



Australian Energy Market Commission

FINAL RULES REPORT

REVIEW INTO EXTENDING THE REGULATORY FRAMEWORKS TO HYDROGEN AND RENEWABLE GASES

24 NOVEMBER 2022

REVIEW

INQUIRIES

Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2000

E aemc@aemc.gov.au
T (02) 8296 7800

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ABOUT THE AEMC

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

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SUMMARY

- 1 The Australian Energy Market Commission (AEMC) has recommended to Energy Ministers that changes be made to the national gas and retail regulatory frameworks to enable the natural gas sector to evolve to using hydrogen and renewable gas to support Australia's emissions reduction plans.
- 2 This final rules report for the *Review into extending the regulatory frameworks to hydrogen and renewable gases* sets out the AEMC's recommended final rules to address the issues that could emerge in the National Gas Rules (NGR) and National Energy Retail Rules (NERR) if the National Gas Law (NGL) and National Energy Retail Law (NERL) are extended to covered gases and natural gas equivalents are supplied to consumers.
- 3 Final initial rule changes for the NGR and NERR accompany this final rules report.

Summary of final policy recommendations

- 4 The Commission's key final recommendations (as detailed in the final report) and recommended final rules:
 - Enable access to pipelines and support investment by extending the economic regulatory framework.
 - Support competition through improvements to the ring fencing framework.
 - Extend the market transparency mechanisms to enable informed and efficient decision making.
 - Streamline operational arrangements for the STTM.
 - Adapt the Victorian DWGM (to work in conjunction with the DWGM distribution connected facilities rule change).
 - Allow new services and commodities in the retail gas markets.
 - Enable consumers to be informed about a change in the type of gas supplied.
 - Retain the draft regulatory sandbox rules in their current form to enable other covered gases.

Impact of the final recommendations and recommended final rules

- 5 This review focused on the necessary changes to the NGR and NERR that will support and implement the changes to the relevant laws recommended by jurisdictional officials. In doing so, the AEMC sought to identify changes to the existing regulatory frameworks that are consistent with achieving the national gas and energy retail objectives.
- 6 The final recommendations and recommended final rules have been made to enable:
 - efficient delivery of new services through the operation of markets that enable new entrants to emerge and efficient investment to occur
 - continued innovation in developing new services for customers

- clarity on the roles and responsibilities for the quality, safety, reliability, and security of supply of gas, to maintain operational safety of infrastructure and customer equipment and appliances
- existing consumer protections to be maintained during the transition to the increasing use of hydrogen and renewable gases.

7 Importantly, noting the context of decarbonisation policy actions by various Australian governments, the Commission has also considered how its recommendations and recommended final rules support emissions reduction and enable the decarbonisation of the energy market. It has sought to provide a framework for market participants to continue to innovate in a market that is open to competitive tension and fosters efficiencies that will result in new gas services that customers seek. Where competition may be limited, the existing arrangements of economic regulation, market transparency and the ring fencing framework are recommended to extend to the provision of new gases to provide a clear and consistent framework for all gas sector participants.

8 While the hydrogen and renewable gas industry is presently small and consequently some stakeholders consider this should result in minimal obligations and responsibilities for the relevant parties, the AEMC has considered the current state of the industry in how the recommendations could be implemented through the recommended final rules in a cost effective manner; for example, by using thresholds, setting minimal requirements, or enabling aggregation of small facilities.

9 It is equally important that the gas regulatory framework is prepared for the extension of the industry to include lower emissions fuels. To enable this change to occur, the Commission considers that, given its role in the market, it is responsible for providing the clarity and certainty on the broad form and direction of the regulatory framework needed by regulators, market participants, gas users and investors. The Commission considers this forward-looking approach will aid informed and efficient operational and investment decisions in the sector which will ultimately be in the long term interests of consumers.

10 In assessing the costs of implementing the recommended final rules the Commission finds the costs for existing participants of implementing the recommended final rules in line with the law changes approved by Energy Ministers are expected to be negligible given the rules act to extend an existing regime to the new gases. The costs for new participants, or existing participants developing hydrogen or renewable gas projects, are expected to be similar to participants currently operating in the gas market. The recommended final rules are also expected to provide the benefit of regulatory certainty required by the industry to invest and grow.

11 The benefits, while uncertain, are somewhat contingent on the value placed on the low emission intensity component of the gas market by governments and consumers over time. Where this value is material, and the industry grows to supply a material portion of gas demand, the net benefit of the proposed changes can be expected to be positive. Under this scenario, benefits will also be in the form of improved security of supply for gas users. The potential longer term economic benefits will depend on longer term cost and price structures in global gas markets as well as international change to low emission economies.

12 Where the renewable gas industry does not develop in a material sense, and little value is put on reducing emissions in the Australian gas sector, the net benefit is expected to be largely neutral. This is because the changes and obligations placed on existing participants as a consequence of the recommended rules are negligible.

Background

13 On 20 August 2021, Energy Ministers agreed that the national gas regulatory framework should be amended to bring biomethane, hydrogen blends and other renewable methane gas blends within its scope.

14 The AEMC was tasked with a review of the NGR and NERR to develop initial rules that will extend the regulatory frameworks to these gases and blends. It was also asked to provide jurisdictional officials with advice on any changes to the NGL and NERL required to enable these rules.

15 The AEMC's review is part of a suite of reviews conducted concurrently with the purpose of informing Energy Ministers of the changes to be made to the NGL, NGR, NERL and NERR to be extended to these gases and blends (referred to as 'covered gases'). The other reviews have been carried out by:

- Jurisdictional officials, who are responsible for identifying and developing the changes required to the NGL, NERL and regulations made under the NGL and NERL.
- AEMO, who is responsible for reviewing its procedures and other subordinate instruments for the facilitated and regulated retail gas markets and will also inform the AEMC of any changes it considers necessary to the NGR to enable these changes.

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1 INTRODUCTION

In August 2021, Energy Ministers tasked the Australian Energy Market Commission (AEMC or Commission) with a review of the National Gas Rules (NGR) and National Energy Retail Rules (NERR) to develop initial rules that will extend the regulatory frameworks to hydrogen, natural gas blends and renewable gases. In addition, the AEMC was also to provide Energy Ministers with advice on any changes to the National Gas Law (NGL) and National Energy Retail Law (NERL) required to enable these rules.

This chapter introduces the review and outlines:

- the context of the review
- the purpose and focus of the review
- stakeholder engagement
- the structure of this final report.

This final report uses the following terms:

- “covered gas” to refer collectively to a primary gas or a blend of primary gases that is subject to the NGL
- “primary gas” to refer to a gas identified as a primary gas under the NGL, initially only natural gas, biomethane, synthetic methane and hydrogen
- “other covered gas” to refer to a covered gas (primary gas or gas blend) other than natural gas
- “natural gas equivalent” (NGE) to refer to a covered gas (other than natural gas) that is suitable for consumption in existing natural gas appliances
- “constituent gas” to refer to a primary gas that is used to create a gas blend
- “pipeline” to refer to both transmission and distribution pipelines, unless otherwise stated. This is consistent with the way in which pipeline is defined in the NGL and how the NGR currently operate.

1.1 Context for this review

The AEMC’s review is part of a suite of reviews conducted concurrently with the purpose of advising Energy Ministers of the changes that need to be made to the NGL, NGR, NERL and NERR to extend their application to the supply of hydrogen and renewable gases and blends. The other reviews have been carried out by:¹

- jurisdictional officials (officials), who have been responsible for identifying and developing the changes required to the NGL, NERL and regulations made under the NGL and NERL
- AEMO, who has reviewed its procedures and other subordinate instruments for the facilitated and regulated retail gas markets and informed the AEMC of any changes it considers necessary to the NGR to enable these changes.

¹ Energy Ministers, *Extending the national gas regulatory framework to hydrogen blends and renewable gases*, information sheet, 23 September 2021 at <https://energyministers.gov.au/publications/extending-national-gas-regulatory-framework-hydrogen-blends-and-renewable-gases>

Energy Ministers agreed to amendments to extend the NGL and NERL to hydrogen and other renewable gases at their meeting on Friday 28 October 2022.

Concurrently with these reviews, the AEMC carried out a rule change process to assess a request to incorporate distribution connected facilities into the Victorian declared wholesale gas market (DWGM).²

The rule change request was submitted to the AEMC on 8 September 2021 by the Victorian Minister for Energy, Environment and Climate Change. It sought to amend Part 19 of the NGR to enable the participation of distribution connected production and storage facilities in the DWGM. As the intention of the request was not to limit distribution connected facilities to natural gas facilities, the request had implications for enabling natural gas equivalents and other covered gases to be injected into gas distribution systems in Victoria. Accordingly, the final rule, which was made on 8 September 2022, complements the work of the broader national reviews.

1.2 Purpose and focus of this review

The purpose of the AEMC's review has been to:

1. Identify potential issues in the NGR and NERR that could emerge if the scope of the national gas regulatory framework is extended to hydrogen and other renewable gases.
2. Develop draft initial rules to address these issues through a consultative process.
3. Inform jurisdictional officials of any NGL or NERL changes that it considers should be made to achieve the objective of the Energy Ministers.

In undertaking this review the Commission has applied the assessment framework set out in appendix B.

In the terms of reference for this review, the AEMC was tasked with considering the NGR and NERR changes that would be required if the national framework was extended to NGEs and their constituent gases, with the intention that any other gas products could be considered in the future.

However, consistent with the officials' recommendation that the NGL be extended to covered gases and the NERL be extended to NGEs and prescribed covered gases from the commencement of the reforms, the Commission has considered what, if any parts of the NGR and NERR should also be extended in this manner.

The terms of reference also asked the AEMC to prioritise any identified gaps in the NGR and NERR. The draft report identified parts of the NGR and NERR that were considered, for various reasons, to be out of scope of this review. Further information on the parts of the rules in and out of scope is in appendix B of the draft report.

As required by the terms of reference, the AEMC provided draft law recommendations to Senior Officials on 24 February 2022 for their consideration. A summary of these is in

² See AEMC website: <https://www.aemc.gov.au/rule-changes/dwgm-distribution-connected-facilities>

appendix D of the draft report. The officials' review consulted on changes to the NGL and NERL.

On 15 June 2022 following consideration of stakeholder submissions to the draft report, the AEMC advised Senior Officials that it had no further amendments to the NGL or NERL. See appendix C of the final report for more information.

1.3 Stakeholder engagement

On 21 October 2021, the AEMC published a consultation paper to commence this review and received 23 submissions from stakeholders.

The AEMC also met more than 20 stakeholders including pipeline service providers, users and relevant jurisdictional policy bodies. It has also held regular meetings with the Australian Energy Regulator (AER), Economic Regulation Authority of Western Australia (ERA) and the Australian Energy Market Operator (AEMO).

Following this initial consultation phase, the AEMC held three public workshops on 13, 14 and 15 December 2021 to discuss possible solutions to key issues raised in the consultation paper. Further consultation with a number of stakeholders was also held after these workshops.

The draft report was published on 31 March 2022 and received 24 submissions from stakeholders. A stakeholder information session was held on 1 April 2022.

The AEMC also held a stakeholder workshop on 28 June 2022 to consult on its proposed recommendations on changes to the ring fencing framework. This workshop followed initial consultation on the AER's advice on changes to the ring fencing framework through the AEMC's draft report. Further consultation on this topic was also held with some effected stakeholders following this workshop.

On 8 September 2022 the AEMC published its final report and recommended draft rules for consultation. Eleven submissions were received in response. In addition, meetings were held with several stakeholders to discuss specific issues and the workability of the recommended rules.

The AEMC has worked closely with AEMO, AER and ERA throughout the review as well as holding numerous meetings with industry stakeholders to discuss policy issues, industry developments and details of rule drafting. The AEMC extends its appreciation to all stakeholders who have engaged in this review process to support achieving the objective of enabling hydrogen and renewable gases to become part of the regulatory frameworks.

1.4 This report

This final rules report sets out the Commission's recommended final rule changes on the issues that could emerge in the NGR and the NERR if the NGL and NERL are extended to covered gases and natural gas equivalents are supplied to consumers.

Chapter 2 of this final rules report provides an overview of the Commission's assessment, regulatory impact analysis and final recommendations. This is followed by a chapter on each area of interest included in this review:

- Chapter 3 — economic regulation of pipelines
- Chapter 4 — ring fencing
- Chapter 5 — market transparency mechanisms
- Chapter 6 — short term trading market (STTM)
- Chapter 7 — declared wholesale gas market (DWGM)
- Chapter 8 — regulated retail markets (RRM)
- Chapter 9 — consumer protections
- Chapter 10 — regulatory sandbox framework

Each of these chapters includes recommended final rules and, where relevant, recommended transitional arrangements. They are followed by Chapter 11 which sets out the transitional arrangements that apply more broadly to the final recommendations.

Appendix A outlines the assessment framework the Commission has applied in determining whether the final recommendations contribute to the NGR and the NERO.

Consequential rule changes the AEMC has identified are discussed in appendix B, civil and conduct provisions are discussed in appendix C and appendix D provides a complete list of the recommended final rule changes made in this final rules report.

This final rules report is accompanied by recommended final initial rules for the NGR and NERR.

For more information on the final policy recommendations for this review see the final report.³

1.4.1

Recommended amendments to future reform packages

There are currently two reform packages from Energy Ministers that include pending rules to be made by the South Australian Minister. These reform packages relate to the economic regulation of pipelines and the regulatory sandbox framework. Given these reforms have been agreed to by Ministers, the recommended final rules have been prepared using:

- the Statutes Amendment (National Energy Laws)(Regulatory Sandboxing) Bill 2021 (which was introduced into the South Australian Parliament in August 2021)
- the Statutes Amendment (National Energy Laws)(Gas Pipelines) Bill 2022 (which was introduced into the South Australian Parliament in September 2022).

These reform packages have yet to pass the South Australian Parliament and the rules will only be made after that occurs.

³ AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, final report, 8 September 2022, p. 112.

References to the NGR assume the planned rule changes from these reform packages will be made. Where these expected rule changes are referred to in this report, the AEMC is referring to the most recent version that is publicly available.

1.4.2

Application to certain jurisdictions

The recommended final rules for the NGR do not apply uniformly across all jurisdictions. Specifically, for Western Australia, only changes to economic regulation and ring fencing frameworks are relevant. While Western Australia also has a bulletin board and a gas statement of opportunities, these are established under the *Gas Services Information Act 2012 (WA)*. Amendments to that Act to reflect any changes made to the NGL and NGR will be at the discretion of the Western Australian Government.⁴

The NERR applies to the Australian Capital Territory, New South Wales, South Australia and Queensland and Parts 12A and 21 of the NGR also apply in those jurisdictions. Local legislation applies in Victoria, Western Australia and Tasmania and amendments to these instruments are for those governments.

⁴ Under the *National Gas Access (WA) Act 2009*, a modified version of the NGL, known as the National Gas Access (Western Australia) Law (WA Gas Law) was adopted. Under the WA Gas Law, the NGR applying in Western Australia are version 1 of the uniform NGR as amended by the SA Minister under an adoption of amendments order made by the Western Australia Minister for Energy and by the AEMC in accordance with its rule making power under s. 74 of the WA Gas Law.

2 OVERVIEW OF RECOMMENDATIONS

This chapter sets out:

- a discussion on the Commission’s approach to regulatory impact analysis for this review
- an overview of the final report recommendations, as amended in response to stakeholder feedback on the recommended draft rules.

The Commission’s recommended final rules are included in the relevant chapters and are also listed in appendix D of this document.

2.1 Introduction

On 20 August 2021, Energy Ministers agreed that the national gas regulatory framework should be amended to bring biomethane, hydrogen blends and renewable gases into its scope. This represents a significant change to the Australian gas sector, enabling it to decarbonise and meet customer expectations for a more sustainable energy source in the future. The development of the gas sector in this direction will also increase the linkages between gas and electricity further than they already are today.

This review is one action required to achieve the vision of the Energy Ministers. It focuses on the necessary changes to the NGR and NERR that will support and implement the changes being made to the relevant laws by jurisdictional officials. In doing so, the Commission has sought to identify changes to the existing regulatory frameworks that are consistent with achieving the NGO and NERO as described by the assessment framework set out in appendix A.

That is, the final recommendations and recommended final rules have been made to enable the benefits of:

- efficient delivery of new services through the operation of markets that enable new entrants to emerge and efficient investment to occur
- continued innovation in developing new services for customers
- clarity on the roles and responsibilities for the quality, safety, reliability and security of supply of gas to maintain operational safety of infrastructure and customer equipment and appliances
- existing consumer protections to be maintained during the transition to the increasing use of hydrogen and renewable gases.

Noting the context of decarbonisation policy actions by various Australian governments, the Commission has also considered how its recommendations and recommended final rules support emissions reduction and enable the decarbonisation of the energy market. It has sought to provide a framework for market participants to continue to innovate in a market that is open to competitive tension and fosters efficiencies that will result in new gas services that customers seek. Where competition may be limited, the existing arrangements of economic regulation, market transparency and the ring fencing framework are recommended

to extend to the provision of new gases to provide a clear and consistent framework for all gas sector participants.

The Commission acknowledges that the hydrogen and renewable gas industry is presently small and consequently some stakeholders consider this should result in minimal obligations and responsibilities for the relevant parties. As a result, it has considered the current state of the industry in how the recommendations could be implemented through the recommended final rules in a cost effective and size appropriate manner; for example, by using thresholds, setting minimal requirements, or enabling aggregation of small facilities.

However, it is equally important that the gas regulatory framework is prepared for the extension of the industry to include lower emissions fuels. To enable this change to occur, the Commission considers that, given its role in the market, it is responsible for providing the clarity and certainty on the broad form and direction of the regulatory framework needed for the future by regulators, market participants, gas users and investors. The Commission considers this forward-looking approach will aid informed and efficient operational and investment decisions in the sector which will ultimately be in the long term interests of consumers.

Over the last 13 months the Commission has worked closely with stakeholders, jurisdictional officials, AEMO, AER and ERA to form a set of recommendations and recommended final rules that it considers is consistent with the planned future decarbonisation of the gas sector. These recommendations and recommended final rules are described below and in the relevant chapters of this report. Further detail on the final policy recommendations can be found in the final report.

In addition, the recommended final rules that the Commission considers are consistent with its final policy recommendations are provided in the accompanying *Final rules recommended in AEMC final rules report for review into extending the regulatory frameworks to hydrogen and renewable gases*.

2.2 Regulatory impact analysis

This review recommends changes to the NGR and NERR to incorporate hydrogen and renewable gases into the regulatory frameworks to facilitate trade and investment in renewable gas services for the benefit of gas users. These changes are required as a consequence of changes being made to the NGL and NERL to incorporate hydrogen and renewable gases within the gas regulatory frameworks.

