

Schedule 4 Transitional Provisions and derogations for Pipeline Access – Arbitration Framework

Part 1 Transitional

1 Initial financial reporting guidelines

- (1) The AER must publish the initial financial reporting guidelines under rule 557(1) no later than 5 months after the date Part 23 commences.
- (2) Subject to subrule (3), before publishing the initial financial reporting guidelines, the AER may consult on a draft by:
 - (a) publishing the draft on its website and inviting comments on the draft within a specified time; and
 - (b) considering any comments on that draft provided within the specified time before publishing the initial financial reporting guidelines.
- (3) In determining whether to consult under subrule (2), the AER may take into account consultation by the AER or any other person undertaken in the development of the draft initial financial reporting guidelines.

2 Initial financial reporting and average weighted prices

- (1) This rule applies to the service provider for a non-scheme pipeline that is a non-scheme pipeline as defined in Part 23 on the date Part 23 commences or that becomes a non-scheme pipeline at any time before 31 January 2018.
- (2) Subject to subrule (3), where this rule applies, the service provider must prepare and publish the financial information under rule 555 and average weighted price information under rule 556 for its non-scheme pipelines as follows:
 - (a) where the financial year of the service provider current on 1 December 2017 ends on or before 30 June 2018, the last date for publication is 31 October 2018 for information covering the six month period ending on 30 June 2018; and
 - (b) where the financial year of the service provider current on 1 December 2017 ends after 30 June 2018, the last date for publication is 31 January 2019 for information covering the six month period ending on 30 September 2018.
- (3) Subrule (2) does not apply in respect of a non-scheme pipeline if the non-scheme pipeline is the subject of an exemption under Division 6 of Part 23 from the obligation to report under Division 2 of Part 23 and that exemption continues.
- (4) Rules 556(3) and (4) apply to the obligation to publish initial weighted average price information under subrule (2).

Part 2 Derogation applicable to Northern Gas Pipeline

3 Northern Gas Pipeline

- (1) In this rule:
 - (a) **access principles** means the arrangements agreed between the service provider for the Northern Gas Pipeline and the Northern Territory Government under which a prospective user may gain access to pipeline services on the Northern Gas Pipeline; and
 - (b) **Northern Gas Pipeline** means the pipeline to be constructed between Tennant Creek in the Northern Territory and Mount Isa in Queensland the subject of Pipeline Licence 34 granted under the *Energy Pipelines Act 1981* of the Northern Territory and Pipeline Licence 2015 granted under the *Petroleum and Gas (Production and Safety) Act 2004* of Queensland, including any extension to, or expansion of the capacity of, that pipeline that is subject to the access principles.
- (2) Subject to subrule (3), for section 216C(2)(a) of the *NGL* and Part 23, the Northern Gas Pipeline is excluded from the operation of Chapter 6A of the *NGL*.
- (3) This rule expires on the 15th anniversary of the date the Northern Gas Pipeline is first commissioned.

Part 3 Tasmanian fast track access disputes

4 Modified application of Part 23

- (1) In its application to and in relation to a relevant non-scheme pipeline, Part 23 applies subject to and as modified by this Part.
- (2) This Part expires on the first anniversary of the commencement date.
- (3) Any arbitration in relation to a non-scheme pipeline referred to in subrule (1) commenced before the expiry of this Part continues as if this Part had not expired.
- (4) In this Part, references to rules not contained in this Part are references to rules in Part 23.

5 Definitions

In this Part:

access dispute has the meaning in section 216A of the *NGL*.

Tasmanian access dispute means an access dispute about 1 or more aspects of access to a pipeline service provided by means of a relevant non-scheme pipeline.

commencement date has the meaning in Part 23.

further investigations has the meaning in Part 23.

non-scheme pipeline has the meaning in Part 23.

prospective user has the meaning in section 216B of the *NGL*.

relevant access request means a request to a service provider for a relevant non-scheme pipeline for access to pipeline services provided by means of the relevant non-scheme pipeline.

relevant non-scheme pipeline means a non-scheme pipeline any part of which is situated in the jurisdictional area of Tasmania and includes any part of that non-scheme pipeline situated outside the jurisdictional area of Tasmania.

