements with the Territory LNG producers, the NT's security of supply would transition from an expected 'N-2' redundancy from late 2018 to having insufficient back-up supply for any prolonged interruption to gas supplies from the Blacktip gas field.[4]

The proponent suggests that alternative higher cost emergency back-up measures would need to be pursued by PWC or the Northern Territory government to achieve at least N-1 redundancy (one back-up source). Potential measures include contracting supply from existing or new gas fields, investment in increased diesel storage and generation capacity, or funding the upgrade of the Northern Gas Pipeline to provide for bidirectional gas flows. According to the proponent, each of these options may entail higher costs for PWC and, subject to these costs being passed through, ultimately higher costs for gas consumers.

3 Rule change request p.3.

4 N-1 and N-2 denotes the level of redundancy in the system. N-1 means one source of supply can be unavailable and there is still adequate supply, N-2 means two sources of supply can be unavailable and there is still adequate supply.

Costs

The proposed rule change, in the view of the proponent, is not anticipated to have any adverse consequences for any party.

The proponent maintains that information relevant to the NT gas market such as flows at the connection point with the NT market would be reported by another party, the owner or operator of the emergency pipelines (PWC) and by the operator of the connecting WPP (APA), negating any reporting requirements by NT LNG producers.

On the other hand, irrelevant information related to the production and transport of gas from offshore facilities to the Territory LNG facilities would not be reported or published. In the proponent's view this would help to streamline the administration of the Bulletin Board and improve the relevance of the Bulletin Board to NT gas market participants.

1.4 The rule making process

On 7 February 2019, the Commission published a notice advising of its commencement of the rule making process and consultation in respect of the rule change request. [5] A consultation paper identifying specific issues for consultation was also published. Submissions closed on 14 March 2019.

The Commission received eight submissions as part of the first round of consultation. The Commission considered all issues raised by stakeholders in submissions. Issues raised in submissions are discussed and responded to throughout this draft rule determination. Issues that are not addressed in the body of this document are set out and addressed in Appendix A.

1.5 Consultation on draft rule determination

The Commission invites submissions on this draft rule determination, which includes a draft rule by, 4 July 2019.

Any person or body may request that the Commission hold a hearing in relation to the draft rule determination. Any request for a hearing must be made in writing and must be received by the Commission no later than 30 May 2019.

Submissions and requests for a hearing should quote project number GRC0052 and may be lodged online at www.aemc.gov.au.

5 This notice was published under s308 of the National Gas Law (NGL).

2 DRAFT RULE DETERMINATION

2.1 The Commission's draft rule determination

The Commission's draft rule determination is to make a more preferable rule under section 312 of the NGL. The rule change request did not include rule drafting. The draft rule provides an exemption for the NT LNG facilities upstream of the connection point with the domestic market based on these facilities not interacting with the domestic market except in the event of emergency back-up gas supply. In instances where emergency back-up supply occurs, these gas flows will be reported at the receipt points of the Wickham Point Pipeline (WPP).

The Commission's reasons for making this draft determination are set out in chapter 3.

This chapter outlines:

- the key features of the draft rule
- the rule making test for changes to the NGR
- the more preferable rule test
- the assessment framework for considering the rule change request
- the Commission's consideration of the draft rule against the national gas objective.

2.2 Rule making test

2.2.1 Achieving the NGO

The Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national gas objective (NGO).[6] This is the decision making framework that the Commission must apply.

The NGO is:[7]

> to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, safety, reliability and security of supply of natural gas.

The Commission has considered the draft rule in the context of the impact on all consumers of natural gas, in respect of price, reliability and security of supply.

2.2.2 Making a more preferable rule

Under s.296 of the NGL, the Commission may make a rule that is different (including materially different) to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the NGO.

In this instance, the Commission has made a more preferable rule. This is because the draft rule, in comparison to the proposed rule, requires that:

6 Section 291(1) of the NGL.

7 Section 23 of the NGL.

- An exemption is only provided for instances of emergency back-up supply from the NT LNG facilities into the domestic market. Flows from the domestic market into the NT LNG facilities are not allowed for under the exemption, with the exception of the continued supply of commissioning gas to Icththys LNG in 2019.
- Flows of gas between the NT LNG facilities and the domestic market in excess of that required to replace lost supply as a result of planned or unplanned outages of the Blacktip gas field and its associated supply infrastructure including the Bonaparte gas pipeline, are not allowed for under the exemption. The quantity of gas supplied from emergency supply must correspond to the shortfall in production resulting from the outage of Blacktip and its associated infrastructure.
- An authorised officer of PWC is required to provide the AER with an emergency gas flow notice within ten business days of a gas day on which emergency back-up supply has occurred, or the last day of gas flow if emergency back-up supply flowed on consecutive days.

2.3 Assessment framework

In assessing the rule change request, the Commission has used a similar framework to the one used in the Improvements to the Natural Gas Bulletin Board rule change given the issues in relation to the achievement of the NGO are similar.

The Commission has considered the trade-offs between the benefits to the domestic market of information in regards to the facilities associated with the NT LNG projects that are upstream of their connection point with the domestic market, versus the direct and indirect costs of providing this information. These costs will encompass both the costs the NT LNG projects might incur in the process of providing the information and, in the event the NT LNG projects cease emergency supply to avoid those costs, the resultant impact and costs on the domestic gas and electricity markets as a result of this action were it to occur.

Benefits of additional information

In relation to the benefits of additional information, the Commission assessed whether the information on the operations of the plants upstream of the connection point that would be provided under the application of part 18 to the NT LNG facilities, would be likely to:

- reduce transaction costs, including search costs for domestic market participants
- reduce information asymmetry that may otherwise impede efficient exchange between domestic market participants
- enable more informed decision making by domestic participants, enabling efficient operational, commercial and investment decisions and appropriate risk management.

The extent to which the additional information will achieve these aims was considered in the context of the impact on all consumers of natural gas, in respect of price, reliability and security of supply.

The Commission has considered how relevant the information will be to the different participants in the domestic gas market, in relation to both the price and volume of gas supplied in the domestic market. The Commission has assessed how useful this information will be both when there is emergency or back-up supply to the domestic market and when there is no emergency or back-up gas supply to the domestic market. The Commission has also assessed the extent to which, where this information is useful, it will be provided by other entities required to report on the Bulletin Board.