The Commission has not considered the impact of the law changes on stakeholders. Instead, its focus, and this discussion, has been on considering the impact of the recommended changes to the NGR and NERR. Given the relationship between the law and rules, the impact of making such changes is therefore not a discrete decision to be considered in its own right as might normally be the case where rule changes are being considered in isolation through a rule change process.

However, where the costs and benefits of the recommended final rule changes can be considered independently of the law changes that necessitate their introduction, this

assessment is largely qualitative. This is because the costs of implementing the rules recommended under this review are difficult to quantify.⁵ There are two key reasons for this:

- The recommended changes to the rules involve the extension of an existing regulatory regime from natural gas to hydrogen and renewable gases. As such, it is difficult to separate costs in the factual versus the counterfactual cases, i.e. the costs of complying with the rules as extended to hydrogen and renewable gases, versus the costs of complying with the rules as applied to natural gas only.
- The full extent of hydrogen and renewable gas production and injection into the gas market is uncertain and cannot be predicted accurately at this time. There is always uncertainty as to the growth of a new industry, and that growth is contingent on many factors, including decisions by consumers, industry and governments. Further, there are also uncertain competitive dynamics between different gas types, and substitution options between electricity and gas. The extent of the industry that emerges over time will have a bearing on the overall costs borne by market participants and consumers. To the extent that the market framework is competitively neutral and key information is transparent, the Commission has an expectation that investment and consumption decisions will be efficient and result in the lowest costs to consumers in the long term.

A summary of the Commission's assessment on the regulatory impact of its recommendations is reflected below.

Costs

In assessing the costs of implementing the recommended final rules the Commission finds that:

- The recommended final rule changes would not significantly impact the activities of parties already participating in the gas market given the recommended final rules extend existing frameworks to hydrogen and renewable gases. For example, the introduction of a new registered participant category for the DWGM does not impact on the requirements and obligations applied to current market participants in that market. For AEMO, the cost of applying the current system arrangements to new market participants is very small. Prospective DWGM market participants will incur the same obligations as current participants. Further, existing participants that are extending their business to hydrogen and renewable gases will be able to build on and utilise existing systems and processes, developed and in operation as part of their existing operations to meet their obligations in a cost effective manner.
- The recommended final rule changes are not expected to significantly impact the activities of AEMO in the gas market because given the recommended final rules extend existing frameworks to hydrogen and renewable gases through the use of existing processes wherever possible. That is, the broad functions and activities to be carried out by AEMO are not proposed to change as a result of implementing the recommendations from this review. For example, where reporting and administrative costs are likely to be

⁵ An exception to this has been the assessment of notifying customers of a change in gas type where several stakeholders provided confidential information to assist the Commission.

incurred by AEMO as a result of the extension of transparency mechanisms, this will be reduced by leveraging existing systems and allowing AEMO to use information collected for the purposes of the Victorian Gas Planning Report for the Gas Statement of Opportunities and vice versa.

- The recommended final rules also, where possible, act to simplify existing rules in order to reduce costs for new distribution connected facilities supplying covered gases, while not unduly increasing costs for consumers or existing market participants. For example, the recommended final rules for the STTM (such as the introduction of a single facility category, streamlining the process for custody transfer points and modifying the obligation on facility operators to provide expected capacity information) simplify the processes for existing participants and AEMO. These changes should lead to a reduction in the regulatory burden and compliance costs for these parties.
- The cost impact is likely to be the greatest on new entrants focused on injecting hydrogen and renewable gases. For example, new participants will be required to register for the STTM or DWGM where they are looking to trade in these markets, and would need to register for retail markets, where they are looking to operate in retail markets. New participants will also need to comply with transparency measures and reporting of production volumes, and forward production outlooks under the transparency mechanisms set out in the final report. Distribution service providers developing renewable gas projects that will blend these gases into their distribution systems will need to undertake these activities and meet requirements under the recommended final rules in relation to the regulation of pipelines and the ring fencing framework. However, it should be noted that these costs on new entrants focused on injecting hydrogen and renewable gas will be no different to those costs on new participants focused on injecting natural gas.
- While the recommended final rules do impose costs on new participants, or existing participants that are expanding into these new activities, they do provide the benefit of necessary regulatory certainty. Without the clarity, the Commission considers that it would be harder for these new participants to take part in the gas market. It should be noted that these new participants will have the same regulatory obligations as existing participants, and the same regulatory compliance costs. As noted above, the extent that these costs are borne across the industry will be a function of the extent of the growth of the hydrogen and renewable gas industry over time.

Benefits

In assessing the potential benefits arising from implementing the recommended final rules, the uncertainty over the future development of the industry makes quantitative assessment difficult. This uncertainty is driven both by the nascent industry itself, the plans of participants, the current economics and the potential for the economics to change over time as the industry reaches greater scale. It is also impacted by the extent of government objectives, plans and legislation to incentivise the development of the hydrogen and renewable gas industry in the longer term.

In addition, benefits will be greater depending on the value put on hydrogen and renewable gases and a lower emissions gas industry by governments and consumers more widely. Where this value is high and objectives and legislation are developed that put a high value on the low emission intensity component of the gas market, the benefits of the changes recommended under this review will be materially higher than if this were not the case. At this stage, the Commission cannot form a view on what these plans are or what their likely outcome will be to enable it to successfully gauge potential benefits. However, it does note the strong jurisdictional support for the development of the hydrogen industry and the Energy Ministers' leadership in requesting the legislative and rules reforms.

The long term economics of hydrogen and renewable gas developments versus the long term outlook for natural gas prices (particularly on the east coast) is also a key factor in any quantitative assessment of the net benefit of the reforms over time. However, the industry is in its early stages, both in Australia and overseas. It would be premature at this stage to make an assessment of the value of the reforms based on the relative cost of hydrogen or renewable gases versus natural gas, either in terms of costs today or potential costs in the near future. A key intent of the reform is to facilitate the introduction of hydrogen and renewable gases with as minimal changes to regulatory requirements as possible. These changes in themselves may impact on the economics of the industry. Following this step of changing the regulatory frameworks, industry and governments can take the necessary steps to explore the future possibilities in relation to the economics of these gases.

It is also difficult at this stage to assess the potential value of introducing hydrogen and renewable gases into the east coast gas market frameworks in relation to the potential improved security from increasing the diversity of physical supply, both in terms of its geographical location and the number of producing projects injecting into the gas market at any one time. But this potential additional security is likely to have material value to the east coast gas market, contingent on the size of the new industry that eventuates, and the degree to which hydrogen and renewable gas projects are dispersed across the east coast gas market. Current market conditions demonstrate the potential for this value, indicating that the value of developing the new gas industry is also dependent on the tightness of the supply demand balance in the domestic gas market and in the wider global gas market.

While the future is uncertain and creates difficulties in estimating the potential benefits of making the recommended final rules to support the law changes agreed to by Energy Ministers, the value of greater supply diversity can also be viewed in the context of historical outages at major gas plants in Australia. The Moomba and Longford gas plants have both had outages in the past that have impacted supply to customers in Australia, occasionally for extended periods. A greater diversity of supply sources will reduce this major supply source risk. It may also give rise to improved competition between suppliers of covered gases.

The benefits of implementing the recommended final rules also need to be assessed in terms of the counterfactual. That is, the impact of the development of a market for hydrogen and renewable gases without the consumer protections, transparency, economic access to pipelines and other safeguards intended to allow the development of a competitive market in other covered gases that works in the best interests of consumers in the longer term. For

example, this is borne out in recommendations on ring fencing to support the development of competition in potentially contestable parts of the hydrogen and renewable gas industry, which are expected to support the NGO and be in the long term interests of consumers.

The Commission also considers there are additional benefits in the hydrogen and renewable gas market developing within the existing regulatory frameworks for market transparency. In this case, the extension of the transparency frameworks to hydrogen and renewable gases is expected to enable participants and prospective new entrants to make more informed and efficient decisions and to facilitate the efficient trade in covered gases and associated services. These particular recommended final rules also provide for an improved understanding of the covered gas sector for AEMO, market participants and policymakers.

The benefits of implementing the recommended final rules can be further assessed by their impact on the extent to which concessional finance and government grants is seen to benefit consumers directly and/or promote investment where this is in the long term interest of consumers. The recommended final rules in relation the regulatory treatment of concessional finance and government grants enables benefits to flow through to consumers or investors depending on the intent of the government funding body in providing funding.

Summary

In summary, the costs for existing participants of implementing the recommended final rules in line with the law changes approved by Energy Ministers are expected to be negligible given the rules act to extend an existing regime to the new gases. The costs for new participants, or existing participants developing hydrogen or renewable gas projects, are expected to be similar to participants currently operating in the gas market. The recommended final rules are also expected to provide the benefit of regulatory certainty required by the industry to invest and grow.

The benefits, while uncertain, are somewhat contingent on the value placed on the low emission intensity component of the gas market by governments and consumers over time. Where this value is material, and the industry grows to supply a material portion of gas demand, the net benefit of the proposed changes can be expected to be positive. Benefits will also be in the form of improved security of supply and potential longer term economic benefits in cost terms depending on longer term cost and price structures in global gas markets.

Where the renewable gas industry does not develop in a material sense, and little value is put on reducing emissions in the Australian gas sector, the net benefit is expected to be largely neutral as the changes and obligations placed on existing participants as a consequence of the recommended rules are negligible.

In each of the subsequent chapters of this report information on the Commission's assessment on the likely impact, costs and benefits of the recommended final rules has been included. Each chapter also includes a table outlining where each of these issues has been assessed in the consultation paper, draft report and final report.

2.3 Recommended reforms

This section describes the recommended final rule changes to the NGR and NERR that the Commission considers should be made in order to extend the regulatory frameworks to low-level hydrogen-natural gas blends and renewable gases as agreed by Energy Ministers.

The final rule recommendations made by the Commission are reproduced in appendix D. Detailed discussion on each is included in the final report.

The Commission's key final recommendations (as outlined in the final report) and recommended final rules:

- Enable access to pipelines and support investment by extending the economic regulatory framework.
Amendments to the framework for the economic regulation of pipelines are expected to facilitate more efficient connection and investment decisions by other covered gas suppliers. Amendments to increase market transparency, and provide, where necessary, more clarity on the regulatory treatment of pipelines transitioning to transporting another covered gas are also recommended. Importantly for a transitioning market, the final recommendations also seek to provide regulatory certainty and clarity on the treatment of government grants and concessional finance used to support new investments. Together, these changes are expected to promote the NGO by supporting more efficient investment in, and efficient operation and use of, covered gas services provided by pipelines. The recommendations are also intended to support the safe and reliable supply of gas through this efficient investment. Both of these objectives are in the long term interests of consumers.
- Support competition through improvements to the ring fencing framework.
Changes to the ring fencing framework to clarify its intent and enable greater transparency of decisions are recommended. Amendments to the ring fencing exemption framework are also recommended to improve its consistency with other exemption frameworks in the NGR. Associate contract arrangements should also be strengthened by introducing an advance notice requirement for certain contracts, reversing the onus under the associate contract approval process and other changes that are intended to support increased transparency and enable the regulator to make more informed decisions. For trial projects that commenced under the existing ring fencing arrangements, the final recommendations include a transitional rule that allows three service providers to continue to undertake their trials (subject to conditions that are intended to minimise their effect on competition). These recommendations are expected to promote the NGO by supporting the development of competition in potentially contestable parts of the covered gas industry, which is in the long term interests of consumers. It is important that these recommendations are implemented in a timely manner to provide the stability, certainty and transparency of regulatory arrangements required to enable consumers, market participants and investors to make efficient decisions for the decarbonisation of the gas sector.

- Extend the market transparency mechanisms to enable informed and efficient decision making.

Recommended amendments include extending the five transparency mechanisms to other covered gases and blend processing facilities, requiring pipeline blending and curtailment information to be published on the Bulletin Board and allowing AEMO to use information collected for the Gas Statement of Opportunities for the Victorian Gas Planning Report and vice versa. These amendments are intended to mitigate the risk that as the market for other covered gases develops, information gaps could emerge that have adverse effects on the broader east coast gas market, economic efficiency and consumers more generally. The extension of the non-pipeline infrastructure access reporting requirements to blend processing facilities is also intended to facilitate third party access to these facilities and enable efficient use of those facilities. Overall, these market transparency recommendations are expected to promote the NGO by supporting the efficient operation of markets for covered gases and associated services. In addition, well-informed planning and decision making will be enabled, promoting efficient investment in, and the efficient operation and use of covered gas services for the long term interests of consumers.

- Streamline operational arrangements for the STTM.

Building on and extending the existing STTM arrangements are designed to accommodate the injection of other covered gases by: creating a single new facility category for injections from distribution connected injection facilities; allowing for net bidding and settlement for injection facilities (such as hydrogen blending facilities) that withdraw and inject gas at the same time; reducing reporting obligations for small injection facilities; allowing for facility aggregation; streamlining the process for establishing new custody transfer points; and allowing for alternative gas quality specifications. Not only should these changes reduce the regulatory burden for new participants, but they should also simplify some arrangements for existing participants. As a result, these recommended changes are expected to enable easier access to the STTM for new participants and participants using other covered gases, supporting the efficient use of existing infrastructure which is consistent with the NGO as it is in the long term interest of consumers.

- Adapt the Victorian DWGM.

The creation of a new registration category for transmission connected blending facilities and other supporting changes to facilitate their participation in the DWGM, including allowing for settlement for these facilities to be undertaken on a net basis where appropriate, is recommended to enable other covered gases to be used in the DWGM. These changes support the efficient use of pipelines and the decarbonisation of the Victorian gas market. The review has also considered arrangements for distribution systems not directly connected to the declared transmission system and the management of unaccounted for gas in the DWGM. In relation to these distribution systems, the final recommendation is to maintain the existing arrangements and enable the regulatory framework that applies in other locations to continue to apply, providing clarity and consistency of requirements for market participants operating in multiple locations. These

recommendations to adapt the DWGM work in conjunction with the rules made through the DWGM distribution connected facilities rule change.⁶

- Allow new services and commodities in the retail gas markets.
An expansion of the categories of retail market participants is recommended to clearly include as users those facilities, such as blending facilities, that will withdraw covered gases but which may not be covered by existing end user categories. This change is likely to encourage the efficient delivery of new services or commodities to end users, consistent with achieving the NGO. As a result, consumers should be able to use other covered gases in the future and support actions occurring across the economy that target reductions in emissions. The Commission also recommends that the rules governing the matters about which retail market procedures may be made be expanded to provide for arrangements to support net withdrawals at facilities that will be settled on a net basis. Enabling net withdrawals to occur will support the introduction of blending facilities across the gas retail markets.
- Enable consumers to be informed about a change in the type of gas supplied.
To inform gas consumers of the gas they receive, the recommendations include requiring distributors to notify customers of a change of gas type prior to the transition and to publish up to date information on their website on the types of gases that may be supplied in parts of their distribution systems (and the date that a change of gas type has occurred). This published information will also support retail contracts which will direct customers to this information and consumer engagement with the retailer with regard to historical billing information. These recommended changes to the NERR are intended to facilitate more efficient energy services by enhancing transparency and strengthening the confidence of consumers in the gas market by providing customers with relevant information about their consumption of energy and enabling them to understand the timing and impact of a transition to a different gas type. This will allow consumers to make informed decisions about their use of gas.
- Retain the draft regulatory sandbox rules in their current form as these draft rules, once extended to covered gases, will be fit for purpose for enabling trial projects involving those gases. This approach provides a consistent framework to test innovative ideas across all covered gases and the gas market.

⁶ AEMC, *DWGM distribution connected facilities*, final determination, 8 September 2022.

3 ECONOMIC REGULATION OF PIPELINES

The NGL and NGR currently set out the economic regulatory framework that applies to transmission and distribution pipelines involved in the transportation of natural gas across Australia. The objectives of this framework are to facilitate third party access to pipelines and constrain the exercise of market power by service providers.

In 2021, Energy Ministers agreed to implement a range of reforms to the economic regulatory framework and on 31 March 2022 they decided to implement the final package of amendments to the NGL and NGR required to give effect to these reforms.⁷ In keeping with the Ministers' decision, this final rules report proceeds on the basis that the amendments will be made.⁸ It is also consistent with the recommendation made by officials that the pipeline economic regulatory framework will extend to pipelines transporting any covered gas.

Based on the Commission's review and stakeholder feedback, most elements of the regulatory framework could be applied to pipelines transporting other covered gases without amendment.

For more information about the economic regulation of pipelines and the issues arising in this review see the consultation paper, chapter 3 'Economic Regulation of Pipelines'.⁹

For more information on the final policy recommendations and recommended draft rules for the economic regulation of pipelines see the final report, chapter 3 'Economic Regulation of Pipelines'.¹⁰

This chapter sets out the final recommendations and recommended final rules on key issues, which relate to:

- access to pipelines by suppliers of covered gases
- information on the type of gas a pipeline is, or is proposing to, transport
- the regulatory treatment of mandated and voluntary transitions to another covered gas for scheme and non-scheme pipelines
- the regulatory treatment of government grants and concessional finance for scheme pipelines.

This chapter also sets out stakeholder feedback and commission analysis in relation to:

- curtailment methodologies
- information on the type of gas in a pipeline

7 Energy Ministers, *Options to improve gas pipeline regulation, regulation impact statement for decision*, 3 May 2021 at <https://energyministers.gov.au/publications/energy-ministers-release-gas-pipeline-decision-regulation-impact-statement> and <https://www.energy.gov.au/government-priorities/energy-ministers/energy-ministers-publications/energy-ministers-agree-final-package-gas-pipeline-regulatory-amendments>.

8 Further detail on the amendments can be found in the Information Paper published by Energy Ministers. <https://www.energy.gov.au/sites/default/files/2022-04/Information%20Paper%20Improving%20gas%20pipeline%20regulation.pdf>.

9 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, 21 October 2021, p. 9.

10 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, final report, 8 September 2022, p. 12.

- regulatory treatment of concessional finance.

In addition to the recommended final rules identified in this chapter, consequential changes to the NGR are set out in appendix B.

For further detail on the recommended changes to the rules, see the accompanying recommended final rules.

3.1 Applying the assessment framework

The Commission's recommended final rules are intended to:

- facilitate more informed and efficient connection and investment decisions by covered gas suppliers by:
 - amending the pipeline interconnection rules to require connections to be consistent with the safe and reliable supply of gas to consumers and allow service providers to recover the costs of metering and monitoring of the quality of gas injected from connecting parties
 - requiring service providers to publish information on the production, storage and blend processing facilities connected to the pipeline on their websites to help inform covered gas suppliers' decisions on whether to connect to a pipeline
 - requiring service providers to publish their supplier curtailment methodology and, in the case of scheme pipelines, have this approved by the regulator as part of the pipeline's access arrangement.
- facilitate efficient access to and use of covered gas pipelines by existing and prospective users by requiring service providers to publish information on:
 - the covered gas they are transporting
 - any blending limits that apply to the pipeline
 - any plans to trial or transition to another covered gas.