6 Access requests before the commencement date

- (1) A relevant access request made by a prospective user at any time before the commencement date is taken to be an access request made in accordance with the Rules for the purposes of Part 23 and section 216H(1) of the *NGL*.
- (2) Rule 560 does not apply to a relevant access request referred to in subrule (1).
- (3) If requested in a notice given by the prospective user after the commencement date, a service provider in receipt of a relevant access request referred to in subrule (1) must make an access offer that complies with the requirements of rule 560(3) within the time agreed by the prospective user and the service provider or if no time is agreed between them:
 - (a) unless paragraph (b) applies, within 20 business days after receiving the request under this subrule or if applicable, after receiving the information requested under subrule (4); and
 - (b) if the service provider is required to carry out further investigations in relation to the access request, within 60 business days after receiving the request under this subrule or if applicable, after receiving the information requested under subrule (4).
- (4) If a relevant access request referred to in subrule (1) does not include the information referred to in rule 559(3) and a notice is given by the prospective user under subrule (3), the service provider must notify the prospective user within 5 business days after the notice under subrule (3), specifying the information required to complete the relevant access request.

7 Notification of access dispute

- (1) This rule applies to and in relation to all relevant access requests including those made on or after the commencement date.
- (2) A prospective user who makes a relevant access request or the service provider in receipt of a relevant access request may give an access dispute notice in relation to a Tasmanian access dispute arising out of or in connection with the relevant access request at any time including:
 - (a) in the period before or after:
 - (i) a notice from the prospective user is given under rule 6(3);
 - (ii) an access offer is made under rule 6(3);
 - (iii) in the case of a relevant access request made on or after the commencement date, an access offer is made under rule 560;

- (iv) a notice (if any) is given under rule 561 requesting negotiations under Part 23;
 - (v) a notice (if any) is given under rule 562 requesting access negotiation information (including access offer information); and
 - (vi) further investigations in relation to the access request are undertaken; and
 - (b) while negotiations under Part 23 (or any other negotiations) continue.
- (3) Rule 562(6) does not apply to a Tasmanian access dispute.
- (4) To avoid doubt, rule 563(2) applies to a Tasmanian access dispute.

8 Reference to arbitration

- (1) In the case of an access dispute notice for a Tasmanian access dispute, rule 565 is modified as follows:
- (a) each reference to "15 business days" is replaced with a reference to "7 business days";
 - (b) the reference to "5 business days" in rule 565(2) is replaced with a reference to "2 business days";
 - (c) each reference to "10 business days" is replaced with a reference to "5 business days";
 - (d) rule 565(3)(a) does not apply;
 - (e) in rule 565(3)(b), the words "pool arbitrator" are replaced with "commercial arbitrator"; and
 - (f) the parties may agree and notify to the scheme administrator under rules 565(3)(c) a commercial arbitrator other than a pool arbitrator to determine the access dispute and if they do so within the time required under rules 565(2)(c) and 565(4) as modified by this rule, that commercial arbitrator is taken to be a pool arbitrator notified by the parties for the purposes of rules 565(4) and 565(5).
- (2) In the case of a Tasmanian access dispute, the term "arbitrator" in Part 23 includes a commercial arbitrator to whom the dispute has been referred for determination who is not a pool arbitrator.

9 Conduct of the arbitration

- (1) The arbitrator for a Tasmanian access dispute must grant leave to the parties to the arbitration under rule 568(1) to submit in the arbitration and rely on access negotiation information of the party within the time determined by the arbitrator.
- (2) In determining the number of business days elapsed since the date the access dispute was referred to the arbitrator under rule 572(1), any day within a period allowed by the arbitrator for a party to the access dispute to prepare access negotiation information under subrule (1) must be disregarded.

- (3) To avoid doubt, a party may apply to the arbitrator for a Tasmanian access dispute for an interim determination at any time after the arbitrator is appointed and before any statements are given under rule 567.