Costs of information provision

In relation to the cost of providing this information, the Commission has considered:

- the direct costs of information collation and provision, including the materiality of these costs
- the costs of providing the information in relation to the impact of its provision on the commercial negotiations of the LNG projects to obtain replacement supply during periods when they have an outage planned
- the indirect costs of information provision, in relation to the impacts on the cost and security of gas supply to consumers, particularly to gas fired generation in the NT, from the potential withdrawal of emergency back-up gas supply by the NT LNG projects
- the efficient allocation of tasks and responsibilities, allowing for low cost compliance, enforcement, and accountability. The Commission has considered the degree to which data is pertinent to the domestic market and is already available through the reporting of other entities
- the balance between transparency and confidentiality. Some information is justifiably confidential. The provision of such information may alter otherwise efficient operational and investment decisions by market participants.

2.4 Summary of reasons

The draft rule made by the Commission is attached to and published with this draft rule determination. The key features of the draft rule are as follows:

- The NT LNG facilities upstream of defined connection points with the domestic market ("WPP connection points") are exempted from the Bulletin Board registration and reporting requirements under Part 18 of the NGR.
- The AER may issue a notice (a “BB application notice”) to an exempt facility that they are no longer exempt from the Bulletin Board reporting requirements if the AER is satisfied that certain events (“BB application events”) have occurred.
- BB application events are defined in the draft rule. In summary terms[8] the following are BB application events:
    - natural gas was withdrawn from the Wickham Point Pipeline through defined connection points with the NT LNG projects for delivery to those projects on a gas day after the gas day that ends on 31 December 2019;

8 See subrule 143A(5) for the full definition of BB application events, which uses terms defined in subrule 143A(1).

- natural gas was injected into the Wickham Point Pipeline through defined connection points with the NT LNG projects on a gas day when there was no planned or unplanned outage of the Blacktip facilities; or
- natural gas was injected into the Wickham Point Pipeline through defined connection points with the NT LNG projects on a gas day when there was a planned or unplanned outage of the Blacktip facilities but:
  - the volume of natural gas injected into the Wickham Point Pipeline through the connection point on the gas day was more than reasonably required to supply natural gas that could not be withdrawn from delivery points on the Bonaparte Gas Pipeline on the gas day as a result of the relevant outage; and/or
  - the duration over which natural gas was injected into the Wickham Point Pipeline through the connection point was materially greater than the duration of the relevant outage.

- If natural gas flows from the NT LNG projects to the NT domestic market on a gas day then Power and Water Corporation is required to provide the AER with a notice (an "emergency gas flow notice") setting out details of the gas flow specified in subrule 143A(8) of the draft rule.

Further information on the legal requirements for making this draft rule determination is set out in Appendix C.

Having regard to the issues raised in the rule change request, the Commission is satisfied that the draft rule will, or is likely to, contribute to the achievement of the NGO.

Information that is relevant and pertinent to the domestic market is still provided under the draft rule. Where emergency flow occurs, this will be reported at the two receipt points of the WPP pipeline with the two projects.

In relation to information that is not pertinent to the domestic market, such as the daily production and offshore pipeline flows associated with the LNG projects, the Commission finds that the costs of reporting, while difficult to quantify, can be expected to be greater than zero. The benefits of reporting this information however would be minimal, because of the limited bearing that it has on the domestic market. At present, the key considerations for the domestic market are the overall capacity of emergency supply and the actual flows as they occur. Under existing reporting at the WPP receipt and delivery points and under the provisions of this draft rule, this information is already provided.

As a result of the exemption under the draft rule the commercial incentives for NT LNG producers to maintain their connections and emergency supply to the NT gas market are more likely to be preserved than without the exemption. These emergency back-up supply agreements underpin the reliability and security of supply in the NT. Alternative sources of emergency back-up gas supply are likely to cost more and are unlikely to provide the same level of security and reliability at the current time.

The Commission considered whether information relating to future shutdowns, either of the Blacktip facilities and their associated infrastructure or the NT LNG projects, would be pertinent to the domestic market, and hence required despite the exemption. However, the

Commission has determined that this should not be required under the draft rule. At the current time, the benefits of providing such information are unlikely to outweigh the costs. The high level of redundancy in the current supply and emergency supply arrangements contracted to PWC mean that the benefits of information on future shutdowns in relation to these supply sources is unlikely to be of material benefit to the domestic market and may not justify the costs. In the event that these circumstances change, a rule change request can be submitted to the Commission to assess the bearing of the changed circumstances on the rule.

In the event that market conditions in the NT change and the cost of replacement supply is no longer anticipated to be significantly higher than the existing arrangements and the security and reliability of the alternatives is also felt to be on a par with that offered by the NT LNG projects, the exemption could be reconsidered through a rule change request.

3 ASSESSMENT OF THE RULE CHANGE REQUEST

This chapter outlines the key issues considered by the Commission in developing the draft rule. It outlines:

- the cost benefit trade off of applying part 18 to the NT LNG projects
- the considerations of the NT LNG projects in maintaining emergency supply arrangements
- scope to exempt the NT LNG projects from part 18 reporting requirements under the existing rules
- scope to exempt the NT LNG projects on the basis of a new exemption
- issues arising from the offshore location of the production facilities
- the impact of any rule made on the application of the tranche 2 bulletin board reforms.

3.1 The cost benefit trade off of applying part 18 to the NT LNG projects

In assessing the rule change request the Commission has considered the direct and indirect costs of the NT LNG projects reporting under part 18 compared to the benefits of the information reported to the domestic market.

Direct costs include the administrative costs of reporting the information on the bulletin board. Indirect costs include the potential for commercial detriment from the projects revealing operational information to the international LNG market. Indirect costs also include the impacts on the cost and security of gas supply in the NT from the potential withdrawal of emergency back-up gas supply by the NT LNG projects.

The Commission has considered:

- the efficient allocation of tasks and responsibilities, allowing for low cost compliance, enforcement and accountability
- the degree to which data that is pertinent to the domestic market is already available through the reporting of other entities
- the balance between transparency and confidentiality. Some information is justifiably confidential and the provision of such information may alter otherwise efficient operational and investment decisions by market participants.

Benefits of providing information to the domestic market relate to the wider east coast market as well as the domestic NT gas market and encompass both short term and long term decision making by market participants.