This information is to be published on service providers' websites and, in the case of scheme pipelines, will form part of the pipeline's access arrangement. The information would also be available on the AEMC's pipeline register.

- remove the ambiguity that currently surrounds how government mandated transitions to another covered gas would be treated on non-scheme pipelines, by amending the arbitration pricing principles in Part 12 of the NGR to require arbitrators in non-scheme pipeline access disputes to consider any regulatory obligations or requirements a pipeline is subject to
- allow the regulator (either the Australian Energy Regulator (AER) or Economic Regulation Authority Western Australia (ERA)), when determining reference tariffs for scheme pipelines, to treat:
 - government grants provided to the service provider as a capital contribution
 - concessional finance provided to the service provider, or capital contributions or concessional finance provided to another entity for the purpose of capital expenditure

by the service provider, as a capital contribution where the regulator is satisfied that this was the intention of the government funding body.

Consistent with the efficiency limb of the assessment framework, the implementation of these final rules is expected to provide the benefit of promoting allocative, productive and dynamic efficiency by supporting efficient investment in, and efficient operation and use of covered gas pipelines and the facilities connected to these pipelines. Clarifying the economic regulatory framework now will enable stakeholders to make informed decisions for the future.

There will be some implementation costs arising from the introduction of this recommended final rules. For examples, government funding bodies are requested to support the operation of this rule by enabling relevant information to be available to a regulator. In addition, where this rule is relevant, the regulators will need to undertake additional assessment within their decision-making process for a proposed revised access arrangement. Service providers, and potentially related parties, may incur some relatively small costs in making information they hold on concessional finance available to the regulator.

However, the benefit of implementing these recommended final rules will also mean that consumers can continue to receive a product that is safe and reliable, consistent with the quality, safety, reliability and security of supply limb of the assessment framework.

More generally, the recommended final rules relating to the economic regulation of pipelines are targeted, fit for purpose and proportionate to the issues they are intended to address. They are expected to provide the benefit of stability and transparency of arrangements required to enable market participants to make informed and efficient decisions. This will support the emissions reduction endeavours of the pipeline industry and its transition to new gases.

Additional detail on how each of the policy issues discussed for this topic through the course of the review and the Commission's considerations at each stage of the review can be found using the references in the table below.

Table 3.1: Policy issues for economic regulation of pipelines

ISSUE	LOCATION IN EACH REPORT
Access to pipelines by suppliers of covered gases	Consultation paper section 3.2.1
	Draft report section 3.1
	Final report section 3.2
Information on the types of gas in a pipeline	Consultation paper section 3.2.5
	Draft report section 3.2
	Final report section 3.3
Government mandated transitions to another gas	Consultation paper section 3.2.3
	Draft report section 3.3
	Final report section 3.4

ISSUE	LOCATION IN EACH REPORT
Voluntary transitions to another covered gas	Consultation paper section 3.2.3
	Draft report section 3.4
	Final report section 3.5
Regulatory treatment of government grants	Consultation paper section 3.2.3
	Draft report section 3.5
	Final report section 3.6
Regulatory treatment of concessional finance	Consultation paper n/a
	Draft report section 3.5
	Final report section 3.7

3.2

Access to pipelines by suppliers of covered gases

3.2.1

Interconnection rules

Section 3.2.2 of the final report recommended amending the pipeline interconnection rules to:

- clarify that a person's right to connect to a pipeline is subject to the connection being consistent with the safe and reliable supply of gas to end users
- enable a service provider to recover the costs of metering and monitoring the quality of gas injected from connecting parties.

The Commission did not receive any specific stakeholder feedback regarding the recommended draft rules relating to this issue. In addition, it has not identified any further changes that are necessary. As a result, the recommended final rule mirrors the recommended draft rule.

Recommended final rules

To give effect to the final policy recommendation and transitional arrangements outlined in section 3.2.2 of the final report the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 1: FINAL RULE — CLARIFY THE RIGHT TO CONNECT TO A PIPELINE AND CONNECTION COST RECOVERY FOR SERVICE PROVIDERS

Amend the interconnection rules in the new Part 6 of the NGR that will be implemented through the pipeline reforms to:

- state that a person will only have a right to connect a facility to a pipeline where the connection is consistent with the safe and reliable supply of gas to end users (recommended final rule 37(a))

- enable a service provider (where it has developed an interconnection or part of an interconnection and gas will be injected at the interconnection point), to recover as part of its interconnection fee the directly attributable cost of metering and monitoring the quality of the gas injected by the connecting facility (recommended final rule 38(3)(b)).

Amend the access negotiation framework rules in Part 11 of the NGR to:

- clarify that further investigations relating to interconnections can relate to the safe and reliable supply of gas to end users (recommended final rule 105A(1))
- recognise that a service provider does not have to make an access offer in relation to an interconnection that would be inconsistent with the safe and reliable supply of gas to end users (recommended final rule 105D(4)(b)).

Amend the access dispute provisions in Part 12 of the NGR to recognise the ability of the dispute resolution body not to make an access determination that would require an interconnection that is inconsistent with the safe and reliable supply of gas to end users (recommended final rule 113V(5)(c)).

3.2.2

Information to facilitate connections

The final recommendations set out in section 3.2.3 of the final report for this review were to require pipeline service providers to publish information about the gas supply facilities connected to their pipelines.

The Commission did not receive any specific stakeholder feedback regarding these recommended draft rules or the associated draft transitional rule. In addition, it has not identified any further changes that are necessary. Consequently, the recommended final rule is unchanged from the recommended draft rule.

Recommended final rules

To give effect to the final policy recommendation and transitional arrangements outlined in section 3.2.3 of the final report the NGR should be changed as outlined in the boxes below. See the box below for the relevant recommended transitional rules.

RECOMMENDATION 2: FINAL RULE — REQUIRE PUBLICATION OF INFORMATION ON COVERED GAS SUPPLIER CONNECTIONS

Amend the pipeline information provisions in Part 10 of the NGR (recommended final rules 101B(2)(b)(ii) and 101B(2)(c)(iii)) to require all pipeline service providers to publish on their website the following details of each covered gas supply facility that is connected to the pipeline:

- the location of the facility
- the type of the facility

- the type of gas or gas blend injected into the pipeline by the facility
- the gas specification that applies at the receipt point at which the facility is connected.

RECOMMENDATION 3: FINAL TRANSITIONAL RULE — PUBLICATION OF INFORMATION ON COVERED GAS SUPPLIER CONNECTIONS

Specify in the schedule of amending rules that the obligation to report on covered gas supplier connections does not commence until two months after the rules are made.

3.2.3

Curtailment

The Commission's final recommendations set out in section 3.2.4 of the final report were to:

- require scheme and non-scheme pipeline service providers to publish their supplier curtailment methodology on their website
- require scheme pipeline service providers to include their supplier curtailment methodology in their access arrangements and have it approved by the relevant regulator.

These final recommendations were expected to contribute to the NGO by providing for more efficient connection and investment decisions by prospective suppliers. An additional benefit from implementing the final recommendation was to reduce the risk of service providers favouring an associate through curtailment.

While pipeline service providers would incur some costs in meeting these new obligations, the Commission considered these were very low given that the information is already held by the service providers. In addition, the inclusion of supplier curtailment methodology in an access arrangement is not expected to add any significant cost to the regulatory assessment process of a proposed access arrangement.

Stakeholder responses

Jemena was the only stakeholder to make a submission on the draft rules for supplier curtailment methodology. Jemena noted that a curtailment methodology would need to apply to all parties injecting covered gases, including transmission pipelines that are injecting into distribution pipelines. As such, it suggested amending the draft rule to allow for the expansion of the definition of a supplier curtailment methodology to include transmission pipelines.¹¹

Jemena also submitted that the transitional rules should allow for the curtailment methodologies to be published in the next access arrangement period. Jemena's reasoning

¹¹ Jemena, submission to the final report, p. 3.

for this was twofold; first that developing a curtailment methodology will take time, and second that the development of the methodology will need to be consulted upon.¹²

Commission analysis

The Commission has considered the feedback provided by Jemena that a distribution pipeline may also need to curtail supply from a connecting transmission pipeline. Making this change would mean that all potential suppliers of covered gas into a distribution pipeline have the benefit of a good understanding of how the supplier curtailment methodology may apply to them. The Commission is satisfied that there is no reason why a connecting transmission pipeline should not be included in the relevant rule. Therefore, the Commission has amended the rule drafting so that the definition of supplier curtailment methodology also requires the supplier curtailment methodology to describe the circumstances in which a service provider may curtail injections from any receipt point. This change is consistent with the Commission's policy intent set out in the final report.

Regarding Jemena's suggestion that an extended transitional rule be implemented, the Commission is concerned about the length of the proposed extension given that Jemena is not scheduled to submit its next proposed revised access arrangement until 2025.

In addition, such a delay is not consistent with the intention of the final recommendation. The requirement to publish the supplier curtailment methodology is intended to address the risk of discriminatory curtailment by providing for greater transparency of service providers' curtailment methods. Delaying the implementation of this measure until 2025 could therefore leave users of the pipeline exposed to the risk of discriminatory curtailment, which is of particular concern given that:

- Jemena is already allowing a gas blend to be transported on its pipeline
- the Commission has recommended that Jemena be granted a time-limited exemption from the minimum ring-fencing requirements for its Western Sydney Green Gas Project.

Consequently, the Commission has not made the suggested change to the timing of the transitional rules. Rather, consistent with the final policy recommendations, Jemena should be required to:

- publish its supplier curtailment methodology as part of its service and access information at the same time as other pipeline service providers (i.e. within two months of the rules being implemented)
- include its proposed curtailment methodology in its 2025-2030 access arrangement proposal for approval by the AER.

To avoid doubt on this point, the Commission has clarified the transitional rules that scheme pipeline service providers are not expected to amend their access arrangements within an access arrangement period to include the supplier curtailment methodology. This clarification, which is consistent with the policy intent of the final recommendation, would make it clear that the obligation to include the supplier curtailment methodology in an access arrangement and have it approved by the regulator would only commence at the next access arrangement

¹² Jemena, submission to the final report, p. 4.

review. These service providers would, however, still be required by the amendments to Part 10 of the NGR, to publish their supplier curtailment methodology on their website. Therefore, there should be no material gap between the rules coming into effect and service providers publishing information on their supplier related curtailment methodology.

The Commission is satisfied that clarifying the requirements on the publication of a curtailment methodology by scheme pipeline service providers will assist them in establishing appropriate business processes needed for compliance with the NGR. It should also enable users of those pipelines to benefit from information on supplier curtailment prior to the commencement of the next access arrangement period.

Conclusion

The Commission has decided not to alter its final policy recommendations relating to the publication of a supplier curtailment methodology.

However, the Commission has amended the rule drafting so that:

- the scope of the supplier curtailment methodology is extended to all potential sources of supply into a pipeline that occur through a receipt point
- clarification is provided so that scheme pipeline service providers are only required to include and have approved the supplier curtailment methodology in their next access arrangement.

These amendments are reflected in recommendations 4 and 6 below.

Recommended final rules

To give effect to the final policy recommendations and transitional arrangements outlined in section 3.2.4 of the final report and the recommended amendments to the rule drafting set out above, the NGR should be changed as outlined in the boxes below. See below for the relevant transitional rule.

RECOMMENDATION 4: FINAL RULE — REQUIRE SERVICE PROVIDERS TO PUBLISH SUPPLIER CURTAILMENT METHODOLOGY

Amend the NGR to:

- include a definition of supplier curtailment methodology in Part 1 of the NGR (see recommended final rule 3(1)). This definition will be expanded relative to the draft rule to include injections at any receipt point (including injections from transmission pipelines).
- require service providers to publish the supplier curtailment methodology on their website, with this methodology to form part of 'pipeline information' for the purposes of Part 10 of the NGR (see recommended final rule 101B(2)(f)).

RECOMMENDATION 5: FINAL RULE — INCLUDE SUPPLIER CURTAILMENT METHODOLOGY IN AN ACCESS ARRANGEMENT

Amend the access arrangement provisions in Part 8 of the NGR to require scheme pipeline service providers to include their supplier curtailment methodology in the access arrangement, so that it is subject to review by the regulator (see recommended final rule 48(1)).

RECOMMENDATION 6: FINAL TRANSITIONAL RULE — SUPPLIER CURTAILMENT METHODOLOGIES

Specify in the schedule of amending rules that the obligation to publish the supplier curtailment methodology under Part 10 of the NGR does not commence until two months after the rules are made.

Insert transitional rules (recommended final transitional rule Schedule 6, Part 3) that states that the new rule 48(1) does not:

- apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.
- require a service provider to seek a variation of its access arrangement during an access arrangement period that commenced prior to the commencement date.

3.3 Information on the type of gas in a pipeline

The Commission's final recommendations set out in section 3.3.4 of the final report were to:

- require all pipeline service providers to publish the following information on their website
 - a. the type of gas the pipeline is transporting
 - b. any limits on blending that may apply to the pipeline if it is transporting a gas blend
 - c. any plans the service provider has to change the type of gas for either a fixed time period (i.e. to conduct a trial) or an ongoing basis (i.e. to permanently change the gas that can be transported).
- require scheme pipeline service providers to include the information in (1)-(2) in their proposed access arrangement and the information in (3) in their access arrangement information
- include the information in (1)-(3) on the AEMC's gas pipeline register.

These final recommendations were expected to contribute to the achievement of the NGO by providing for the publication of relatively low-cost information that is required by current and prospective market participants (including users and end users) to support informed and efficient decisions about their use of pipelines and investment decisions.

While pipeline service providers would incur some costs in meeting these new obligations, the Commission considered these were very low given that this information should be held or known to the service provider. The obligation to keep and maintain this information is not expected to add material costs for the service provider.

3.3.1 Stakeholder responses

Jemena and ATCO commented on the recommended draft rules relating to information on the type of gas in a pipeline in their submissions to the final report.

Jemena submitted that blending limits may not be static and could change depending on factors such as; the characteristics of the gases being injected, geography, the technical capabilities of different materials/components used in the distribution system, the gas(es) being blended, jurisdictional requirements, and customer requirements.¹³ Consequently, it suggested that a broader definition of blending limit be adopted to provide service providers greater flexibility to provide more information as appropriate, noting that:¹⁴

the underpinning factors which may affect those limits (such as jurisdictional technical and customer requirements) is likely to provide more value to prospective users in understanding whether and how a pipeline may be able to accommodate the injection of other types of gas.

Jemena also suggested that:¹⁵

- distribution pipeline service providers be allowed to publish indicative maps of regions where the receipt of a covered gas is possible because it is not feasible to produce schematic maps that show the location of each delivery point that could be supplied with the gas for distribution pipelines
- the requirement to include information on the types of gas and any changes to this being included in an access arrangement and access arrangement information, allow service providers to include a link to a website where the latest information can be found.

ATCO submitted that some information that would need to be reported under the draft rules would be affected by factors outside the service provider's control (e.g. the date on which the change will occur). To overcome this, ATCO suggested the rules focus on the service providers' readiness and ability to transport gas types and its potential to accept these in the future rather than potential future changes to the gases being transported.¹⁶

3.3.2 Commission analysis

The Commission has considered the feedback provided by Jemena on the use of the term 'blending limit', which was defined in recommended draft rule 3 and then referred to in recommended draft rules 101B(2)(g)-(h).

¹³ Jemena, submission to the final report, p. 5.

¹⁴ Jemena, submission to the final report, p. 5.

¹⁵ Jemena, submission to the final report, pp. 5-6

¹⁶ ATCO, submission to the final report, p. 2.

The Commission understands from the information provided by Jemena that a blending limit may not be a fixed percentage applicable at all times. As a result, the rule drafting has been amended to accommodate this. Specifically, the definition of blending limit (which is now defined for the purposes of Part 10 in rule 100A) is defined in relation to a gas blend as “a limitation or set of limitations, which may vary according to circumstance, on the proportion of a primary gas that the service provider allows to form part of the gas blend, whether for operational, compliance or other reasons”.

This amended rule drafting will provide covered gas suppliers that are considering connecting to a pipeline more accurate information to inform their decision, which is consistent with the policy intent set out in the final report. In addition, the Commission is satisfied that this change does not alter the impact analysis made at the time of the final report.

The Commission has also considered Jemena’s suggestion that distribution pipeline service providers be able to publish indicative maps of regions where a covered gas may be received. The Commission understands distribution pipeline service providers may face some technical difficulties publishing a map that shows every delivery point. To meet such an obligation would be likely to require each distribution service provider to incur costs to set up a map with the required details. However, Jemena’s suggestion of an indicative map is likely to sufficiently meet the policy intent of informing prospective covered gas suppliers and pipeline users of the availability of covered gases by location without incurring significant costs. These parties would still have information to support them making an informed decision about whether to connect to a particular part of the pipeline.

Therefore, the Commission has amended the rule drafting to allow distribution pipeline service providers to publish an indicative map of the pipeline that shows the locations of delivery points that could be supplied with the gas.

In relation to Jemena’s final suggestion on permitting an access arrangement to include a link to where information on the type of gas or blending limits in a pipeline can be found, the Commission remains of the view that this information should be documented in the access arrangement because it forms part of the key terms and conditions on which access to the pipeline is provided.

As to information on the intention a service provider has to conduct a trial or to transition to another gas in the forthcoming access arrangement period, the Commission considers that:

- any such proposal should be identified in the access arrangement information
- the details of any such proposal could be contained on the service provider’s website, a link to which could be included in the access arrangement information.

This is because the Commission considers that the nature of this information would mean that it is unlikely to change frequently and so the above requirement is not onerous or costly. Further, given that there are some customers who are unable to tolerate any level of blending, appropriate levels of transparency around this type of information are critical for stakeholders and market participants to be fully informed.

Regarding ATCO’s feedback, the intent of the recommended draft rules and the obligations a service provider would have to report information is not to provide an indication of a service

provider's readiness. Rather, the intent was to provide current and prospective market participants (including users and end users) that could be affected by a change in the gas, with information on what gas the pipeline is transporting and any proposal the service provider has to trial, or transition the pipeline to, another covered gas. This intent was reflected in the recommended draft rules, which only require service providers to report information they are aware of.

The Commission considers this original intention of the rule drafting remains appropriate. It has not, therefore, amended the rule drafting in the manner suggested by ATCO. Instead, the Commission remains of the view that service providers should publish this relatively low-cost information to provide the benefit of supporting informed and efficient decisions about the use of their pipeline by current and prospective market participants and investment decisions.

3.3.3

Conclusion

The Commission has decided not to alter its final policy recommendations relating to the requirement for service providers to publish information on the gas transported, any blending limits that apply and any plans to trial or change to another covered gas.