3.1.1 Proponent's view

In relation to the costs of reporting, the proponent maintains that there are additional administrative costs to providing the information required under part 18 and that the competitive position of the NT LNG producers in the international LNG market may be adversely affected by revealing their position thereby affecting any negotiations to obtain LNG from other sources to meet their sales commitments.

The proponent draws attention to conclusions made previously by the Commission, in the East Coast Wholesale Gas Market and Pipeline Frameworks Review Stage 2 Final Report published in 2016, that there were potential commercial detriments to the LNG producers from the publication of information but that these were justified because of the integration of these facilities with the domestic market.[9] The proponent asserts that in the context of the NT gas market, this potential detriment is not outweighed by the negligible benefits from the publication of this information.

In relation to the benefits of reporting under part 18, the proponent maintains that reporting of daily upstream production data and offshore pipelines flows may provide little information that is useful to the domestic market. The proponent claims that the operations of the LNG projects, upstream of the connection point with the domestic market, have little or no bearing on the domestic market.

Where the operations do have a bearing, via gas flows to PWC, these flows are covered by reporting on the pipelines that transport this gas to the domestic market.

Most of the time, the data will relate to gas flows wholly within the projects and will have no bearing on the volume of gas supplied into the domestic market, which is governed by the capacity of the lateral pipelines, the contract terms of gas supply and the needs of PWC for gas supply when it occurs. While offshore field shutdowns might have a bearing on the ability of the two projects to supply gas, the net flow into the domestic market would be reported on the WPP.

3.1.2 Stakeholder views

The AER maintains that the Bulletin Board has a transparency role beyond immediate market participation. Arguments around the degree of trade ignore the Bulletin Board's ongoing direction. This includes a wider view of resource availability and investment opportunity that facilitates market development. Transparency should be considered in terms of its value to commercial investment decisions, market operator functions, regulation and policy making. The AER acknowledges that a lesser degree of transparency arising from the exemption would potentially be mitigated by reporting on the WPP.[10]

The AER questions the extent of the costs claimed by the proponent in relation to both the direct costs of reporting and the commercial detriment that would be suffered in the international LNG market. The data should be available as part of ongoing operations and reporting can be automated. Many smaller facilities in the wider market, the AER points out, already report this information. In terms of the commercial disadvantage from providing forward operating information to the LNG market, the AER maintains that the ACCC finding on the authorisation in March 2018 of WA and NT projects regarding timing of scheduled

9 Rule change request p.9.

10 AER submission p.11.

maintenance makes these arguments now largely redundant.[11] The AER also maintains that a broker can be used in the international LNG market to conceal identity, mitigating against the potential exposure of an LNG producers' competitive position.[12]

The ACCC submission supports the view of the AER, emphasising the importance of information reporting for both short and long term decisions and expressing the view that given the potential interaction with the domestic market, careful consideration should be given to the short and long term impacts of any exemption.

AGL maintains in its submission that this rule change applies to the upstream gas facilities and pipeline flows and not LNG exports themselves. As a result, AGL does not consider the reporting of nameplate information, actual and forecast flows and capacity outlooks would have a significant impact on the position of the LNG projects in purchasing gas in the international market.

In contrast, the NT LNG projects maintain that there is little benefit of reporting under part 18, with considerable costs in doing so. Inpex maintains the information would not have any relevance or bearing on the domestic market.[13] Conocophillips asserts that the domestic market is unable to use information in relation to the upstream activities of the LNG projects for any benefit.[14]

In terms of direct costs, Inpex maintains that there would be a significant administrative burden in providing the data, given the complexity of the operation upstream of the connection point. Conocophillips asserts that the information is not captured as part of ongoing operations and while the costs of collecting and providing the standing data would not be significant, the cost of providing all other data would be disproportionate to the undefined benefit that would be provided to the domestic market.[15]

In relation to the issues in the international LNG market with revealing competitive information, Inpex maintains that the Ichthys LNG Project has essentially committed 100% of its LNG output under long term sales agreements. In the event of a production shortfall from lchthys, affected buyers can require Ichthys LNG to source LNG from the international market. Unlike several other LNG sellers from Australian LNG projects, Ichthys LNG does not have a portfolio of projects to facilitate coverage of any shortfall. These factors result in

11 On 2 March 2018, The ACCC granted conditional authorisation to Chevron Australia Pty Ltd(Chevron), Inpex Operations Australia Pty Ltd (INPEX), Shell Australia Pty Ltd(Shell) and Woodside Energy Limited (Woodside) (together, the applicants) for five years to coordinate scheduling of planned maintenance for their Western Australian and Northern Territory LNG facilities. In this finding The ACCC noted that the likely detriment arising from information asymmetry between the applicants and other participants in the domestic gas markets was potentially significant. To ensure that the benefits of the proposed conduct would continue to outweigh this detriment throughout the authorisation period, the ACCC considered it necessary to address this information asymmetry. It therefore imposed a condition on authorisation which requires relevant applicants to publish scheduled maintenance information that they have shared with the other applicants. A similar condition was imposed on LNG producers in Queensland when similar conduct was authorised by the ACCC. The ACCC is satisfied, subject to the condition of authorisation, that the proposed conduct is likely to result in a public benefit that would outweigh the likely detriment. https://www.accc.gov.au/system/files/public-registers/documents/AA1000396%20-%20Western%20Australian%20and%20Northern%20Territory%20LNG%20Producers%20-%20Final%20Determination%20-%2002.03.18%20-%20PR_0.pdf

12 AER submission p.12.

13 Inpex submission p.4.

14 Conocophillips submission p.3.

15 Conocophillips submission p.3.

potential commercial vulnerability for Ichthys LNG in the international market if it is forced to disclose certain information publicly.[16] Conocophillips maintains that the disclosure of this information may affect the management of GSAs with buyers. GSAs can require spot purchases in the global market and therefore any information that reveals the need for Conocophillips to purchase LNG on the international market could put it at a competitive disadvantage.

In its submission, PWC notes that its main concern is whether the absence of Bulletin Board information will negatively impact on its ability to plan for, and manage any situation requiring emergency gas supplies from the NT LNG producers. PWC does not believe it will suffer any negative impact given it has contractual entitlements to information and communication channels with the NT LNG producers that ensure the information is provided. PWC does not believe other market participants will be disadvantaged by the absence of information on upstream activities. Participants will receive adequate information through reporting on the Bulletin Board of facilities downstream of the LNG production facilities.[17]

While supporting consistent application of the Bulletin Board rules across the market, Origin notes that the benefits of reporting information on the upstream activities in this case are likely to be outweighed by the associated costs.[18]

3.1.3 Conclusion

In considering the cost benefit trade off of providing daily production and transmission data for the NT LNG plants upstream of their connection with the domestic market, the costs of reporting, while difficult to quantify, can be expected to be greater than zero. The benefits of reporting this information however are likely to be minimal, because of the limited bearing that it has on the domestic market.

At the current time, the benefits of providing information on future shutdowns either of the Blacktip facilities and their associated infrastructure or the NT LNG projects, are unlikely to outweigh the costs of providing this information. The high level of redundancy in the current supply and emergency supply arrangements contracted to PWC mean that the benefits of information on future shutdowns in relation to these supply sources is unlikely to be of material benefit to the domestic market.

3.2 The role of the NT LNG projects in maintaining emergency supply arrangements

The supply of gas from the NT LNG projects to the domestic market is covered by commercial agreements between the projects and the wholesaler of natural gas in the Territory, PWC. Where the commercial incentive no longer exists for the counterparty to provide this service, this may undermine ongoing supply under the agreement.

16 Inpex submission p.4.

17 PWC submission p.7.

18 Origin submission p.1.

If the projects were to cease emergency supply, replacement emergency supply would need to be sourced. Replacement supply may provide less security and reliability than the existing arrangements. It may also be higher cost. There is the potential for this to change however, with increased interconnection with the east coast market or with additional supply sources available to the domestic NT gas market in the future.

3.2.1 Proponent's view

The proponent maintains that the provision of emergency supply and connection to the NT gas market is incidental to the Territory LNG producers core business of producing LNG. The proponent argues that the competitive position of the NT LNG producers in the international market may be adversely affected and that the Bulletin Board reporting requirements may expose the NT LNG producers to a higher than necessary administrative burden. The proponent as a result considers the rule change necessary to preserve the commercial incentives for the NT LNG producers to maintain their connection to the NT gas market and continue with the emergency gas back-up supply arrangements.[19]

The proponent advises that alternative sources of back-up supply, such as pipeline linepack, diesel, southern gas fields or upgrading the Northern Gas Pipeline to provide for bi-directional gas flows do not provide the same level of supply security or reliability and in addition, are likely to be more expensive.[20]

These options in entailing higher costs for PWC and the NT government would, subject to the costs being passed through, entail higher costs for gas consumers.[21]

3.2.2 Stakeholder views

The AER seeks further clarification to understand the circumstances under which the NT LNG producers might withdraw from the emergency supply arrangements, the timing of when this could happen and the likelihood for each of the NT LNG producers respectively to do so. The AER also cited the N-2 redundancy level (effectively PWC can suffer the loss of two supply sources and still have adequate supply) as reason for progressing the rule change without urgency or a hastened timeframe.[22]

The AER notes that the rule change request is progressing concurrently with tranche 2 Bulletin Board reforms endorsed by COAG in December 2018 that include proposed amendments to the National Gas law to extend Bulletin Board reporting to LNG production. The AER is concerned that exempting NT LNG gas facilities from Bulletin Board reporting now could undermine the policy intent of the tranche 2 reform process and that the outcomes of this rule change process should be sensitive to the potential outcomes of the tranche 2 reforms.[23]

19 Rule change request p.1.

20 Rule change request p.7,13.

21 Rule change request p.13.

22 AER submission p.4.

23 AER submission p.4.

The AER lists a number of alternatives to the emergency back-up supply currently in place and refers to the NT Utilities Commission identifying several major sources of back-up supply in its system power review 2016-2017.[24]

Both NT LNG projects list the direct and indirect costs of reporting on upstream activities under part 18. Direct costs relating to the setup and ongoing administrative costs of providing the information, and indirect costs in relation to the potential commercial disadvantage in relation to participation in the international LNG market.[25]

In relation to the cost of alternative emergency supply, PWC maintains that the NT LNG producers are the lowest cost option. Alternatives such as investment in diesel storage or upgrading the NGP for bi-directional flow are more expensive. This is especially the case when considering the infrequent nature of the emergency supply. In addition, there are a number of practical limitations that make alternatives unfavourable in comparison. Diesel units, according to PWC, would be unable to meet total load without substantial investment in additional units, fuel storage and conversion. (PWC maintains that existing dual fuel units can take around 24 hours to convert fuel operation from natural gas to diesel).[26] Further, PWC highlights that linepack is finite, the Amadeus Gas Pipeline has no compression to deliver gas North to main loads in and around Darwin, the NGP is presently unable to deliver gas from the east coast and gas may not be available (from alternative suppliers on short notice and in priority to competing demands on the east coast at that time).

PWC suggests that supply to the NT through the NGP, in the event of an upgrade for bi-directional flow, is likely to be less reliable than supply from the NT LNG projects. PWC lists the following factors:

- pipeline capacity from the gas source to the NT pipeline system might not be available when the emergency occurs
- the AGP has no compression to deliver gas north
- the NGP may not have sufficient capacity to meet demand in the event of an emergency (current capacity on the NGP is 90 TJ per day whereas total PWC deliveries through the AGP can exceed 110 TJ per day)
- sufficient gas may not be available from the east coast at short notice
- if there is also an emergency on the east coast affecting gas supplies, the NT may not have priority to available gas.[27]

3.2.3 Conclusion

While the costs of reporting are difficult to quantify, they are likely to be non zero. Based on submissions from PWC and the NT government there are some practical barriers to putting certain alternative emergency supply arrangements in place at the current time.

24 AER submission p.5.

25 Inpex submission p.5., Conocophillips submission p.4.

26 PWC submission p.3.

27 PWC submission p.5-6.

In the present circumstances an exemption will promote the NGO. However, in the event market conditions change such that the cost of replacement supply is no longer anticipated to be significantly higher than the existing arrangements and the security and reliability of the alternatives is also felt to be on a par with that offered by the NT LNG projects, then the matter could be reconsidered.