However, the Commission has amended the rule drafting to:

- address the concerns raised by Jemena about the blending limit definition
- allow distribution pipeline service providers to publish indicative maps rather than schematic maps
- enable service providers to include a link to their website in the access arrangement information.

These amendments are reflected in recommendation 7 below.

3.3.4

Recommended final rules

To give effect to the final policy recommendations and transitional arrangements in section 3.3.4 of the final report and the recommended amendments to the rule drafting set out above, the NGR should be changed as outlined in the boxes below. See the box below for the relevant recommended transitional rules.

RECOMMENDATION 7: FINAL RULE — REQUIRE SERVICE PROVIDERS TO REPORT ON GAS TYPES AND CHANGES

Amend rule 100A of the NGR to define blending limit as a limitation or set of limitations, which may vary according to circumstance, on the proportion of a primary gas that the service provider allows to form part of the gas blend, whether for operational, compliance or other reasons.

Amend the pipeline information provisions in Part 10 of the NGR to require service providers to include the following on their website (recommended rule 101B(2)):

(a) the type of gas the pipeline is transporting

(b) if a gas blend is being transported and the pipeline is subject to or applies a blending limit, that blending limit

(c) the following if the service provider is aware that the type of gas transported through the pipeline is going to change in the future:

- the new type of covered gas that will be transported through the pipeline
- the date on which the change of gas type is expected to occur, and if the change will be for a fixed time period, the end date of that period
- information about whether the new type of gas will be transported between all receipt points and delivery points on the pipeline or only a subset of points
- if the new type of gas will only be transported between a subset of points, an indicative map that shows the location of delivery points that could be supplied with the gas
- information about whether the service provider has received approval from any jurisdictional safety and technical regulator to change the type of gas transported
- if the type of gas transported through the pipeline is going to change on an on-going basis, information about whether the change is being made to comply with a regulatory obligation or requirement.

Amend the access arrangement and access arrangement information provisions in Part 8 of the NGR to require scheme pipeline service providers to include:

- the information referred to in (a) and (b) above in their access arrangement (recommended rule 48(1)(a1))
- the information referred to in (c) above in their access arrangement information, which could also be provided by way of a website link (recommended rule 72(1)(o)).

Amend the gas pipeline register provisions in Part 15 of the NGR to require the information in (a)-(c) to be included in the gas pipeline register (recommended rule 133(3)).

RECOMMENDATION 8: FINAL TRANSITIONAL RULE — OBLIGATION TO REPORT ON GAS TYPE AND CHANGES

Specify in the schedule of amending rules that a service provider's obligation to report on its website the information on gas type and changes set out in recommended draft rule 101B(2) does not commence until two months after the rules are made.

3.4

Government mandated transitions to another covered gas

The final report recommended that where a government mandates a pipeline to transition from transporting natural gas to another covered gas then, in the case of a scheme pipeline,

the mandate will be treated as a regulatory obligation or requirement for the purposes of the NGL and the NGR.¹⁷

This is less clear in the case of non-scheme pipelines. Section 3.4.4 of the final report recommended amending the NGR's arbitration pricing principles applying to non-scheme pipelines to recognise that the price for access to a pipeline service should reflect the costs the service provider incurs in complying with a regulatory obligation or requirement.

The Commission did not receive any specific stakeholder feedback regarding the recommended draft rules relating to this issue. In addition, it has not identified any further changes that are necessary. As a result, the recommended final rule mirrors the recommended draft rule.

3.4.1 Recommended final rules

To give effect to the final policy recommendation and transitional arrangements outlined in section 3.4.4 of the final report the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 9: FINAL RULE — AMEND ARBITRATION PRICING PRINCIPLES APPLYING TO NON-SCHEME PIPELINES

Amend the arbitration pricing principles applying to non-scheme pipelines to allow regulatory obligations and requirements to be considered by:

- including a new limb in the pricing principles stating that the price of access to a non-scheme pipeline should reflect the cost of providing that service, including the cost the service provider incurs in complying with a regulatory obligation or requirement (recommended final rule 113Z(4)(ii))
- including a definition for regulatory obligation or requirement in Part 1 of the NGR, which largely mirrors the definition in the NGL with amendments to remove those parts of the NGL definition that are specific to scheme pipelines (recommended final rule 3(1A)).

3.5 Voluntary transitions to another covered gas

The Commission's final report (see section 3.5.4 of the final report) did not recommend any changes to either the expenditure criteria applying to scheme pipelines, or the arbitration principles applying to non-scheme pipelines, to deal with voluntary transitions by a pipeline to another covered gas. In both cases, this is because the existing provisions in the NGR are already fit for purpose.

¹⁷ The term 'regulatory obligation or requirement' is defined in s. 6 in the NGL as: a) in relation to the provision of a pipeline service by a service provider (i) a pipeline safety duty; or (ii) a pipeline reliability standard; or (iii) a pipeline service standard; or b) an obligation or requirement under: this Law or the Rules; the National Energy Retail Law or the National Energy Retail Rules; or an Act of a participating jurisdiction, or any instrument issued under or for the purposes of that Act that: levies or imposes a tax or other levy that is payable by the service provider; regulates the use of land in a participating jurisdiction by a service provider; or relates to the protection of the environment; or materially affects the provision, by a service provider, of pipeline services to which an applicable access arrangement applies.

Stakeholders did not raise any concerns with this recommendation nor suggest that changes to the NGR were required. The Commission is satisfied that the final report position is appropriate and remains relevant.

3.6 Regulatory treatment of government grants and concessional finance

The Commission's final policy recommendations set out in sections 3.6.4 and 3.7.4 of the final report were to:

- require the regulator to treat government grants in the same manner as capital contributions by users under rule 82 of the NGR
- amend rule 82 of the NGR to allow the regulator to treat some or all of the benefit of concessional finance as a capital contribution where it is satisfied that this was the government funding body's intention.

These final recommendations were expected to contribute to the NGO by ensuring that consumers do not pay pipeline charges to recover the cost of facilities that have been funded through government grants or concessional finance, where the intent of that funding was to reduce costs to consumers.

3.6.1 Stakeholder responses

Submissions on these final recommendations were received from AGIG, ATCO, the Clean Energy Finance Corporation (CEFC) and Jemena. Feedback was also provided by ARENA, the AER and ERA.

AGIG and ATCO were opposed to the final policy recommendation regarding the treatment of concessional finance. AGIG, for example, stated that it would "dampen the incentives to invest", increase costs, add another step to the final investment decision process and result in gas pipelines being treated differently to electricity networks.¹⁸ ATCO expressed a similar view, noting that it was inappropriate to treat concessional finance differently from other forms of debt financing and that having to wait for a regulator's decision would give rise to investment uncertainty.¹⁹

While opposed to the proposal, AGIG and ATCO did identify some changes to the recommended draft rules that they considered should be made if the policy approach was to be maintained.

- AGIG suggested the rules make it clear that only the difference between the interest payable under concessional and market finance is treated as a capital contribution.²⁰
- ATCO suggested that:²¹

18 AGIG, submission to the final report, p. 5.

19 ATCO, submission to the final report, p. 3.

20 AGIG, submission to the final report, p. 5.

21 ATCO, submission to the final report, p. 3.

- rather than referring to 'market rate', a link should be made to the cost of debt under the Rate of Return Instrument
- consideration be given to specifying the factors regulators should have regard to in determining whether concessional finance should be treated as a capital contribution.

Jemena noted that while it understands the objectives of the final policy recommendation, it is concerned that the recommended draft rules create "an unnecessarily complex and administratively burdensome mechanism that is out of proportion to the public benefits". To address this, Jemena suggested the AER have the flexibility to take concessional finance into account where it is material in the context of the pipeline. It also suggested that the information disclosure requirements be integrated into the access arrangement review process.²²

In contrast to AGIG and ATCO, CEFC supported the intent of the final recommendation and recommended draft rule, but noted that there may be some gaps in the recommended draft rules because there may be instances where concessional finance is provided to:

- the service provider without a specific project being identified, or
- the service provider's parent company for allocation to the service provider

CEFC suggested that the rules be amended to address these gaps.²³

3.6.2

Commission analysis

Treatment of concessional finance

The Commission has considered the feedback provided by AGIG and ATCO on the final policy recommendation that the regulator treat some or all of the benefit of concessional finance as a capital contribution where it is satisfied that this was the government funding body's intention.

As noted in the final report, the Commission considers concessional finance provided by a taxpayer-funded body can be distinguished from other forms of debt. If it is treated in the same way as other debt there is a risk that the government funding body's intent in providing the concessional finance could be undermined. This could occur if the funding body's intent is that the benefits of concessional finance should be passed through to consumers in the form of lower pipeline charges.

Noting this, the Commission recommended that the regulator should be able to treat some or all of the value of the concessional finance as a capital contribution. Most of the matters raised by AGIG and ATCO in response to the final report are equivalent to those that were raised in response to the draft report, which were considered in depth as part of the development of the final policy recommendation.

The only new matter raised in the most recent submissions was by AGIG who noted that a similar approach does not apply to electricity. However, the Commission is currently considering the regulatory treatment of concessional finance as part of the *Transmission*

²² Jemena, submission to the final report, p. 7.

²³ CEFC, submission to the final report, pp. 1-2.

Planning and Investment Review. That review is considering how concessional finance should be treated for regulatory purposes in the context of the electricity frameworks when some or all of the benefits may be intended to flow to consumers. Therefore, it is possible that similar changes to those recommended by this review could be proposed to the electricity regulatory framework following the conclusion of that review.

Overall, the matters raised by the ATCO and AGIG have not altered the Commission's view on how concessional finance can be recognised in the regulatory framework. Accordingly, the Commission has not departed from its final recommendation, which is intended to promote the NGO by ensuring that consumers do not pay pipeline charges to recover costs that have been funded through concessional finance, where the intent of that finance was to reduce costs to consumers.

Whether any changes need to be made to the rule drafting to address the matters raised by AGIG, ATCO and Jemena, the Commission notes:

- **Measurement of the benefit:** Requiring the benefit to be measured as the difference between interest rates, as suggested by AGIG, or requiring the market rate to be based on the cost of debt in the Rate of Return Instrument, as suggested by ATCO, could be unworkable in some circumstances. This is because while concessional finance is often thought of in terms of debt, it can take other forms. Therefore, the Commission has not adopted the suggested changes to the rule drafting.
- **Need for more regulatory guidance and discretion:** The final recommendation requires that the regulator be satisfied that the government funding body intended some or all of the value of its concessional finance be treated as a capital contribution, with a clear intention to lower the prices for consumers. Given the clear intent of the funding body in this instance the Commission does not consider it is necessary to provide additional guidance in the NGR, as suggested by ATCO. Nor does it consider that it would be appropriate to allow the regulator to exercise discretion and set aside the intent of the funding body, even where the benefit is perceived to be small.
- **Disclosure of information:** The Commission's intent in specifying the information to be provided by the service provider in recommended draft rule 82 was that this would be provided, where relevant, as part of a service provider's proposed revised access arrangement. As Jemena noted, this could be made clearer by including it in the list of information that must form part of the access arrangement information. Therefore, the Commission has decided to amend the rule drafting to clarify the information disclosure requirements.

In relation to the CEFC's feedback, the Commission understands that there may be circumstances in which a government funding body provides concessional finance to an entity other than the service provider such as a service provider's parent company or a joint venture or partnership between members of the service provider's corporate group and other parties. Under such a scenario, one purpose of the concessional finance may be for capital expenditure by the service provider and to enable investment in other projects.

In the Commission's view, if the concessional finance is provided to another entity but the intent is that some or all of the benefit of that financing flows through to the service provider

and benefits consumers, then the regulator should be able to take this into account in making its decision. The Commission has therefore amended the rule drafting to recognise that concessional finance may be provided to an entity other than the service provider for the purpose of capital expenditure by the service provider. This change remains consistent with the policy decision in the final report of enabling the regulator to take into account concessional finance as part of the access arrangement decision making process.

The Commission has also considered the CEFC's feedback that a specific project may not be identified when funding is provided and has amended the definition of concessional finance in the rule drafting to clarify that concessional finance is for the purpose of capital expenditure by the service provider or for that purpose and other purposes. This change is consistent with the policy intent of the final recommendation. It will mean that concessional finance provided to the service provider at a corporate level (e.g. for one or more capital investments) is able to be considered by the regulator, provided the funding body's intent was that some or all of the benefits of the concessional finance would flow through to consumers.

As outlined above, these amendments are not expected to alter the intent of the final policy recommendations and should contribute to the achievement of the NGO by ensuring that consumers receive the benefit of not paying pipeline charges to recover costs that have been funded through concessional finance, where the intent of that finance was to reduce costs to consumers.

The Commission also considers that these amendments to the rule drafting are targeted, because they specifically address the issues raised by stakeholders in a clear and precise way, as well as proportional, because they address the issue in a manner that avoids undue complexity. This is consistent with the implementation criteria in the assessment framework.

Finally, the approach the Commission has decided upon for concessional finance hinges in part on the availability of information that is provided to the regulator. While the regulator can compel the service provider to provide information under the proposed approach, there is a risk that if the funding is provided to another entity (such as a parent company or joint venture etc.) then the funding agreement between the funding body and the recipient could require the agreement and details of the financing arrangements to remain confidential. This would limit the regulator's ability to receive information critical to making a well-informed decision. As a result, it is critical that government funding bodies, where their intention is to reduce costs to consumers, are aware that the regulator's ability to take into account concessional finance when setting reference tariffs is dependent on access to information about the financing arrangements and the funding body's intention when providing the finance. The Commission, therefore, recommends that when entering into a funding agreement the government funding body ensures that the details of the funding agreement can be disclosed to the regulator. Such action would support the achievement of the recommended final rule and also the funding body's objective in supporting investments for the benefit of consumers.

Treatment of government grants

After considering the changes required to the concessional finance rules the AEMC was advised that, like concessional finance, government grants could either be provided:

- directly to the service provider, or
- to another entity but with the expectation that some or all of the grant would flow through to the service provider and benefit consumers.

Similar to concessional finance, the Commission considers that the regulator should be able to take into account both forms of government grants. Therefore, the rule drafting has been amended so that where a government grant is made:

- directly to the service provider, that it be treated in the same manner as a user capital contribution under rule 82 (consistent with the intention of the recommended draft rule)
- to another party for the purpose of capital expenditure by the service provider, that it be treated similarly to concessional finance, with:
 - the service provider being required to provide the regulator with information on the grant and the regulator required to consult with the government funding body on whether the intent was for the grant to be treated as a capital contribution to the service provider so that the benefit flows through to consumers
 - the regulator determining the value of the capital contribution to the service provider based on the information provided by the government funding body.

As outlined above, these amendments are not expected to alter the intent of the final policy recommendations that were made in the final report. They are expected to contribute to the achievement of the NGO by ensuring that consumers do not pay pipeline charges to recover the cost of facilities that have been funded through government grants, where the intent of that finance was to reduce costs to consumers.

The Commission also considers that these amendments are targeted because they specifically address the issues raised in a clear and precise way, as well as being proportional, because they address the issue in a manner that avoids undue complexity. This is consistent with the implementation criteria in the assessment framework.

3.6.3

Conclusion

The Commission has decided not to alter its final policy recommendations relating to the regulatory treatment of concessional finance and government grants.

However, the Commission has amended the rule drafting so that:

- it acknowledges that concessional finance and government grants could either be provided directly to the service provider or indirectly through concessional finance or a government grant provided to another entity.
- the definition of concessional finance recognises that a specific project may not be identified when funding is provided.

These amendments are reflected in recommendations 10-13 below.

3.6.4

Recommended final rules

To give effect to the final policy recommendation and transitional arrangements outlined in sections 3.6.4 and 3.7.4 in the final report and the recommended amendments to the draft rules set out above, the NGR should be changed as outlined in the boxes below. See the boxes below for the associated transitional rules.

RECOMMENDATION 10: FINAL RULE — REGULATORY TREATMENT OF GOVERNMENT GRANTS PROVIDED DIRECTLY TO A SERVICE PROVIDER

Amend rule 82 of the NGR to recognise that a service provider may receive a capital contribution towards its capital expenditure from parties other than a user, which would then allow the regulator to treat it as a capital contribution (recommended draft rule 82(1)-82(3))

RECOMMENDATION 11: FINAL TRANSITIONAL RULE — GOVERNMENT GRANTS

Insert a transitional rule (recommended final transitional rule in Schedule 6, Part 3 (3)) that states that the new rule 82 does not apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.

RECOMMENDATION 12: FINAL RULE — REGULATORY TREATMENT OF CONCESSIONAL FINANCE

Amend rule 82 of the NGR to:

- Define government contribution to include in relation to the service provider, concessional finance and in relation to a related body corporate of the service provider, concessional finance or a grant (recommended rule 82(9)(a)). Also define:
 - Concessional finance to be a below market rate finance provided for the purpose of capital expenditure by the service provider, or for that and other purposes (recommended rule 82(9)(b)).
 - Grant to be sum of money provided for the purposes of capital expenditure by the service provider or for that and other purposes (recommended rule 82(9)(c)).
- Require a service provider to inform the regulator if it or another entity receives a government contribution from a government funding body (recommended rule 82(4)).
- Require the regulator to:
 - consult with the service provider, the government funding body and, if relevant, the entity that received the government contribution if it is informed by that a government contribution has been received (recommended rule 82(5))

- seek submissions or comments from the government funding body on whether it intended some or all of the government contribution to be treated as a capital contribution and, if so, what proportion should be treated in this way (recommended rule 82(6))
- treat some or all of the value of the government contribution as a capital contribution if it is satisfied that this was the government funding body's intention and determine the value that is to be treated as a capital contribution (recommended rule 82(7))
- have regard to the information provided by the service provider, government funding body and, if relevant, the entity that received the government contribution, and any other information it considers relevant.
- Amend rule 72(1) to require the access arrangement information to include the information in rule 82(4) if a government contribution has been received.

RECOMMENDATION 13: FINAL TRANSITIONAL RULE — CONCESSIONAL FINANCE

Insert a transitional rule (recommended transitional rule in Schedule 6, Part 3) that states that the new rule 82 does not apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.

4 RING FENCING FRAMEWORK

The NGL and NGR include mechanisms that are intended to limit the ability of vertically integrated pipeline service providers to adversely affect competition in contestable parts of the market. The NGL requires service providers to comply with:

- the following minimum ring fencing requirements set out in the NGL, unless the regulator grants an exemption:²⁴
 - service providers must not carry on a related business of producing, purchasing or selling natural gas or processable gas²⁵
 - service providers must ensure that marketing staff are not shared with an associate that takes part in a related business
 - service providers must prepare, maintain and keep separate accounts and a consolidated set of accounts for their entire business.
- additional ring fencing requirements specified in a regulator’s ring fencing determination²⁶
- the associate contract provisions set out in the NGL, which prohibit service providers from entering into, varying, or giving effect to a provision in an associate contract²⁷ that breaches the following requirements, unless approved by the regulator:²⁸
 - an associate contract (or variation) must not have the purpose, or have, or be likely to have the effect, of substantially lessening competition in a market for gas services
 - an associate contract (or variation) must not be inconsistent with the competitive parity rule.

While the ring fencing and associate contract arrangements currently apply to service providers of natural gas pipelines, officials have proposed extending their application to service providers of pipelines transporting any covered gas. They have also proposed amending the definition of ‘related business’ to include the businesses of:²⁹

- producing primary gas or processable gas
- purchasing or selling covered gas or processable gas (but not to the extent necessary for the safe and reliable operation of a pipeline or for balancing)
- providing blend processing services by means of a blend processing facility.³⁰

²⁴ Sections 137-141 of the NGL.

²⁵ A service provider is not prohibited from purchasing or selling natural gas or processable gas to the extent necessary for the safe and reliable operation of a pipeline, or to provide balancing services.

²⁶ Section 143 of the NGL.

²⁷ The term associate contract is defined in the NGL as: a) a contract, arrangement or understanding between a service provider and an associate of the service provider in connection with the provision of an associate pipeline service b) a contract, arrangement or understanding between a service provider and any person in connection with the provision of an associate pipeline service (i) that provides a direct or indirect benefit to an associate; and (ii) that is not at arm’s length.

²⁸ Sections 147-148 of the NGL.

²⁹ Officials, *Extending the national gas regulatory framework to hydrogen and renewable gases and blends*, consultation paper, 31 March 2022, p. 25.

³⁰ Note that this does not include in-pipeline blending.

For more information about the ring fencing and associate contracts arrangements and issues arising in this review see the draft report, chapter 4 'Ring fencing framework'.³¹

For more information on the final policy recommendations and recommended draft rules for the ring fencing and associate contract arrangements see the final report, chapter 4 'Ring fencing framework'.³²

This chapter sets out stakeholder feedback, Commission analysis and the recommended final rules in relation to the ring fencing and associate contract arrangements.

In addition to the changes identified in this chapter, consequential changes to the NGR are set out in appendix B.

For further detail on the recommended changes to the rules, see the accompanying recommended final rules.

4.1 Applying the assessment framework

The Commission's final recommendations, which are reflected in the recommended final rules, are intended to facilitate competition in contestable parts of the covered gas market (which includes the hydrogen and renewable gas industry), which is in the long term interests of consumers, by providing for robust ring fencing and associate contract arrangements. The final recommendations are intended to achieve these benefits by:

- allowing for a more targeted and proportionate ring fencing exemption framework by clarifying the intent of the exemption criterion in rule 34(c)(3), requiring the regulator to consider whether to impose conditions on exemptions and making other changes to make the exemption framework consistent with other exemption frameworks in the NGR
- strengthening the associate contract arrangements by:
 - implementing an advance notice requirement for associate contracts that pose the greatest risk to competition in contestable parts of the market
 - making other changes to the notification and approval processes to:
 - address the information asymmetries the regulator would otherwise face when assessing these contracts
 - provide the regulator sufficient time to make an informed decision
 - provide for public consultation in those cases where the regulator is considering approving a contract that may breach the NGL associate contract prohibitions.
- reducing the administrative burden associated with minor variations and revocations, while also allowing for greater transparency of processes and decisions by requiring:
 - the regulator to publish a guide that provides guidance to persons who may apply for, or be subject to, ring fencing and associate contract decisions
 - the regulator to publish all ring fencing and associate contract decisions
 - these decisions to be included on the AEMC's pipeline register.

31 AEMC, *Review into extending the regulatory framework to hydrogen and renewable gases*, draft report, 31 March 2022, p. 30.

32 AEMC, *Review into extending the regulatory framework to hydrogen and renewable gases*, final report, p. 39.

The implementation of these final recommendations is expected to promote allocative, productive and dynamic efficiency by supporting the development of competition in contestable parts of the covered gas industry and efficient investment in, and efficient operation and use of covered gas pipelines and the facilities connected to these pipelines. In addition, implementation of these changes now is expected to provide the benefits of stability and transparency of arrangements required to enable service providers, regulators and market participants to make informed and efficient decisions in relation to adapting to providing other covered gas services. As a result, taken together, these final recommendations are expected to contribute to the achievement of the NGO and be in the long term interests of consumers.

Additional detail on how each of the policy issues were discussed for this topic through the course of the review and the Commission’s considerations at each stage of the review can be found using the references in the table below.

Table 4.1: Policy issues for the ring fencing framework

	ISSUE	LOCATION IN EACH REPORT
Ring fencing arrangements	Exemption framework for minimum ring fencing requirements	Consultation paper section 3.2.2 Draft report section 4.2.2-3 Final report section 4.2.1
	Conditions on exemptions from minimum ring fencing arrangements	Consultation paper section n/a Draft report section 4.2.4 Final report section 4.2.2
	Consultation process for minor and uncontroversial variations and revocations	Consultation paper section n/a Draft report section 4.2.5 Final report section 4.2.3
	Transitional arrangements for ring fencing	Consultation paper section n/a Draft report section N/A Final report section 4.2.4
Associate contract arrangements	Regulatory oversight of specified associate contracts	Consultation paper section n/a Draft report section 4.4.2 Final report section 4.3.1
	Associate contract approval process	Consultation paper section n/a Draft report section 4.4.2-4.4.4 Final report section 4.3.2
	Guidance on competitive parity rule	Consultation paper section n/a Draft report section 4.4.5

	ISSUE	LOCATION IN EACH REPORT
		Final report section 4.3.3

4.2 Ring fencing arrangements

4.2.1 Exemption framework for minimum ring fencing requirements

The final policy recommendation was to clarify the intent of the exemption criterion in rule 34(3)(c) of the NGR as well as the internal controls that would need to be put into place if an exemption were granted. The Commission considered that this recommendation would promote improved compliance with the minimum ring fencing requirements which are aimed at supporting the development of competition for the benefit of consumers. Section 4.2.2 of the final report details the reasons for this recommendation.

Stakeholder responses

Two submissions were received on the draft rules relating to the exemption framework for the minimum ring fencing requirements:

- ATCO suggested that the rules provide more guidance on what is intended by the term 'internal controls' in the equivalent transitional rule³³
- Jemena suggested that draft rule 34(3)(c) be amended to only require internal controls that substantially replicate the controls that would apply to associate contracts 'where appropriate'.³⁴

Commission analysis

The Commission has considered the feedback provided by ATCO. It has concluded that the drafting of rule 34(3)(c) and equivalent transitional rule in Schedule 6 Part 2 rule 2(2) could be improved by providing more clarity on what the internal controls are intended to achieve.

As noted in the final report, there is some ambiguity surrounding the existing drafting of this rule and, specifically, whether it is intended to require the service provider to put in place:

- full ring fencing arrangements
- equivalent controls to those that apply to associate contracts.

The feedback provided by ATCO suggests that even with the draft rule there is some uncertainty as to the intent of the provision. For this reason, ATCO suggested that the rule expressly refer to ss. 147 and 148 of the NGL.

The Commission considers that this suggestion is consistent with the policy intent in the final report, which is to make clear that even if service providers obtain a ring fencing exemption for a particular activity, they should not, for example, be providing that part of the business with more favourable access to the pipeline than other potential users. Therefore, it has

³³ ATCO, submission to the final report, p. 3.

³⁴ Jemena, submission to the final report, p. 8.

amended the drafting of rule 34(3)(c) and equivalent transitional rule in Schedule 6 Part 2 rule 2(2) to expressly refer to ss. 147-148 of the NGL.

As to Jemena's suggestion, the Commission is concerned that the inclusion of the term 'where appropriate' in this rule would significantly alter the intent. It could, for example, allow service providers that have obtained a ring fencing exemption to provide themselves with favourable access to the pipeline, which could stymie the development of a competitive hydrogen and renewable gas industry. For this reason, the Commission has not made this suggested change to this rule or the equivalent transitional rule.

Conclusion

The Commission has decided not to alter its final policy recommendations relating to the exemption framework for the minimum ring fencing requirements.

However, it has amended the rule drafting of the recommended final rule 34(3)(c) and the equivalent transitional rule in Schedule 6 Part 2 rule 2(2) expressly refer to ss. 147-148 of the NGL (see recommendation 14 below and recommendation 18 in section 4.2.4).

Recommended final rules

To give effect to the final policy recommendation outlined in section 4.2.2 of the final report and the recommended amendments to the draft rules set out above, the NGR should be changed as outlined in the box below.

RECOMMENDATION 14: FINAL RULE — CLARIFY THE INTENDED OPERATION OF THE EXEMPTION CRITERION

Amend the exemption criterion that apply to exemptions from minimum ring fencing requirements (recommended final rule 34(3)(c)) to state that:

- the service provider has, by arrangement with the AER, established internal controls that substantially replicate the controls that would apply to associate contracts if the related business was carried on by an associate of the service provider and sections 147 and 148 of the NGL applied.

4.2.2

Conditions on exemptions from the minimum ring fencing requirements

The final policy recommendation set out in the final report was to allow for the regulator to impose conditions on service providers when providing an exemption from the NGL's minimum ring fencing requirements. A number of associated changes to the NGR were also recommended in the final report (see section 4.2.2 of the final report).

The Commission did not receive any specific comments on these recommended draft rules. In addition, it has not identified any changes to the rule drafting that are necessary. As a result, the recommended final rule is the same as the recommended draft rule.

Recommended final rule

To give effect to the final policy recommendations outlined in section 4.2.2 of the final report, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 15: FINAL RULE — ALLOW FOR CONDITIONS ON EXEMPTIONS AND ASSOCIATED CHANGES

Amend the ring fencing provisions in Part 6 of the NGR to:

- require the regulator to consider whether to impose any conditions when granting an exemption from the minimum ring fencing requirements (recommended final rule 35(1))
- require a service provider to comply with any conditions of an exemption (recommended final rule 35(2))
- require a service provider that has been granted an exemption to notify the regulator without delay if it no longer qualifies for the exemption (recommended final rule 34(6))
- require the regulator to revoke exemptions from the minimum ring fencing requirements if, in its reasonable opinion, the exemption criteria are no longer satisfied (recommended final rule 35A(1))
- empower the regulator to vary any conditions it has imposed on an exemption from the minimum ring fencing requirement (recommended final rule 35(3)).

RECOMMENDATION 16: FINAL RULE — TRANSPARENCY OF RING FENCING DECISIONS

Amend the NGR to require:

- the regulator to maintain a register of ring fencing decisions (including exemption decisions, decisions not to grant exemptions, ring fencing determinations, variation and revocation decisions) (recommended final rule 35E)
- ring fencing decisions to be included on the AEMC's pipeline register (recommended final rule 133(4)).

4.2.3

Consultation process for minor and uncontroversial variations and revocations

The final policy recommendation set out in the final report was to allow the regulator to employ a simpler consultation process for uncontroversial variations and revocations of ring fencing decisions as this would provide the benefit of fit-for-purpose administrative efficiencies (see section 4.2.3 of the final report).

The Commission did not receive any comments on the draft rules relating to the consultation process for minor and uncontroversial variations and revocations. Nor has it identified any other necessary changes. Accordingly, the recommended final rule is the same as the recommended draft rule.

Recommended final rule

To give effect to the final policy recommendation outlined in section 4.2.3 of the final report, the NGR should be changed as outlined in the box below.

RECOMMENDATION 17: FINAL RULE — ALLOW A SIMPLER CONSULTATION PROCESS FOR MINOR MISTAKES, OMISSIONS & DEFECTS

Amend the ring fencing provisions in Part 5 of the NGR to include a new rule (recommended final rule 35F) that:

- allows the AER to employ a simpler consultation process for variations or revocations of minimum ring fencing exemptions and additional ring fencing requirements if the decision is affected by a material error or deficiency of one or more of the following kinds:
 - a clerical mistake or an accidental slip or omission
 - a miscalculation or misdescription
 - a defect in form
- specifies that in these instances, the AER can vary or revoke a decision following consultation with the relevant service provider and any other persons with whom it considers consultation appropriate.

4.2.4

Transitional arrangements for ring fencing

The final policy recommendation in the final report (see section 4.2.4 of that report) was to provide for time and scope limited exemptions from the minimum ring fencing requirements be applied to the following existing projects until the earlier of the end of the trial and 30 November 2026:

- AGIG's HyP SA and HyP Gladstone trial projects
- Jemena's Western Sydney Green Gas Project
- ATCO's Clean Energy Innovation Hub and its associated Hydrogen Refueller Station and hydrogen blending trial projects.

Stakeholder responses

The Commission received submissions from Jemena and ATCO on the draft transitional rules.

Jemena suggested that a permanent exemption from the minimum ring fencing requirements be provided to its Western Sydney Green Gas Project. It also suggested that the conditions on the exemption, which require each project to prepare, maintain and keep separate accounts and to implement associate contract related internal controls be removed.³⁵

ATCO suggested that:³⁶

³⁵ Jemena, submission to the final report, p .9.

³⁶ ATCO, submission to the final report, p. 2.

- draft transitional rule 4 in Schedule 6 Part 2 be amended to provide for all of its projects (i.e. the Clean Energy Innovation Hub, the Hydrogen Refueller Station and hydrogen blending trial) to be treated in the same manner so that they are subject to the same exemptions from the minimum ring fencing requirement
- draft transitional rules 2(2)(a)-(b) in Schedule 6 Part 2, which require service providers of these trials to put in place associate contract related internal controls, be removed or amended to clarify the intent of 'internal controls' (see section 4.2.1).

ATCO also suggested that a new transitional rule be included to provide service providers 12 months to comply with the NGL marketing staff segregation requirements.³⁷

Commission analysis

The Commission has considered Jemena's suggestion that a permanent exemption be granted to its Western Sydney Green Gas Project, rather than a temporary exemption. This was considered as part of the final report and the Commission concluded that a time and scope limited exemption was appropriate. The end date for the time limited exemption was based on expected end date for the trial, which Jemena advised was November 2026.

Jemena has not provided any new information to support its view that a permanent exemption is required for this particular project. In the Commission's view, the term of this exemption remains sufficient given Jemena's advice on when the trial will end and the potential impact that the continued operation of the facility by JGN (as the service provider for the NSW gas distribution network) could have on the development of competition in the hydrogen and renewable industry. Therefore, the Commission has not altered its final recommendation on this issue.

Similarly, the Commission is not proposing to amend its final recommendation on the conditions that should be applied to these minimum ring fencing exemptions. These conditions, which require each project to prepare, maintain and keep separate accounts and implement associate contract related internal controls, are important to mitigate against the risk that the three service providers may seek to provide their own business preferential access to the pipeline.

Service providers should already be maintaining separate accounts under s. 141 of the NGL. Therefore, the Commission does not consider this to be a significant additional regulatory burden arising from the final recommendation. Nor does it consider the requirement to implement the associate contract related internal controls to have a costly additional regulatory impact. In this regard it is worth noting that if the service providers were to apply for the same exemption under rule 34 of the NGR, they would be subject to this requirement. The transitional arrangements are therefore consistent with the broader intent of the rules relating to ring fencing exemptions.

As to how ATCO's trials should be treated, the Commission understands that they are effectively treated as a single project by ATCO, which is akin to the AGIG and Jemena projects which combine a number of different trial activities within one project. Therefore,

³⁷ ATCO, submission to the final report p. 2.

the Commission has amended the draft transitional rules to treat the three trials as a single project for the purposes of the transitional rules. In effect, this means that ATCO's Clean Energy Innovation Hub, the Hydrogen Refueller Station and hydrogen blending trial projects would be subject to the same exemption from the minimum ring fencing requirements, which is consistent with the policy intent.

With respect to ATCO's suggestion that further clarity be provided on what is meant by 'internal controls', the Commission received similar feedback on the interpretation of rule 34(3)(c) (see section 4.2.1) and has amended the rule drafting to provide greater clarity.

Finally, the Commission has considered ATCO's suggestion that a 12 month grace period be provided for service providers to comply with the marketing staff segregation requirements. Given the late stage at which this issue is being raised, the Commission is concerned that providing a grace period as suggested could have unintended consequences and other stakeholders will not have the opportunity to consider the issue and provide feedback to the Commission to enable it to make a more informed decision. An alternative approach would be for the concerned service provider to have recourse to the existing exemption framework in rule 34 of the NGR and apply to the regulator for a time limited exemption from this specific requirement.

On balance, the Commission considers that it would be preferable for any service providers that may be affected by this new requirement to use the existing exemption provisions of the NGR to manage a scenario as outlined by ATCO. Using the existing rules provides the benefit of the regulator carrying out an appropriate decision making process that can consider the potential impacts of making such an exemption. For this reason, the Commission has not included a grace period as suggested by ATCO in the final transitional rules for ring fencing.

Conclusion

The Commission has decided not to alter its final policy recommendations relating to the transitional arrangements for ring fencing which are intended to provide clarity to the impacted service providers that their current trial projects are able to continue without the service provider incurring the costs of making organisational changes mid way through the life of the projects. This will enable the service providers, impacted consumers and the industry in general, to clearly understand the framework within which hydrogen and renewable gas projects are being developed. It also avoids the risk that current trials impede the future development of a competitive market through permanent exemptions from the ring fencing framework. However, the Commission has amended the rule drafting so that:

- transitional rule 4 in Schedule 6 Part 2 treats all of ATCO's trials as a single project
- transitional rule 2(2)(a) in Schedule 6 Part 2 provides greater clarity on what is meant by the term 'internal controls'.

Recommended final rules

To give effect to the final policy recommendation outlined in section 4.2.4 of the final report and to account for the changes recommended above, see below for the recommended final transitional rules.

RECOMMENDATION 18: FINAL TRANSITIONAL RULE — MINIMUM RING FENCING REQUIREMENTS TRANSITIONAL EXEMPTIONS

Amend Schedule 6 Part 2 of the NGR to:

- provide designated entities (ATCO, AGIG and Jemena) with an exemption from the specified minimum ring fencing requirements for the transition period (i.e. the earlier of the end of the trial and 30 November 2026) in relation to the designated trial project (i.e. ATCO's Clean Energy Innovation Hub, Hydrogen Refueller Station and hydrogen blending trial project, AGIG's HyP SA and HyP Gladstone projects, Jemena's Western Sydney Green Gas Project)
- subject the exemption to the conditions that the designated entity:
 - establish internal controls that substantially replicate the controls that would apply to associate contracts if the related business carried on by the designated entity was carried on by an associate of the designated entity and provide details of the internal controls to the regulator
 - maintain separate accounts for the designated trial projects
 - provide these accounts to the regulator annually, along with the methodology used to allocate costs to the designated trial projects.
- specify the conditions relating to establishing internal controls and maintaining separate accounts must be complied with within three months after the commencement date and the requirement to provide accounts to the regulator annually must be complied with within 15 months after the commencement date.
- clarify that the exemption should not be taken to mean that a related business carried on by the designated entities is a pipeline service.