3.3 Scope to exempt the NT LNG projects from part 18 reporting requirements under the existing rules

The offshore production of the NT LNG projects, unlike their east coast counterparts, is dedicated almost entirely to the production of LNG for sale in the international market, not for the production of natural gas for sale domestically. Under this interpretation, the NT LNG production facilities may not be required to register as a BB facility under section 223 of the NGL.

The location of the gas processing facilities in relation to the infrastructure upstream of the connection point with the domestic market may have a bearing on the extent of the natural gas flows that would be required to be reported on the Bulletin Board. Natural gas under the NGL means a substance that is suitable for consumption. Unprocessed gas upstream of a processing facility that is not yet in a state suitable for consumption and injection into a Bulletin Board registered pipeline, may not be required to be reported under Part 18 of the NGR.

Flows of natural gas from the LNG projects into the lateral pipelines that connect with the domestic market via the WPP connection may be covered under rule 164(2) in the NGR which allows an exemption where the information required is already reported by another entity. In this case the gas flows will be reported by the operators of the emergency lateral pipelines (PWC) and the operator of the WPP (APA).

However, the AER provided guidance to the Northern Territory government in July 2018 that the new rules classified the emergency pipeline connection between the projects and the domestic market as Bulletin Board pipelines and in addition, interconnected upstream facilities that also exceed the reporting threshold, may be captured by part 18 of the NGR.

3.3.1 Proponent's view

In the rule change request the proponent states that it is not clear whether the exemption under Rule 164(2) from reporting information that would also be reported by another party could be used effectively by Territory LNG producers due to different reporting requirements for production facilities than for operators of connecting pipelines.

3.3.2 Stakeholder views

The projects have individually advised the Commission of the processing point for gas flowing into LNG production. In the case of Ichthys LNG this occurs as an integrated part of the LNG processing plant. As a result gas upstream of this point is not processed gas and is therefore not in a state fit for injection into a Bulletin Board pipeline or a pipeline connecting to a Bulletin Board pipeline.

Inpex maintain that the Ichthys LNG project intends to rely on the exemption under rule 164 (2) to the extent that this is available, thereby avoiding duplicate reporting.

Conocophillips advises that DLNG gas is processed offshore. Gas to be injected into the domestic market does not go through the DLNG facility. Sometimes the gas specification is not suitable for the NT market. It is unclear based on this, whether the gas would always be considered fit for consumption in the domestic market under the definition provided for in the NGL.[28]

The AER suggest that a reporting exemption under 164(2) could apply to the lateral pipelines given flow data is captured on the receipt points of the WPP. However, this data does not replicate data associated with upstream gas production and transmission, and therefore this would not apply.

3.3.3 Conclusion

The exemption under 164(2) is clear. Data that is reported elsewhere, for example on the WPP, will provide an exemption for the reporting of the same gas flows upstream of the receipt points. There is, however, insufficient clarity as to whether the exemption could be applied in respect of upstream gas production or processing.

The Ichthys LNG project is a highly integrated project with gas processing closely interlinked with LNG production. While offshore gas may be unprocessed, it is unclear if there is not some part of the internal infrastructure where total gas flow occurs, and reporting would be required under part 18, where those flows are in excess of what is reported at the receipt point to the WPP.

In relation to DLNG, gas processing occurs offshore and the flow of gas does not then travel through the DLNG plant before it is injected into the domestic market. As such these gas flows would be subject to part 18 reporting requirements on the Bulletin Board.

The existing rules and existing exemptions are insufficient on their own to achieve the end sought by the proponent; namely the preservation of the commercial incentives of the NT LNG projects to maintain emergency gas supply into the domestic market. As a result they need to be clarified in the context of the exemption sought.

3.4 Scope to exempt the NT LNG projects on the basis of a new exemption

To create an exemption based on the emergency nature of the flow between the projects and the domestic market requires consideration of a number of matters. Gas flows between the projects and the domestic market may be provided in the event of emergencies, but also in the event of planned maintenance to the Blacktip field, for commissioning gas sales into Ichthys LNG and might be considered in the future for additional sales of spot gas into Ichthys LNG from the domestic market (even if, as the proponent suggests, these are only as a last resort on the part of the wholesaler).

28 NGL s.2

The AER has previously advised that under the current rules the projects are not remote from the domestic market by virtue of the physical connection with the domestic market. The use of the connection for emergency supply only, assuming this is the case, does not make the relevant facilities "remote BB facilities" under part 18 of the NGR.

A new exemption for the NT LNG facilities upstream of the connection point with the domestic market based on these facilities not interacting with the domestic market except in the event of emergency back-up gas supply was proposed by the rule change proponent. In instances where emergency back-up supply occurs, these gas flows will be reported at the receipt points of the Wickham Point Pipeline (WPP).

Information beyond these emergency flows, for example in relation to offshore production all year round, would largely be unwarranted. Gas flows into the domestic market on days involving emergency flow would be reported at the receipt points to the WPP pipeline, operated by APA.

Key questions that were asked in the consultation paper in relation to granting an exemption on the basis of emergency gas flow were:

- whether the operation of emergency gas supply arrangements might be expected to change in the near future
- the extent to which the market should be informed of changes to the operation of the emergency lateral pipeline before they occur
- whether, in the event of such an exemption, there is any information that would be valuable to the domestic market, beyond what would be reported by PWC or APA on the connecting pipelines, for example planned shutdowns of the upstream facilities.

3.4.1 Proponents view

The proponent proposes a new exemption to information provision requirements under part 18. This proposal is covered in detail in chapter 1.

3.4.2 Stakeholder views

Inpex outline that the flow of commissioning gas into the Icththys LNG plant is now largely complete and will cease by late 2019. Emergency supply to PWC is then expected to be possible by late 2019. Inpex maintain that no changes to the operation of the emergency gas supply arrangement are expected.[29] Further, Inpex maintain that any changes to the operation of the lateral pipelines relevant to the domestic market would have a long lead time and high visibility through various approval processes.[30]

Conocophillips advises that supply under the emergency gas supply agreement would end at the end of field life.[31] Conocophillips advises that future shutdown information and major maintenance events undertaken at DLNG are provided to PWC and the NT business community well in advance.