4.3

Associate contract arrangements

4.3.1

Regulatory oversight of specified associate contracts

The final policy recommendations contained in section 4.3.1 of the final report were to:

- Introduce a 20 business day advance notice requirement for service providers proposing to enter into an associate contract (or a variation) with a related business (as defined in the NGL)³⁸ that is not on the service provider's standing terms.
- Amend the post-notification requirements to require service providers to provide the regulator with information on why an associate contract (or variation) does not breach the prohibitions in the NGL when providing the regulator an executed contract (or variation).

³⁸ Under the changes proposed by Ministers, the term 'related business' will be amended to include: (a) producing primary gas or processable gas, (b) purchasing or selling covered gas or processable gas (but not to the extent necessary for the safe and reliable operation of a pipeline or for balancing) and (c) providing blend processing services by means of a blend processing facility.

Stakeholder responses

The Commission received one submission on the draft rules from ATCO, who suggested that the 20 business day advance notification requirement in recommended draft rule 31 be reduced to five or 10 days.³⁹

Commission analysis

The Commission has considered the feedback provided by ATCO. As outlined in the final report, the AER had suggested that a 40 business day timeframe be adopted, however the Commission concluded that a 20 business day timeframe was more appropriate given the need to balance:

- providing the regulator with sufficient time to determine whether it considers a breach of the NGL may occur
- a service provider's commercial requirements.

In the Commission's view, a five or 10 day notification requirement would not provide the regulator with sufficient time to assess the contract. Therefore, it does not recommend any change to the 20 business day timeframe as it considers this timing strikes an appropriate balance between the competing needs of the regulator and service provider.

The Commission also notes that the advance notification requirements only apply to a subset of associate contracts that are at the greatest risk of contravening ss. 147-148 of the NGL. This is not an undue regulatory burden to provide gas consumers with the benefit of regulatory oversight of contracts that have the greatest potential to impact competition in contestable parts of the covered gas market. Nor does the Commission consider these targeted requirements will have a material effect on the timeliness of commercial negotiations. The Commission remains satisfied that the recommended final rules provide the benefit of stability and transparency of regulatory arrangements required to enable consumers, market participants and investors to make efficient decisions with minimal cost to the impacted service providers.

Conclusion

The Commission's final policy and final rules recommendations relating to the regulatory oversight of specified associate contracts and post-notification requirements are unchanged as a result of the stakeholder feedback. In addition, it has not identified any changes to rule drafting changes that are required. As a result, the recommended final rules are the same as the recommended draft rules.

Recommended draft rules

To give effect to the final policy recommendation and the transitional arrangements outlined in section 6.2.4 of the final report, the NGR should be changed as outlined in the boxes below.

³⁹ ATCO, submission to the final report, p. 3.

RECOMMENDATION 19: FINAL RULE — AMEND THE ASSOCIATE CONTRACT NOTIFICATION REQUIREMENTS

Amend the associate contract provisions in Division 2 of Part 5 of the NGR to:

- introduce an advance notice requirement (recommended final rule 32A) that requires a service provider that is proposing to enter into an associate contract (or variation) that meets the following criteria (referred to in the recommended final rule as “specified associate contracts”) to notify the regulator 20 days prior to entering into the contract (or variation):
 - the associate contract (or variation) is between the service provider and an associate that carries on a related business (as that term is defined in the NGL)
 - the price and conditions of access that would apply to the associate would not be based on the standing terms published by the service provider under rule 101C.
- As part of the notification, a service provider would be required to provide the regulator with “associate contract information” (recommended final rule 31), being:
 - a description of the relationship of the associate to the service provider
 - a description of the business operated by the associate
 - a description of the key terms of the proposed contract (or variation) or the form of the proposed contract (or variation)
 - an explanation as to why the contract (or variation) does not breach NGL prohibitions.
- Advance notice would not be required where a service provider has sought regulatory approval for the proposed contract (see recommended final rule 31, definition of “excluded contract”).

Amend the post-notification requirements to require a service provider to provide the regulator with the same type of information provided in respect of contracts for which advance notice is provided, or approval sought. If a service provider has sought pre-approval of an associate contract or provided advance notice of the contract (or variation), the service provider may provide a statement describing any changes in the information that has previously been provided (recommended final rule 33(1)(c)).

RECOMMENDATION 20: FINAL TRANSITIONAL RULE — ASSOCIATE CONTRACT NOTIFICATION TRANSITIONAL RULES

Specify in the schedule of amending rules that recommended final rule 32A does not commence until 20 business days after the rule is made.

4.3.2 Associate contract approval process

The final policy recommendations (see section 4.3.2 of the final report) were to amend the associate contract approval process provisions in the NGR to:

- address the information asymmetries faced by the regulator, including by allowing the regulator to request additional information
- extend the time available to the regulator to make a decision
- require the regulator to consult where it is considering approving an associate contract (or variation) that may breach s. 147 or s. 148 of the NGL
- require the regulator to publish a guide setting out the process to be followed and the information to be provided by a service provider if approval of a contract is sought
- require the regulator to publish any associate contract related decisions and include these decisions on the AEMC's pipeline register.

Stakeholder responses

The Commission received one submission on the draft rules from Jemena, who suggested that:⁴⁰

- draft rule 32(6) require the AER to request any additional information it requires in a timely manner, which it suggested could be within 20 business days
- draft rule 35D(1) provide more guidance on the purpose of the ring fencing guide, so that it provides more certainty to an applicant
- draft rule 35D(3) be removed, because the regulator always has the discretion to make a non-binding guide at any time.

Commission analysis

The Commission has considered the feedback provided by Jemena. It has concluded that requests for additional information should occur in a timely manner so that the decision-making process can proceed efficiently. The drafting for the recommended final rule has been changed to improve its operation by requiring any request for additional information to be made within 20 business days of the receipt of an application.

As to Jemena's other suggestions, the Commission has amended the recommended final rule 35D to:

- provide more guidance on the purpose of the ring fencing guide, which as noted in the final report is to provide those that apply for a ring fencing or associate contract decision with more guidance on the processes to be followed and the information to be provided as part of an application
- remove draft rule 35D(3), because as Jemena noted, the regulator always has the discretion to publish a separate non-binding guide.

In the Commission's view, these amendments are consistent with its policy intent and will provide greater clarity about the role of the ring fencing guide. Specifically, the drafting

⁴⁰ Jemena, submission to the final report, p. 10.

changes improve the overall objective of the final policy recommendation by providing the benefit of:

- supporting more informed, efficient and timely decision making by the regulator by reducing the information asymmetries faced by the regulator, allowing public consultation on decisions that could adversely affect competition and providing the regulator with an appropriate amount of time to make decisions
- allowing a more efficient approval process by requiring the regulator to set out the process to be followed and information to be provided in the ring fencing guide
- providing market participants with greater confidence in the approvals process and more guidance to pipeline service providers by requiring greater transparency of associate contract decisions and by specifying the time within which information is to be requested.

The Commission acknowledges that achieving these benefits will rest on the regulators and service providers amending their current associate contract approval process. However, these are not significant changes and the use of this process will be limited to specific circumstances.

Conclusion

The Commission's final policy recommendation relating to the associate contract approval process is unchanged as a result of the stakeholder feedback. However, minor amendments to the rule drafting have been made to address the matters raised by Jemena. The changes discussed above are the only differences between the recommended draft and final rules.

Recommended final rules

To give effect to the final policy recommendation outlined in section 4.3.2 of the final report and to account for the changes recommended above, the NGR should be changed as outlined in the boxes below. See below for the recommended final transitional rules.

RECOMMENDATION 21: FINAL RULE — AMEND THE ASSOCIATE CONTRACT APPROVAL PROCESS

Amend the associate contract approval process provisions to:

- require service providers that apply to have an associate contract or variation approved, to include in the application a statement setting out the reasons that (recommended final rule 32(1A) and (1B)):
 - the contract or variation does not breach the NGL prohibitions, or
 - if the contract or variation would breach the NGL prohibitions, that the public benefits would outweigh the public detriment.
- require the regulator to consult using the standard consultative procedure if it is considering making a decision to approve a contract that breaches the NGL prohibitions (recommended final rule 32(3A))

- for contracts other than those specified above:
 - only require the regulator to approve an associate contract if the service provider has demonstrated to the regulator’s reasonable satisfaction that it will not breach the NGL prohibitions (recommended final rule 32(2))
 - extend the decision making timeframe to 40 business days and include a stop-the-clock provision that can be triggered if the regulator seeks further information (recommended final rule 32(6)).

Include a new rule that requires the regulator to publish a guide that sets out the process to be followed and the information to be provided by a service provider for any ring fencing and associate contract related decisions made under the NGR (recommended final rule 35D).

RECOMMENDATION 22: FINAL RULE — TRANSPARENCY OF ASSOCIATE CONTRACT APPROVAL DECISIONS

Amend the NGR to require:

- the regulator to publish associate contract decisions (including approval decisions, decisions not to approve, variation and revocation decisions) (recommended final rule 35E)
- associate contract decisions to be included on the AEMC’s pipeline register (recommended final rule 133(4)).

RECOMMENDATION 23: FINAL TRANSITIONAL RULE — ASSOCIATE CONTRACT APPROVAL

Include transitional rules in the NGR that:

- exclude from the operation of amended rule 32 applications for approval of associate contracts made by a service provider prior to the commencement of the new rules (recommended final transitional rule Schedule 6, Part 1, rule 2)
- require the regulator to publish the ring fencing decision guide within eight months of the commencement of the rules (recommended final transitional rule Schedule 6, Part 1, rule 3)
- exclude associate contract decisions made before the commencement date from the publication requirements in recommended final rules 35E and 133(4) (recommended final transitional rule Schedule 6, Part 1, rule 4).

4.3.3 **Guidance on competitive parity rule**

The final report (section 4.3.3) recommended that no changes be made to the NGR to provide more guidance on the competitive parity rule set out in s. 148 of the NGL, as there is a risk that doing so could inadvertently narrow its intended operation.

Stakeholders did not raise any concerns with this recommendation nor did they suggest that changes to the NGR were required. The Commission is satisfied that the final report position is appropriate and remains relevant.

5 MARKET TRANSPARENCY MECHANISMS

The NGL and NGR currently establish the following market transparency mechanisms:

- the Gas Statement of Opportunities (GSOO), which is an annual report published by AEMO that assesses the adequacy (or otherwise) of supply in eastern Australia to meet forecast demand and the outlook for the industry over a 20-year outlook period⁴¹
- the Victorian Gas Planning Report (VGPR), which is a biennial report published by AEMO that provides a supply and demand outlook and pipeline capacity adequacy assessment for the Victorian Declared Transmission System (DTS) over a five-year outlook period⁴²
- the Natural Gas Services Bulletin Board (Bulletin Board or BB), which is a website operated by AEMO that contains market and system information for a range of facilities involved in the supply and use of natural gas in eastern Australia and the Northern Territory.⁴³

In 2020, Energy Ministers agreed to implement a range of improvements to the GSOO and the Bulletin Board and to require the AER to publish a range of gas price information once the Australian Competition & Consumer Commission's (ACCC) Gas Inquiry ceases, which is expected to occur in 2030. The extension of the ACCC's Gas Inquiry is not expected to impact the new gas price information to be reported by the AER. The amendments to the NGL and NGR required to give effect to these transparency reforms are set out in the rule made by the South Australian minister in June 2022 and will come into effect by the middle of April 2023.⁴⁴

In addition, Energy Ministers have agreed that stand-alone compression and storage facility operators should publish information on their standing terms and actual prices paid by other users to help facilitate third party access (referred to as 'non-pipeline infrastructure access reporting'). The amendments to the NGR required to give effect to this transparency measure are being implemented through the pipeline reform package, which is expected to be implemented later this year.⁴⁵ Given Energy Ministers have already agreed to these amendments, this final report proceeds on the basis that the amendments are made.

For more information about the market transparency mechanisms and the issues arising in this review see the consultation paper, chapter 4 'Market Transparency Mechanisms'.⁴⁶

For more information on the final policy recommendations and recommended draft rules for the market transparency mechanisms see the final report, chapter 5 'Market Transparency Mechanisms'.⁴⁷

41 See <https://aemo.com.au/en/energy-systems/gas/gas-forecasting-and-planning/gas-statement-of-opportunities-gsoo>

42 See <http://aemo.com.au/en/energy-systems/gas/gas-forecasting-and-planning/victorian-gas-planning-report>

43 See <http://aemo.com.au/en/energy-systems/gas/gas-bulletin-board-gbb>

44 See <https://www.energy.gov.au/government-priorities/energy-ministers/energy-ministers-publications/regulatory-amendments-increase-transparency-gas-market>

45 See <http://energyministers.gov.au/publications/energy-senior-officials-release-gas-pipeline-draft-legal-package-consultation>

46 AEMC, Review into extending the regulatory frameworks to hydrogen and renewable gases, consultation paper, 21 October 2021, p. 18.

47 AEMC, Review into extending the regulatory frameworks to hydrogen and renewable gases, final report, 8 September 2022, p. 74.

In the final report, the Commission recommended that:

- the GSOO, VGPR, Bulletin Board, AER gas price reporting functions and non-pipeline infrastructure access reporting obligations be extended to other covered gases
- blend processing facilities be recognised as distinct facilities and subject to the GSOO, VGPR, Bulletin Board and non-pipeline infrastructure access reporting obligations
- the Bulletin Board include information on pipeline blending and blending related curtailments
- AEMO be given the power to collect information from unregistered participants for the VGPR and to use information obtained for the VGPR for the GSOO and vice versa.

This chapter sets out stakeholder feedback, Commission analysis and the recommended final rules. It also sets out the Commission's final recommendations on the changes to be made to the relevant parts of the NGR to:

- give effect to the final policy recommendations
- implement the transitional arrangements that will be required to give AEMO and market participants sufficient time to comply with the new reporting requirements.

In addition to the changes identified in this chapter, consequential changes to the NGR are set out in appendix B.

For further detail on the recommended changes to the rules, see the accompanying recommended final rules.

5.1 Applying the assessment framework

The Commission's final recommendations set out in the final report are to:

- extend the GSOO, VGPR, Bulletin Board, AER gas price reporting and non-pipeline infrastructure access reporting to other covered gases
- recognise blend processing facilities as distinct facilities and subject to the GSOO, VGPR, Bulletin Board and non-pipeline infrastructure access reporting obligations
- include information on pipeline blending and blending related curtailments in the Bulletin Board
- allow AEMO to collect information from unregistered participants for the purposes of the VGPR and use information obtained for the purposes of the VGPR for the GSOO and vice versa.

Stakeholder feedback and the Commission's own analysis of these matters indicate that if these recommendations are not implemented, material information gaps could emerge and have a range of adverse effects on the market, economic efficiency and consumers more generally. Failure to implement these recommendations could, for example, result in material gaps in:

- the supply forecasts developed as part of the GSOO and VGPR, which could result in inefficient decisions being made about bringing on new sources of supply and infrastructure

- the Bulletin Board and the AER's gas price reporting, which could impede the efficient trade of gas and gas services and result in inefficient decisions being made about the provision and use of other covered gases and associated services.

It could also impede access to the infrastructure information captured by the Bulletin Board and non-pipeline infrastructure access reporting obligations.

The implementation of these recommendations is expected to have the benefit of promoting the efficient operation of the markets for other covered gases and associated services in the following ways:

- **GSOO and VGPR:** The final recommendations should enable market participants to make more informed and efficient planning and investment decisions by allowing them to understand the adequacy of supply from all covered gases and associated infrastructure to meet forecast demand.
- **Bulletin Board:** The final recommendations are expected to allow:
 - market participants to make more informed and efficient decisions about the supply and use of other covered gases and associated services, facilitate the efficient trade of these gases and services and support access to facilities involved in their supply, by providing for the timely publication of pricing, system and operational information
 - prospective suppliers of covered gases make more informed decisions about whether to connect to a pipeline by providing for the publication of information on pipeline blending and the pattern of blending related curtailments.
- **AER's gas price reporting function:** The final recommendations are intended to facilitate the efficient trade of other covered gases and allow market participants to respond in a more efficient manner to price signals, by providing for greater transparency of the prices paid for other covered gases under gas supply and gas swap agreements.
- **Non-pipeline infrastructure terms and prices:** The final recommendations are intended to facilitate third party access to the compression, storage and blend processing facilities involved in the supply of other covered gases, by requiring facility operators to publish their standing terms, the method and inputs used to calculate standing prices and information on the prices actually paid by facility users.

While these final recommendations will impose some reporting costs on suppliers of covered gases and associated services, most of the information will only have to be reported on an intermittent basis. For example, the information required by AEMO to prepare the GSOO is only collected once a year, while information for the VGPR is collected every one or two years. Most of the information to be reported by non-pipeline infrastructure facility operators is also standing data and so will only have to be updated if new contracts are entered into. As a result, the costs associated with these reporting obligations are not expected to be significant, and will be further reduced by our recommendations to enable AEMO to use the information it obtains for the purposes of the GSOO when preparing the VGPR and vice versa.

In addition, the final recommendations provide for the extension of existing measures in the NGR and the implementation of some new measures that are intended to minimise compliance costs, including:

- the extension of the remote BB facility concept to the GSOO, so that facilities that are not directly or indirectly connected to an east coast facilitated market would not be subject to either the GSOO or Bulletin Board reporting obligations
- the Bulletin Board reporting obligations would not apply to facilities with a nameplate rating less than 10 TJ/day and exemptions would be available where AEMO is satisfied the information will be provided by another person, or in the case of lateral gathering pipelines, the information is not material
- exemptions from the non-pipeline infrastructure access reporting obligations would be available where the AER is satisfied that the facility is not a third party access facility
- only requiring pipelines to report on pipeline blending and blending related curtailments where the pipeline is transporting a gas blend and a blending limit applies.

These measures are intended to provide an appropriate balance between enabling market participants and other parties to have access to the information required to make informed and efficient decisions, and minimising compliance costs. On the basis of the above, the Commission considers these recommendations:

- are targeted, fit for purpose and proportionate to the issues they are intended to address
- provide the stability and transparency of regulatory arrangements required to enable market participants to make efficient decisions.

Taken together, the final transparency related recommendations are expected to contribute to the NGO by promoting efficient investment in, and the efficient operation and use of covered gas services in the long term interest of consumers.

Additional detail on how each of the policy issues discussed for this topic through the course of the review and the Commission’s considerations at each stage of the review can be found using the references in the table below.