29 Inpex submission p.6.

30 Inpex submission p.6.

31 Conocophillips submission p.5.

PWC considers that the current and proposed Bulletin Board reporting on pipeline throughput and expansions is sufficient. PWC maintain that any future proposals to extend information to planned changes in operation would need to be carefully considered and that the forced public disclosure of changes to emergency arrangements may be a significant disincentive to potential suppliers from entering such arrangements. [32]

In relation to shutdown information, PWC maintain they would inform their customers in accordance with normal contractual mechanisms and through operational channels of communication.[33]

The NT department of Treasury and Finance expresses concern that the reporting of information in relation to upstream facility shutdowns might undermine the commercial incentives for NT LNG projects to continue with emergency back up supply.[34]

AGL and Origin highlight that market conditions can change, particularly where price signals change or when gas fields become depleted. With completion of the NGP and the potential for future resource development, market conditions in NT may change such that the exemption is no longer appropriate. As a result, any exemption, in the view of Origin, should be re assessed periodically to account for any material change in circumstances. Further, changes in the availability of gas under the emergency supply arrangements should be disclosed to the domestic market where appropriate.[35]

The AER raises a number of matters against an exemption under part 18. The AER cited that the relative volume of trade between the NT LNG projects and the domestic market and the fact that the source of gas comes from offshore are not grounds for exemption under part 18.[36] The AER also asserts that the inability to put gas into LNG, as opposed to power generation, is not a basis for exemption.[37] The AER refer to the purpose of the Bulletin Board and maintain that while trade may seem inconsequential for the LNG facilities it may have a large bearing on the domestic market. Physical connection is the primary cause of capture under part 18 according to the AER. There are circumstances under which a facility can be a remote BB facility and connected to the wider east coast network. Where the remote BB facility acts as part of a closed system so gas flows on one side of the connection are closed from the other (i.e. there is no flow across the connection), then the facilities could be considered remote and therefore under the existing rules such facilities would not be required to report. Under this case, no quantity of gas could flow across the connection, regardless of its intermittency.[38]

The AER maintain that future resource developments in the region mean there is less risk of the withdrawal of emergency supply by the NT LNG projects having any consequence.[39]

32 PWC submission p.6.
33 PWC submission p.7.
34 NT Department of Treasury and Finance p.2.
35 Origin submission p.1.
36 AER submission p.7.
37 AER submission p.9.
38 AER submission. p.6
39 AER submission p.14.

Accordingly the exemption should be limited to allow subsequent capture of the facilities, under part 18, in the event that the emergency supply arrangements change in the future and greater interactivity is seen with the market. The AER also argues that the scope of any rule made in relation to an exemption should not limit the potential for capture of the NT LNG facilities under reforms currently being considered by the ACCC and GMRG and further state that it is preferable that there are not multiple changes to the exemption status within a short period. [40]

In relation to the question of whether there is any additional information that would be valuable to the domestic market, beyond what would be reported on the connecting WPP pipelines, the AER points to the value of higher level operational and resource information that informs market development. The AER adds that reporting of upstream LNG facility outages may benefit the market in the longer term, from the perspective of supply security.[41]

3.4.3 Conclusion

An exemption that is designed to be in place only for so long as the gas flows between the NT LNG projects and the NT domestic gas market is for the supply of emergency back-up gas, and not bi-directional flow or gas flow for any other purposes, should be sufficient to provide the NT LNG projects and the buyer of emergency gas with sufficient flexibility to operate the emergency gas sales agreements for the foreseeable future.

The draft rule provides that the AER can end the exemption if there is a sale of gas into the Ichthys LNG plant beyond the end of 2019.

At the current time, the benefits of providing additional information in relation to future planned shutdowns of the upstream facilities, are unlikely to outweigh the costs.

3.5 Issues arising from the offshore location of the production facilities

The location of the offshore production facilities and a greater part of the offshore processing and transmission infrastructure may be outside the jurisdiction of the Commission.

Darwin LNG's Bayu Undan resides in the Joint Petroleum Development Area (JPDA) 250km south east of East Timor and 500km north west of the NT.

Ichthys LNG's gas field lies in the Browse Basin in Western Australian waters in block WA285-P, 220 km offshore WA.

The consultation paper asked whether there were any issues, presented for the making of the rule, in relation to the location of the facilities.

3.5.1 Proponent's view

The proponent expresses no views as to the importance of the location of the offshore facilities.

40 AER submission p.14.

41 AER submission p.15.

3.5.2 Stakeholder views

Conocophillips in relation to the upstream facilities of the DLNG project, the Bayu Undan field, specifies that the field would soon revert to ownership by Timor Leste.

The AER submit that the DLNG undersea pipelines extend into the joint cooperation area with East Timor, beyond the legislative authority of the NGL.[42]

3.5.3 Conclusion

The offshore production facilities of the two projects are located outside the jurisdiction of the NGL. The offshore transmission pipelines in making landfall in Darwin are within the jurisdiction of the NGL. As a result, the location of part of the project facilities outside the NGL is unlikely to exempt the facilities from reporting on the transmission of gas from offshore into the plants.

As a consequence, the Commission finds that the exemption as provided in the draft rule is warranted.

3.6 The impact of any rule made on the application of the tranche 2 bulletin board reforms.

The impact of the draft rule should be considered in terms of the effect on the application of tranche 2 reforms, recommended by the ACCC and GMRG, along with other transparency reforms, in relation to the extension of the Bulletin Board reporting requirements to LNG and large user facilities.

These reforms would require the reporting of LNG production and sales data to the BB as well as the use of gas by large end user facilities and the reporting of reserves.

3.6.1 Proponent's view

The proponent does not address the application or development of tranche 2 reforms in the rule change request.

3.6.2 Stakeholder views

The NT LNG projects and the NT Department of Treasury and Finance argue that the rule should make some provision for exemption under the tranche 2 reforms.

Inpex considers that any rule made should continue to apply in relation to the proposed tranche 2 reforms. Inpex maintains that the information also sought under tranche 2 would have no material relevance to the domestic gas market and would have potentially significant detrimental commercial impacts for the Ichthys LNG Project in relation to the LNG export market.[43]

Conocophillips requests that any exemption should apply under tranche 2 reforms.