Table 5.1: Policy issues for the market transparency mechanisms

	ISSUE	LOCATION IN EACH REPORT
GSOO	Extend to other covered gases	Consultation paper section 4.2 Draft report section 5.2.3 Final report section 5.2.4
	Use of GSOO and VGPR information	Consultation paper section 4.2 Draft report section 5.2.3 Final report section 5.2.4
	Transitional arrangements	Consultation paper section n/a Draft report section n/a

	ISSUE	LOCATION IN EACH REPORT
		Final report section 5.2.5
VGPR	Extend to other covered gases	Consultation paper section 4.2 Draft report section 5.3.3 Final report section 5.3.4
	Information for VGPR	Consultation paper section 4.2 Draft report section 5.3.3 Final report section 5.3.4
Bulletin Board	Extend to other covered gases	Consultation paper section 4.2 Draft report section 5.4.3 Final report section 5.4.4
	Blending information	Consultation paper section 4.2 Draft report section 5.4.3 Final report section 5.4.4
	Nameplate rating	Consultation paper section 4.2 Draft report section 5.4.3 Final report section 5.4.4
	Distributed connected production facilities	Consultation paper section 4.2 Draft report section 5.4.3 Final report section 5.4.4
	Transitional arrangements	Consultation paper section n/a Draft report section n/a Final report section 5.4.5
AER gas price functions	Extend to other covered gases	Consultation paper section 4.2 Draft report section 5.5.3 Final report section 5.5.4
Non-pipeline infrastructure reporting	Extend to other covered gases and blend processing facilities	Consultation paper section 4.2 Draft report section 5.6.3 Final report section 5.6.4
	Transitional arrangements	Consultation paper section n/a Draft report section n/a Final report section 5.6.5

5.2 Extend the GSOO to other covered gases

The Commission's final policy recommendation was to extend the GSOO to other covered gases and enable AEMO to use the information it obtains for the purposes of the GSOO when preparing the VGPR and vice versa.

This final recommendation is expected to allow AEMO to properly assess the adequacy (or otherwise) of supply and the associated infrastructure to meet forecast demand over the outlook period. This will, in turn, enable market participants to identify the longer term development needs of the gas market and to make more informed and efficient planning and investment decisions.

AEMO will be required to implement the recommended final rules by changing its current GSOO processes and developing its procedures. While this will be an important change for AEMO, the benefit will be an improved understanding of the covered gas sector for AEMO, market participants and policymakers. The costs of the reporting and administrative costs that AEMO and facilities are likely to incur as a result of the extension will be reduced by allowing AEMO to use information collection for the purposes of the VGPR for the GSOO and vice versa. Section 5.2.4 of the final report details the Commission's final policy recommendation.

Stakeholders did not raise any concerns with this recommendation or the recommended draft rules. The Commission is satisfied that the final recommendation is appropriate and remains relevant. It has not identified any changes to the rule drafting. Consequently, the recommended final rule is the same as the recommended draft rule.

5.2.1 Recommended final rules

To give effect to the final policy recommendations outlined in section 5.2.4 of the final report, the NGR should be changed as outlined in the boxes below. See below for the associated recommended transitional rules.

RECOMMENDATION 24: FINAL RULE — EXTEND THE GSOO TO OTHER COVERED GASES

Amend Part 15D of the NGR to:

- define the gases that will be subject to the GSOO (i.e. all covered gases) and recognise the expanded scope of the GSOO by replacing the terms 'natural gas' and 'natural gas industry' with 'covered gas' and 'covered gas industry' (recommended final rules 135K and 135KE)
- exclude remote BB facilities from the scope of the GSOO (recommended final rules 135K and 135KA)
- include a new definition for the term 'gas processing plant' to make clear that it extends to facilities producing primary gases (recommended final rule 135K)

- define gas blend processing to cover only blending (and not deblending) (recommended final rule 135K)
- require the GSOO to include the following information on gas blend processing (recommended final rule 135KB):
 - blend processing forecasts
 - the volume of gas blend processing contracted in each year of forecast horizon
 - annual and peak day capacity of, and constraints on, blend processing facilities
 - committed and proposed, new or expanded blend processing facilities
 - factors that may affect the volume of gas supplied by blend processing facilities.
- allow, but not require, the GSOO to include information on the feedstock used to create primary gases (excluding natural gas) and the factors that may affect the availability of that feedstock (recommended final rule 135KB(2A)).

RECOMMENDATION 25: FINAL RULE — ENABLE AEMO TO USE INFORMATION FROM THE GSOO SURVEY FOR VGPR AND VICE VERSA

Amend Parts 15D and 19 of the NGR to allow AEMO to use information for either purpose by:

- amending the use and disclosure of GSOO survey information rule in Part 15D to allow AEMO to use any information it obtains through this survey for the purposes of the VGPR (recommended final rule 135KH(1A))
- amending the use and disclosure of VGPR information in Part 19 to allow AEMO to use any information it obtains for the VGPR for the purposes of the GSOO (recommended final rule 324(8)).

RECOMMENDATION 26: FINAL TRANSITIONAL RULE — GSOO AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the new GSOO rules in Part 15D is 31 July 2024.

Insert transitional rules (recommended final transitional rule Schedule 6, Part 4) that:

- require AEMO to review and where necessary, amend and publish the GSOO Procedures to take into account the amending rule by that effective date
- require the GSOO procedures to take effect on and from that effective date
- allow consultation undertaken by AEMO before that effective date to be taken to satisfy the consultation requirements in Part 15B of the NGR.

5.3 Extend the VGPR to other covered gases

The Commission's final policy recommendation (section 5.3.4 of the final report) was to extend the VGPR to other covered gases and allow AEMO to collect information from persons that are not DWGM registered participants for the purposes of the VGPR.

This final recommendation is expected to provide the benefit of allowing AEMO to properly assess the adequacy (or otherwise) of supply and the associated infrastructure to meet forecast demand over the outlook period in Victoria. This will, in turn, help market participants to identify the longer term development needs of the gas market and to make more informed and efficient planning and investment decisions.

Similar to the GSOO changes, AEMO will be required to implement the recommended final rules by changing its current VGPR processes and developing its procedures. The costs of the reporting and administrative costs that AEMO and facilities are likely to incur as a result of the extension will be reduced by allowing AEMO to use information collection for the purposes of the GSOO for the VGPR and vice versa.

Stakeholders did not raise any concerns with this recommendation or identify any changes to the drafting. The Commission is satisfied that the final report position is appropriate and remains relevant. It has not made any changes to the rule drafting and so the recommended final rules are the same as the recommended draft rules.

5.3.1 Recommended final rules

To give effect to the final policy recommendations outlined in section 5.3.4 of the final report, the NGR should be changed as outlined in the boxes below.

RECOMMENDATION 27: FINAL RULE — EXTEND THE VGPR TO OTHER COVERED GASES

Amend Part 19 and 15B of the NGR to extend the VGPR to other covered gases by:

- specifying the gases to be captured by the VGPR (i.e. natural gas, processable gas and other covered gases) (recommended final rule 200)
- requiring the VGPR to include forecasts in respect of blend processing facility capacities by facility (recommended final rule 323(3)(h))
- requiring AEMO to take into account for the VGPR committed projects for new or additional blend processing facilities (recommended final rule 323(4))
- requiring the registration of the operators of DTS connected blend processing facilities (recommended final rules 135A and 200) and treating the blend processing service provider as a DWGM facility operator (recommended final rule 200)
- requiring blend processing facility operators to provide AEMO with information on:
 - blend processing capacities (recommended final rule 324(2)(e))

- blend processing facility projects (including expansions) (recommended final rule 324(2)(c)).

RECOMMENDATION 28: FINAL RULE — ENABLE AEMO TO COLLECT VGPR INFORMATION FROM PARTIES NOT REGISTERED IN THE DWGM

Amend Part 19 and Part 15B of the NGR to:

- allow AEMO to collect information for the VGPR from persons that are not DWGM registered participants (recommended final rule 324A)
- require any information that AEMO intends to collect using this power and who it intends to collect the information from to be set out in the wholesale market procedures (recommended final rules 324A and 135EA(2)).

5.4 Extend the Bulletin Board to other covered gases

The Commission's final policy recommendation in the final report (section 5.4.4 of the final report) was to extend the Bulletin Board to other covered gases. This final recommendation will:

- enable market participants to make more informed and efficient decisions about the supply and use of other covered gases and associated services
- facilitate the efficient trade of covered gases and associated services
- support access to facilities involved in the supply of covered gases
- help prospective suppliers of covered gases make more informed and efficient decisions about whether to connect to a pipeline.

5.4.1 Stakeholder responses

The Commission received two submissions on the recommended draft rules for the Bulletin Board. The submissions provided by APGA and Jemena focused on recommendation 30 of the final report and can be summarised as follows:

- APGA questioned the need for the term 'authorised' in draft rules 141(1), 169(4)(a)(iii) and 190G(1)(b).⁴⁸
- Jemena considered there were a number of minor drafting errors in draft rule 190G and also suggested some changes to this recommended draft rule to:⁴⁹
 - recognise some of the technical limitations in reporting on blending limits

⁴⁸ APGA, submission to the final report, pp. 2-3.

⁴⁹ Jemena, submission to the final report, pp. 8-10.

- clarify that pipeline service providers are only required to provide information they hold
- require the BB Procedures to set out information to be reported on gas blend levels and gas blend information rather than the rules.

In addition to these submissions, AEMO advised that it will not be in a position to implement the Bulletin Board changes prior to March 2025. It has suggested a commencement date of 3 March 2025.

5.4.2

Commission analysis

The Commission has considered the feedback provided by APGA on the use of the term 'authorised'. The intent in including this in these rules was to provide more certainty as to when a pipeline was transporting a gas blend. On reflection, the Commission does not consider it necessary to refer to whether a pipeline is authorised to transport a blend, because what ultimately matters is whether the pipeline is doing so. Therefore, this term has been removed from the recommended final rules 141(1) and 190G(1)(b). This change from the draft rule does not affect the policy intent the Commission was seeking to achieve which is to provide up to date information on the Bulletin Board on gas blends in pipelines to market participants.

The Commission has also considered the feedback provided by Jemena on the use of the term 'blending limit', which largely relates to draft rule 190G but also has implications for the definition of blending limit in draft rule 141(1) and the references to blending limit in draft rules 141(1), 169(4)(a)(iii) and (c) and 198F(2)(e).

The Commission understands from the information provided by Jemena that a blending limit may not be a fixed percentage applicable at all times. To accommodate this in the context of providing information to AEMO for the Bulletin Board and address the concern that Jemena raised about pipeline service providers only being able to report on information they have access to, the Commission has made a number of changes to the drafting for the recommended final rules:

- amending the blending limit definition in draft rule 141(1) to refer to a 'limitation or set of limitations, which may vary according to circumstance, on the proportion of a primary gas that the service provider allows to form part of the gas blend, whether for operational, compliance or other reasons'
- removing the requirements in draft rules 169(4)(a)(iii) and (c) for BB pipelines and BB blended gas distribution systems to report on the blending limit, noting that information on blending will need to be reported by all pipelines under the proposed changes to Part 10 of the NGR
- amending draft rule 190G(3)(a) to clarify that the blend level is to be based on the BB reporting entity's reasonable estimate
- amending draft rule 190G(3)(b) to clarify that the gas blend curtailment information is to be based on service provider curtailment

- removing the requirements in draft rules 198F(2)(e) for blend processing facilities to report on the blending limit.

These changes to the rule drafting do not alter the final policy recommendations that were set out in the final report. The Commission considers that it is still the case that these rules will enable market participants and other interested parties to be informed about the use and availability of hydrogen and renewable gases across the east coast gas market.

With regard to Jemena's other suggestions, the Commission remains of the view that the rules, rather than the BB Procedures, should set out the obligation that relevant pipelines have to report on a gas blend and gas blend curtailment information. However, the Commission considers there could be value in allowing the BB Procedures to provide further detail on how gas blend levels are to be calculated if it becomes clear this is required over time. Therefore, draft rule 135EA(3), which sets out the matters that can be dealt with in the BB Procedures, has been amended to allow for this to occur.

The Commission has also considered the other minor errors that Jemena identified in draft rule 190G, such as replacing 'facility' in draft rule 190G(1)(a) with 'system' and replacing 'a BB pipeline' with 'the BB pipeline' in draft rule 190G(3)(b). These small corrections are consistent with the policy intent and are reflected in the recommended final rules.

On the implementation timing of the changes to the Bulletin Board, AEMO is in the process of implementing a number of significant reforms across the electricity and gas markets. Having additional time to implement the system changes and update the Bulletin Board Procedures would be beneficial for AEMO and enable it to meet its obligations. The Commission did not receive any other submissions on timing from stakeholders. Having regard to the stage of the industry's development, the Commission considers that the implementation timing for the Bulletin Board changes could be deferred until March 2025 with little impact. Therefore, the Commission has included a commencement date for the Bulletin Board changes of 3 March 2025 in its recommended final rules.

5.4.3

Conclusion

Following its consideration of stakeholder feedback, the Commission has decided not to alter its final policy recommendations relating to the Bulletin Board. However, it has made a number of minor amendments to the rule drafting to address the matters raised by APGA, Jemena and AEMO. As a result, the recommended final rule is different to the recommended draft rule. These amendments are reflected in recommendation 30 below and recommendation 37 in section 5.6.1.

Importantly, these amendments to the rule drafting should still enable the recommended final Bulletin Board rules to achieve the policy intent as set out in the final policy recommendations. That is, to contribute to the achievement of the NGO by:

- enabling market participants to make more informed and efficient decisions about the supply and use of other covered gases and associated services
- facilitating the efficient trade of covered gases and associated services
- supporting access to facilities involved in the supply of covered gases

- helping prospective suppliers of covered gases make more informed and efficient decisions about whether to connect to a pipeline.

These benefits are expected to outweigh the reporting and administrative costs that AEMO and facility operators are likely to incur as a result of the extension of the Bulletin Board to other covered gases.

5.4.4 Recommended final rules

To give effect to the final policy recommendations and transitional arrangements outlined in section 5.4.4 of the final report and to account for the changes recommended above, the NGR should be changed as outlined in the boxes below. See below for the recommended final transitional rules.

RECOMMENDATION 29: FINAL RULE — EXTEND THE BULLETIN BOARD TO OTHER COVERED GASES

Extend the Bulletin Board by making the following changes to the NGR:

- replace the term 'Natural Gas Services Bulletin Board' with 'Gas Bulletin Board' in the title of Part 18 and throughout other Parts of the NGR where the term is used
- recognise the extended scope of the Gas Bulletin Board under the NGL by replacing the terms 'natural gas services', 'natural gas industry' and 'natural gas industry facilities' with 'covered gas services', 'covered gas industry' and 'covered gas industry facilities' in Part 18 (recommended final rules 141(1), 145, 150(2) and 165)
- extend the application of Part 18 to other covered gases by defining 'gas' to mean any covered gas and using the term 'gas' in place of 'natural gas' except where referring to LNG (recommended final rule 141(1))
- add a new term 'compression service point' and use it in 'compression delivery point' and 'compression receipt point' in order to remove the link to the defined terms in Part 25 (which will remain linked to natural gas only) (recommended final rule 141(1))
- amend 'BB production facility' so that it is clear it applies to facilities producing hydrogen and biomethane (recommended final rule 141(1))
- accommodate blend processing facilities with a nameplate rating of 10 TJ/day or more by:
 - including these facilities as a new type of BB facility and excluding them from the definition of 'production facility' (recommended final rule 141)
 - including the owner, operator or controller of these facilities as a new type of facility operator (recommended final rule 141)
 - recognising blend processing facilities in the definitions of 'daily capacity', 'reporting threshold' and 'nameplate rating' (recommended final rules 141(1) and (2))

- amending Division 5 where necessary to extend the reporting obligations in that Division to blend processing facilities (recommended final rules 169(4)(b), 172(1), 175(1), 184A and 188).

RECOMMENDATION 30: FINAL RULE — REQUIRE PIPELINE SERVICE PROVIDERS TO REPORT BLENDING INFORMATION

Introduce the new blending information reporting obligations by:

- including a definition of 'BB blended gas distribution system' and adding this as a type of BB facility and the owner, operator and controller as a type of BB facility operator (recommended final rule 141)
- limiting the reporting obligations relating to BB blended gas distribution systems under Division 5 of Part 18 to rules 168 (nameplate rating) and 190G (blend level and gas blend curtailment information) (recommended final rule 144A)
- amending the definitions of 'daily capacity', 'reporting threshold' and 'nameplate rating' to provide for distribution systems (recommended final rules 141(1) and (2))
- inserting a new rule that requires BB blended gas distribution systems and BB pipelines transporting a gas blend to report on (recommended final rule 190G):
 - the highest, lowest and average blending levels achieved in the last month
 - the number of times any injecting facility has been curtailed in the last month to maintain blending limits (other than where arising under the scheduling arrangements in Part 19) and the extent of the curtailment on each occasion it has occurred (aggregated across affected facilities).
- amending Part 15B to allow AEMO to provide guidance on the calculation of gas blend levels through the Bulletin Board Procedures (recommended final rule 135EA(3)).

RECOMMENDATION 31: FINAL RULE — ALLOW BULLETIN BOARD PROCEDURES TO PROVIDE GUIDANCE ON NAMEPLATE RATING

Amend Part 15B to allow AEMO to provide guidance on the determination of nameplate ratings through the Bulletin Board Procedures (recommended final rule 135EA(3)).

RECOMMENDATION 32: FINAL RULE — APPLY PART 18 TO DISTRIBUTION CONNECTED PRODUCTION FACILITIES

Clarify that Part 18 of the NGR extends to distribution connected production facilities by:

- amending the definition of 'production facility' in rule 141 to remove the link to BB pipelines (recommended final rule 141)
- extending the definitions of 'BB shipper' and 'nomination' to distribution systems (recommended final rule 141)
- amending the nominated and forecast use of production facility reporting obligation in rule 185 to recognise that gas may be supplied into a distribution system (recommended final rule 185).

RECOMMENDATION 33: FINAL TRANSITIONAL RULE — BULLETIN BOARD AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the new Bulletin Board rules in Part 18 is 3 March 2025.

Insert transitional rules (recommended final transitional rule Schedule 6, Part 5) that:

- require AEMO to review and where necessary, amend and publish the Bulletin Board Procedures by no later than the Part 18 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 18 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR
- require new facilities and facility development projects that become subject to the Bulletin Board as a result of the changes to register with AEMO within 20 business days after the Part 18 amendments effective date.

5.5 Extend the AER's gas price reporting function to other covered gases

The Commission's final policy recommendation as set out in section 5.5.4 of the final report was to extend the AER's gas price reporting function to other covered gases. This final recommendation was made to support the efficient operation of the markets for other covered gases and associated gases by facilitating the efficient trade of covered gases and associated services and enabling market participants to respond in a more efficient manner to price signals. The extension of the ACCC's Gas Inquiry is not expected to impact the timing of the new gas price information to be reported by the AER.