42 AER submission p.15.

43 Inpex submission p.6.

The NT Department of Treasury and Finance maintains that some of the tranche 2 reforms raise identical issues to those raised in the rule change request. The Bulletin Board requirements for large user and LNG facilities may undermine commercial incentives for Territory LNG producers to maintain their connections to the NT gas market and continue with emergency back up supply.[44] The NT Department of Treasury and Finance argue the publication of this data may also adversely affect the NT LNG projects competitive position in the international LNG market. Further tranche 2 data on end users and LNG trade would have limited benefit due to the limited interconnection with the domestic market. This data would relate to the primarily closed production systems of the Territory LNG projects which are independent of the NT gas market and therefore this information would not be informative of any flows impacting the domestic market.[45] If the final rules for tranche 2 ask for this reporting, the department argues, then the exemption should also exempt the NT LNG facilities from reporting end user and LNG trade reporting. This would address the territory's concerns with tranche 2 and the ACCC and GMRG reforms.

The AER maintains that it is preferable that any rule change does not limit the potential for future capture of LNG production under the tranche 2 reforms. Further, the AER states that it is preferable that the rule change should not lead to more than one change to the exemption status of NT LNG facilities within a short period.[46]

Tranche 2, as outlined by the AER, is in the policy development stage and the planned expansion of Bulletin Board reporting to include 2P reserves is indicative of its policy direction, meaning distinctions between NT gas used for export versus domestic consumption may not be relevant to the policy intent of future reporting requirements. All gas within Australia's territorial (including maritime) boundaries can be regarded as domestic gas. The Bulletin Board reforms are building transparency around a national resource and the trade of that resource. The value of future gas facility reporting, by NT LNG operators, will need to be considered in this context according to the AER.[47]

The AER mentions the further development of tranche 2 reforms during 2019 and says the circumstances under which LNG facilities are included under section 223 of the NGL are likely to be considered during a period that aligns with AEMC consideration of this rule change request.

The ACCC supports the position of the AER in relation to tranche 2, stating that efficiency requires timely information on the availability of gas and infrastructure in both the short and long term. Given the potential interaction with the domestic market, the ACCC states that consideration should be given to the short and long term impacts of any exemption and the impact on the ACCC and GMRG reforms which include the reporting of reserves, upstream activities and LNG exports and prices.[48]

44 NT Department of Treasury and Finance submission p.3.
45 NT Department of Treasury and Finance submission p.3.
46 AER submission p.15.
47 AER submission p.16.
48 ACCC submission p.1-2.

3.6.3 Conclusion

The future reforms in relation to tranche 2 information cannot be anticipated in the making of this rule, and it is open for future reforms to apply to the NT LNG projects through legislative change. These reforms will be considered on their own merits, and the affected stakeholders in the NT gas market will have opportunity to submit to these processes as and when they proceed.

ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
APA	APA Group
BB	Bulletin Board
Commission	See AEMC
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEO	National electricity objective
NERL	National Energy Retail Law
NERO	National energy retail objective
NGL	National Gas Law
NGO	National gas objective
PWC	Power and Water Corporation

A BACKGROUND

A.1 The East Coast Review

The AEMC's East Coast gas market review (2016) recommended extensive changes to the Gas Bulletin Board registration and reporting requirements. These were endorsed by the Energy Council.

Two tranches of rule changes were recommended:

- The first tranche did not require law and regulation changes and were the subject of the 'Improvements to Natural Gas Bulletin Board' rule change request and determination, completed in 2017.
- The second tranche requires law and regulation changes because it imposes requirements on entities and on information not currently permissible under the NGL. Tranche 2 has yet to be implemented.

A.2 Improvements to the Natural Gas Bulletin Board rule change

On 26 September 2017 the Commission made the final rule on 'Improvements to the Natural Gas Bulletin Board'.

This rule obliges certain gas facilities to be registered on the Bulletin Board based on a minimum threshold rather than the previous zonal model which was based on whether pipelines carry gas into or out of particular gas zones. The rule also simplified exemption criteria.

The previous production and demand zone model meant facilities in NT, parts of north Queensland and regional areas of NSW, Victoria and SA were not required to comply with the reporting obligations.

As a result of the removal of the zonal model and the shift to a minimum threshold reporting requirement of 10 TJ per day and above for transmission pipelines, production facilities and storage facilities are now required to report under the Bulletin Board if connected to the wider market.[49]

Remote Bulletin Board facilities, defined as those that are not connected directly or indirectly to the East Coast gas market, are exempt from registration and reporting requirements until such time as they are connected. The exempt facilities initially include those located in the NT and in north Queensland. The exemption related to the NT expires 90 days after the Northern Gas Pipeline (NGP) is commissioned because the NGP connects the NT to the east coast gas market.

49 In the Commission's draft determination on the Regulation of covered pipelines rule change proposal, all covered ("scheme")pipelines will be required to report on the Bulletin Board whether or not they meet the reporting threshold but the reporting threshold will still apply to non-scheme pipelines. All of the relevant pipelines in this rule change are non-scheme pipelines so the reporting threshold will still apply post the making of the final rule for the Regulation of covered pipelines.https://www.aemc.gov.au/rule-changes/regulation-covered-pipelines

The NGP was commissioned on 3 January 2019, the NT application date was set for 3 April 2019 and as a result NT facilities were required to be registered by 6 May 2019.[50] Prior to the 6 May 2019, the AER advised both NT LNG projects in writing that it does not intend to take action on potential non-compliance with Part 18 while this rule change application is pending.

A.3 Tranche 2 reforms and additional transparency measures

Subsequent to the AEMC's east coast review and following a request in March 2017 by the then Prime Minister for the ACCC and Gas Market Reform Group (GMRG) to work together to advise on options to improve transparency across the gas supply chain, on 21 December 2018 the ACCC and GMRG released a joint paper recommending 18 measures to improve the transparency of the east coast gas market.

In addition to the outstanding tranche 2 recommendations made in the east coast review (law and regulation changes still pending), the ACCC and GMRG made a number of other recommendations.

At the December 2018 COAG Energy Council meeting, the Energy Council tasked the SeniorCommittee of Officials with developing a package of measures, including amendments to the National Gas Law, Regulations and Rules, to progress the tranche 2 reforms and the recommendations made by the GMRG and the ACCC in the joint paper.

The final package of measures is expected to be brought to the COAG Energy Council for endorsement in June 2019. Details of the consultation process on the measures will be announced soon.[51]

A.4 The Northern Territory gas market and LNG projects

The NT LNG projects

The LNG projects located in the NT, Darwin LNG and Ichthys LNG, operate differently to their counterparts located in Gladstone, Queensland. Production is sourced entirely from offshore fields that are in large part dedicated to the supply of the LNG projects.

The physical link with the domestic market is by virtue of lateral pipelines connecting the projects with the Wickham Point Pipeline (WPP).[52]

The NT gas market

Historically, the NT has had a small and isolated domestic gas market, developed primarily to support gas fired generation and located mostly around the Darwin/Katherine region and a smaller market in Alice Springs.

The market uses approximately 25 PJ per year or about 68 Terajoules (TJ) per day on average.[53] The Northern Territory owned PWC is responsible for securing adequate gas

50 NGR s.143(10(a)) and s.150(2).

51 http://www.coagenergycouncil.gov.au/publications/energy-council-web-text-%E2%80%93-accc-gmrg-recommendations-east-coast-gas-market-transparency

52 https://www.aemc.gov.au/energy-rules/national-gas-rules/gas-scheme-register/nt-wickham-point-pipeline

53 Rule change request p.9.

supplies for electricity generation and industry and has had an implicit obligation to ensure security of supply.[54]

Security of gas supply is particularly important to the NT as a result of the reliance on natural gas for the provision of baseload power generation. The NT gas market sources up to 90 per cent of supply from one field, Blacktip. The proponent considers that a temporary reduction in gas supply from this field presents a significant risk to the provision of power in the NT.[55] In the event of a temporary reduction in gas supply from the field, diesel back-up, supply from the Amadeus basin and linepack,[56] can all be used as back-up sources of supply, however these sources are insufficient to meet the Territory's needs during an extended loss of gas supply from the Blacktip gas field.

Physical links between the NT LNG projects and the NT gas market

The gas supply from the NT LNG projects is provided via connection to the domestic market through pipelines that connect the projects with the Wickham Point Pipeline (WPP) operated and part owned by APA Group (APA). The emergency lateral pipelines are sized to meet the needs of the domestic market and to match the capacity of the Wickham Point Pipeline which can transport up to 90 TJ per day. The Wickham Point pipeline is a registered Bulletin Board facility under part 18 of the NGR.

Both Darwin LNG and Ichthys LNG have contracts in place with PWC to provide gas supply primarily for emergencies. In the case of Darwin LNG this agreement is expected to expire in 2022.[57]

Darwin LNG currently has no physical capability to receive gas from the domestic market, it can only provide supply.[58] Ichthys LNG has the physical capability to both receive gas (for onsite power generation), and supply gas to the domestic market.[59] Table 2.2 provides a summary of flow capability into and out of the domestic market from the two projects.

Ichthys LNG has sourced some commissioning gas from PWC during the build up to commercial operations.[60]

Ichthys LNG is able to buy gas from the domestic gas market, however, the proponent understands that the economics of exporting gas from the NT gas market to Ichthys LNG mean that it is only likely to occur as a last resort for a wholesaler, PWC, who has contracted for the gas and has been unable to secure a purchaser in the NT gas market.[61]

54 Rule change request p.3.
55 Rule change request p.7.
56 Linepack refers to the volume of gas that can be stored in a gas pipeline. Typically this type of storage has a limited duration.
57 Rule change request p.8.
58 Rule change request p.8.
59 Rule change request p.8.
60 Commissioning gas is normally used to test the operation of the plant before full production of LNG commences.
61 Rule change request p.8.

B SUMMARY OF OTHER ISSUES RAISED IN SUBMISSIONS

This appendix sets out the issues raised in the first round of consultation on this rule change request and the AEMC's response to each issue. If an issue raised in a submission has been discussed in the main body of this document, it has not been included in this table.

Table B.1: Summary of other issues raised in submissions

STAKEHOLDER	ISSUE	AEMC RESPONSE
NT department of Treasury and Finance	Given the application of the tranche 2 reforms and ACCC and GMRG joint recommendations for the NT LNG projects as gas field operators is unlikely to be linked to physical connection with BB facilities, the proposed gas field operator Bulletin Board requirements should not affect the commercial incentives of the NT LNG projects to continue with emergency supply. Any issues the gas field operator BB requirements pose for the NT LNG projects would be best addressed through the rule change process for the Tranche 2 reforms and ACCC and GMRG joint recommendations.	The Commission considers that any issue tranche 2 reforms and ACCC and GMRG joint recommendations pose for the NT LNG projects would be best addressed through the rule change process in relation to those reforms.
AER	The amended NGR includes amended part 23 and new parts 24 and 25. The Ichthys LNG pipeline may be a third party access pipeline, with two shippers. The AER calls on the AEMC to consider the implications for part 24-25, and whether the NT LNG projects might be exempt under 18 but still captured in 24 and 25.	The Commission finds that consideration of parts 23, 24 and 25 are beyond the scope of this rule change request.

C LEGAL REQUIREMENTS UNDER THE NGL

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

C.1 Draft rule determination

In accordance with s. 308 of the NGL of the NERL the Commission has made this draft rule determination in relation to the rule proposed by the NT Government.

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

A copy of the draft rule is attached to and published with this draft rule determination. Its key features are described in section 2.4.

C.2 Power to make the rule

The Commission is satisfied that the draft rule falls within the subject matter about which the Commission may make rules. The draft rule falls within s. 74(1)(a)(iii) of the NGL as it relates to the collection, use, disclosure and publication of information in relation to natural gas services.

C.3 Commission's considerations

In assessing the rule change request the Commission considered:

- it's powers under the NGL to make the rule
- the rule change request
- submissions received during first round consultation
- the Commission's analysis as to the ways in which the proposed rule will or is likely to, contribute to the NGO.
- The Commission's analysis as to the ways in which the draft rule will or is likely to, better contribute to the NGO than the proposed rule.

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change request.[62]

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of Australian Energy Market Operator (AEMO)'s declared system functions.[63] The more preferable draft rule is compatible with AEMO's declared system functions because it does not affect the performance of those functions.

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

63 Section 295(4) of the NGL].

C.4 Civil penalties

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

The draft rule does not amend any clauses that are currently classified as civil penalty provisions under the NGL or National Gas (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that the new rule 143A made by the draft rule be classified as a civil penalty provisions.

C.5 Conduct provisions

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

The draft rule does not amend any rules that are currently classified as conduct provisions under the NGL or National Gas (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that new rule 143A of the draft rule be classified as a conduct provision.