Stakeholders did not raise any concerns with this recommendation or identify any changes that they considered should be made to the recommended draft rules. The Commission is satisfied that the final recommendation is appropriate and remains relevant. It is also satisfied that no rule drafting changes are required. As a result, the recommended final rules are the same as the recommended draft rules with respect to this final policy recommendation.

5.5.1 Recommended final rules

To give effect to the final policy recommendations outlined in section 5.5.4 of the final report, the NGR should be changed as outlined in the box below.

RECOMMENDATION 34: FINAL RULE — EXTEND THE AER'S GAS PRICE REPORTING FUNCTION TO OTHER COVERED GASES

Amend Part 17 of the NGR to extend the AER's gas price reporting function to other covered gases by:

- replacing the term 'natural gas' with 'gas' (recommended final rules 140B(1)(d) and 140B(7))
- defining 'gas' to include all covered gases (recommended final rule 140B(7)).

5.6 Extend non-pipeline infrastructure reporting to other covered gases

The Commission's final policy recommendation in its final report was to extend the non-pipeline infrastructure reporting function to other covered gases. This final recommendation was made with this purpose of supporting the efficient operation of the markets for other covered gases and associated services by facilitating more efficient third party access to storage, compression and blend processing facilities. Section 5.6.4 of the final report details the Commission's final policy recommendation.

Stakeholders did not raise any concerns with this recommendation or identify any changes that they considered should be made to the draft rules. The Commission is satisfied that the final report position is appropriate and remains relevant. It is also satisfied that no rule drafting changes are required. As a result, the recommended final rules are the same as the recommended draft rules.

5.6.1 Recommended final rules

To give effect to the final policy recommendations outlined in section 5.6.4 of the final report, the NGR should be changed as outlined in the box below. See below for the recommended final transitional rules.

RECOMMENDATION 35: FINAL RULE — EXTEND NON-PIPELINE INFRASTRUCTURE REPORTING TO OTHER COVERED GASES

Amend Part 18A of the NGR to extend its application to other covered gases by:

- replacing the term 'natural gas' with 'gas' and defining 'gas' to include all covered gases (recommended final rules 198B, 198G(3)-(4))
- replacing the term 'natural gas service' with 'covered gas service' and 'covered gas industry' (recommended final rule 198B).

RECOMMENDATION 36: FINAL RULE — EXTEND NON-PIPELINE INFRASTRUCTURE REPORTING TO BLEND PROCESSING FACILITIES

Amend Part 18A of the NGR to extend its application to blend processing facilities by:

- changing the name of Part 18A to 'Non-pipeline infrastructure access terms and prices' to reflect its broader application
- amending the definition of a Part 18A facility to include a blend processing facility (recommended final rule 198B)
- amending the definition of user to include a person who is a party to a contract with a service provider for the provision of a blend processing service (recommended final rule 198B)
- amending the actual prices payable information rule to:
 - recognise blend processing services as an example of the type of service a facility may provide (recommended final rule 198G(1)(d))
 - require blend processing facilities to report the contracted quantities as the maximum daily quantity (in GJ/day) (recommended final rule 198G(1)(f)(iii)).

RECOMMENDATION 37: FINAL RULE — REQUIRE FACILITY OPERATORS TO REPORT ON THE TYPE OF COVERED GAS

Insert a new requirement in the standing terms information rule (recommended final rule 198F) to require:

- facility operators to report on the type or types of gases in respect of which the facility provides services
- blend processing facility operators to report on the primary gases that may be blended and the applicable blending limits.

RECOMMENDATION 38: FINAL TRANSITIONAL RULE — PART 18A AMENDMENTS COMMENCEMENT DATE

Specify in the schedule of amending rules that the changes to Part 18A do not take effect until three months after the rules are made.

Insert transitional rules (recommended final transitional rule Schedule 6, Part 6) that:

- require the AER to review and where necessary, amend and publish the price reporting guidelines by no later than the Part 18A amendments effective date
- clarify that in relation to blend processing facilities commissioned on or before the Part 18A amendments effective date:

- reporting obligations commence only from the Part 18A amendments effective date
- the requirement to publish actual prices payable information only applies to contracts in force immediately before the Part 18A amendments effective date or that is entered into on or after that date.

6 SHORT TERM TRADING MARKET

The national gas regulatory framework provides for facilitated markets for wholesale gas and gas transportation capacity trading in eastern Australia. These facilitated markets complement the trading of wholesale gas and gas transportation capacity through bilateral contracts, providing greater transparency and improved price discovery.

This chapter focuses on the STTM, which uses participant offers and bids to schedule deliveries from gas pipelines and other facilities at three distinct hubs in Adelaide, Brisbane and Sydney for the next gas day. The STTM is a facilitated market operated by AEMO and participation in it is mandatory. The objectives of the STTM are to:

- provide participants with a transparent and efficient market-based mechanism to trade imbalances, purchase gas on a short-term basis and efficiently allocate gas during system constraints and emergencies
- provide the market with clearer signals about the nature and cost of supply and transmission constraints.

For more information about the STTM and the issues arising in this review please see the consultation paper, chapter 5 'Facilitated gas markets'.⁵⁰

For more information on the final policy recommendations and recommended draft rules for the STTM see the final report, chapter 6 'Short term trading market'.⁵¹

This chapter sets out stakeholder feedback, Commission analysis and the recommended final rules in relation to:

- registration and facility categories
- settlement and reporting obligations for distribution connected facilities
- the establishment of custody transfer points (CTPs)
- the matched allocation mechanism at the Sydney hub
- gas quality specification and responsibility for gas quality.

In addition to the changes identified in this chapter, consequential changes to the NGR are set out in appendix B.

For further detail on the recommended changes to the rules, see the accompanying recommended final rules.

6.1 Applying the assessment framework

The Commission's final recommendations, as outlined in the final report, are intended to:

- Allow for transparency of gas flows from all facilities to be maintained by introducing a single new facility category ('STTM injection facility') to capture all distribution connected

50 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, 21 October 2021, p. 27.

51 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, final report, 8 September 2022, p. 112.

production, processing, storage and blend processing facilities injecting covered gases in an STTM hub. Feedback received by the Commission indicated that the incremental costs associated with the introduction of a single facility category are likely to be of low materiality when compared to the alternative of introducing an additional facility category for blend processing facilities.

- Facilitate market outcomes that reflect the actual demand and supply balance by requiring bidding and settlement to be undertaken on a net basis for STTM injection facilities (if classified as a net metered facility). This is necessary for the efficient operation of the market in circumstances where the quantity to be withdrawn by a facility is contingent on the quantity scheduled for injection by the facility.
- Simplify existing arrangements to make it easier for small facilities involved in injecting covered gases into the STTM to participate in the market by:
 - extending the STTM Shipper registration category to injections from blend processing facilities
 - modifying the obligation for facility operators to provide expected capacity information
 - allowing for facility aggregation by STTM injection facilities and for the submission of offers by STTM Shippers and settlement on an aggregated facility basis
 - streamlining the process for establishing new CTPs.
- Facilitate in-pipe blending by allowing for alternative gas quality specifications at a CTP to be agreed by persons injecting gas at the CTP and the relevant STTM distributor (if such an agreement has been authorised by a jurisdictional regulatory instrument), or otherwise authorised by a jurisdictional regulatory instrument. This change is required to support in-pipe blending — it is not possible to maintain the existing uniform gas quality specification for all injection points on STTM distribution systems if in-pipe blending is to occur.

These simplifications are aimed at reducing costs for new distribution connected facilities supplying covered gases, while not unduly increasing costs for consumers or existing market participants.

Specifically, the recommended final rules such as the introduction of a single facility category, streamlining the process for CTPs and modifying the obligation on facility operators to provide expected capacity information simplify processes for existing participants, and AEMO, which should lead to reduced regulatory burden and compliance costs.

Consistent with the efficiency limb of the assessment framework, the implementation of these final recommendations through the recommended final rules is expected to promote allocative, productive and dynamic efficiency by requiring all gas flows to be settled through the market, permitting bidding and settlement on a net basis where necessary, and reducing barriers to entry for smaller distribution connected facilities. The Commission expects that over time these benefits will outweigh the implementation costs that AEMO will incur in making initial changes to its processes.

Further, by reducing barriers to entry for distribution connected facilities injecting other covered gases, implementation of the recommended final rules is expected to provide the benefit of facilitating the decarbonisation of the gas market and emission reduction for the economy.

The implementation of these recommendations avoids introducing additional complexity and associated implementation costs that could arise by setting different requirements and obligations for other covered gases compared to natural gas.

More generally, the Commission considers that its final recommendations related to the STTM are targeted, fit-for-purpose, and proportionate to the issues they are intended to address because they are focused on making the essential, practical changes needed for the market to operate with all covered gases. In addition, if the hydrogen or renewable gas sector does not expand significantly in the future as currently anticipated, the enabling costs incurred are relatively small and not a significant burden on the natural gas industry or current gas users.

Additional detail on how each of the policy issues discussed for this topic through the course of the review and the Commission’s considerations at each stage of the review can be found using the references in the table below.

Table 6.1: Policy issues for the STTM

ISSUE	LOCATION IN EACH REPORT
Registration and facility categories	Consultation paper section 5.3.1
	Draft report section 6.1
	Final report section 6.1
Settlement and reporting obligations for distribution connected facilities	Consultation paper section 5.3.3
	Draft report section 6.2
	Final report section 6.2
Establishment of custody transfer points (CTPs)	Consultation paper section n/a
	Draft report section 6.3
	Final report section 6.3
Matched allocation mechanism at the Sydney hub	Consultation paper section 5.3.2
	Draft report section 6.4
	Final report section 6.4
Gas quality specification and responsibility for gas quality	Consultation paper section 5.3.5
	Draft report section 6.5
	Final report section 6.5

6.2 Registration and facility categories

The Commission's final policy recommendations included in the final report were to extend the STTM Shipper registration category to injections from blend processing facilities and to create a single injection facility category. Related to this, the Commission also recommended extending the STTM User registration category to users of net metered facilities to facilitate net bidding and settlement in the STTM (discussed in section 6.3.3 below).

Using the existing registration categories provides the benefit of avoiding added complexity to the current registration framework. It should also avoid possible significant implementation costs associated with changes to AEMO's systems that may be required if new registration categories were introduced. Implementing the recommendations will maintain transparency over all gas flow (even from small facilities). Section 6.2.4 of the final report details the Commission's final policy recommendation.

The Commission did not receive any specific stakeholder feedback regarding the recommended draft rules related to STTM registration and facility categories. In addition, it has not identified any changes to the rule drafting that are necessary. As a result, the recommended final rules are the same as the recommended draft rules.

6.2.1 Recommended final rules

To give effect to the final policy recommendation outlined in section 6.2.4 of the final report, the NGR should be changed as outlined in the boxes below. See section 6.7 for relevant recommended final transitional rules.

RECOMMENDATION 39: FINAL RULE — EXTEND THE STTM SHIPPER REGISTRATION CATEGORY TO PERSONS THAT INJECT FROM BLEND PROCESSING FACILITIES

Amend the NGR to extend the definition of STTM Shipper in rule 135ABA(1)(a) to include a person that:

- is a party to a contract with a blend processing facility operator for the delivery of gas to an STTM hub from a blend processing facility that is directly connected to that STTM hub, or holds rights subcontracted from such a person; or
- is a blend processing facility operator who supplies gas on its own behalf to an STTM hub from its blend processing facility that is directly connected to that STTM hub.

RECOMMENDATION 40: FINAL RULE — CREATE A SINGLE INJECTION FACILITY CATEGORY

Amend the NGR to:

- introduce the definition of 'injection facility' as a facility (other than a pipeline) at which gas is produced, processed, blended or stored for injection directly from that facility into an STTM distribution system at a custody transfer point included in a hub, and including an associated pipeline connecting that facility directly to the hub
- introduce the definition of 'STTM injection facility' to mean either a single injection facility, or two or more injection facilities that have been aggregated as permitted under Part 20
- remove the definitions of 'STTM production facility' and 'STTM storage facility'
- replace all instances of 'STTM production facility' and 'STTM storage facility' with 'STTM injection facility'.

6.3 Settlement and reporting obligations for distribution connected facilities

6.3.1 Facility operator obligations

The Commission's final policy recommendation (section 6.3.2 of the final report) was to modify the obligation on facility operators to provide capacity information, such that they would not be required to notify AEMO of expected capacity if there is no material difference between the expected quantity of gas and the substitute information that AEMO generates.

This recommendation should have the benefit of reducing the reporting burden for injection facilities including those injecting other covered gases, which would initially be expected to be relatively small facilities, making it easier for these facilities to participate in the STTM. At the same time, the impact on the market as a whole is likely to be minimal since the materiality of small variations in capacity forecasts would be low. Further, there are likely to be only relatively minor implementation costs for AEMO. This is because its systems already automatically assume future short-term capacities for facilities to be the substitute information outlined in the STTM Procedures if no new information is provided.

Stakeholder responses

Red and Lumo queried the impact that modifying the obligation to provide capacity information would have on participant allocations.⁵² They subsequently clarified that their concern focused on the cost to STTM Shippers if multiple facility operators did not notify AEMO of a 'material difference' in expected capacity, resulting in a pipeline deviation for a gas day which AEMO would then need to use Market Operator Services (MOS) to remedy.

Jemena supported the policy set out in the final report and submitted that the changes should commence as soon as possible, rather than in November 2024 with the other STTM rule changes (as outlined in the final report).⁵³

⁵² Red and Lumo, submission to the final report, p. 4.

⁵³ Jemena, submission to the final report, p. 12.

Commission analysis

In response to Red and Lumo, the Commission acknowledges that capacity information (or the absence of accurate capacity information) could affect settlement outcomes. This would occur through the market scheduling process, as the total quantity of ex ante offers scheduled on the same STTM facility is not permitted to exceed the notified capacity for that facility.

However, if the final policy recommendation is implemented and a particular facility operator did not submit expected capacity information, the Commission considers that the substitute capacity information used by AEMO to schedule injections would be most likely to exceed the actual capacity of the facility on a given gas day. This is because the substitute information would be based on information submitted on previous days, or otherwise the default capacity provided to AEMO when the facility commenced operation (as required under rule 376 of the NGR) — which would likely be the maximum capacity of the facility. Since the substitute capacity information would exceed the actual capacity, scheduled injections would not be constrained and there would be no market impact.

If, in the more unlikely case, the substitute information used by AEMO is less than actual capacity, the injections for a given facility may be constrained (that is, AEMO would not schedule injections above the deemed capacity) to a level lower than would have been preferred by the STTM Shipper(s) injecting gas at that facility for the given ex ante market price.

The injecting STTM Shipper(s) would then have the choice of either following the artificially constrained schedule, submitting a market schedule variation (by finding another STTM Shipper willing to decrease its injections by a corresponding amount or an STTM User willing to increase its withdrawals by a corresponding amount) or simply departing from the schedule and injecting the preferred quantity. If enough shippers took the last course of action, there is the possibility that too much gas would be injected into the hub and AEMO would then need to accept one or more MOS decrease offers to balance the hub.

However, the shippers who deviated from the market schedule would be paid for the quantity of additional gas at the long deviation price. In effect, they would receive a lower price for the unscheduled gas, which aims to reflect the costs that AEMO incurred in accepting the MOS decrease offers.

The result of the above is that, in the unlikely case that the actual capacity exceeded scheduled injections, it would be the STTM Shippers injecting gas at the STTM injection facilities not submitting accurate expected capacity information that would bear the costs of this. The permitted 'material difference' in quantity relates only to information provision and does not provide affected STTM Shippers relief from any deviation costs they might incur as a result.

The Commission considers this is beneficial and promotes the NGO because shippers would be incentivised to encourage facility operators (which may be related parties) to submit more accurate capacity information. Costs would not be socialised across retailers (and therefore consumers), who have no ability to manage them.

Regarding the commencement date for rules on this final policy recommendation, the Commission understands from AEMO that, even though the policy position draws on substitute information already calculated by AEMO, implementing it would require some system changes. In particular, AEMO's systems currently produce a number of automated warnings if a facility operator does not provide AEMO with capacity information.

AEMO will consequently need to modify these aspects of its systems and such changes would be most efficiently implemented in conjunction with the other changes required to implement the other recommendations relating to the STTM. Accordingly, the Commission does not consider that the commencement date for this policy position should be brought forward earlier than the commencement date for all other final STTM rules as sought by Jemena (see section 6.7 for the STTM transitional rules).

Conclusion

Following its consideration of stakeholder feedback, the Commission has concluded that no changes are required to the final policy recommendations or to the rule drafting in relation to this issue for the STTM. As a result, the recommended final rules are consistent with the recommended draft rules.

Recommended final rules

To give effect to the final policy recommendation outlined in section 6.3.2 of the final report, the NGR should be changed as outlined in the box below. See section 6.7 below for the relevant recommended final transitional rules.

RECOMMENDATION 41: FINAL RULE — MODIFY THE OBLIGATION FOR FACILITY OPERATORS TO PROVIDE EXPECTED CAPACITY INFORMATION

Amend the NGR in order to modify rule 414 by:

- specifying that a facility operator is not required to notify AEMO of expected capacity in respect of the following three gas days if there is no 'material difference' between the quantity of gas which the facility operator expects the facility will be able to deliver to the relevant hub and the substitute information that would be generated, in accordance with the STTM Procedures, by AEMO in the event that the facility operator does not provide this data
- specifying that there is a 'material difference' if the magnitude of the difference exceeds 600 GJ.

6.3.2

Facility aggregation

The final policy recommendation set out in the final report was to allow for facility aggregation and submission of offers by aggregated facilities. Aggregation would benefit shippers and facility operators in terms of administrative simplicity and lower transaction

costs, while ensuring AEMO still has sufficient visibility of gas flows. Section 6.3.3 of the final report details the Commission's final policy recommendation.

The Commission did not receive any specific comments on these draft rules. In addition, it has not identified any changes to the rule drafting that are necessary. As a result, the recommended final rule is the same as the recommended draft rule.

Recommended final rules

To give effect to the final policy recommendation outlined in section 6.3.3 of the final report, the NGR should be changed as outlined in the box below. See section 6.7 below for the relevant recommended final transitional rules.

RECOMMENDATION 42: FINAL RULE — ALLOW FOR FACILITY AGGREGATION AND SUBMISSION OF OFFERS BY AGGREGATED FACILITY

Amend the NGR to:

- use the new term 'STTM injection facility' to refer to a single injection facility or two or more injection facilities that satisfy the criteria for aggregation in rule 378A and that the STTM facility operator has elected to have treated as a single STTM injection facility for the purposes of Part 20
- introduce rule 378A that allows two or more injection facilities to be treated as a single STTM injection facility (with multiple CTPs) where the following criteria are satisfied, among other things:
 - all the injection facilities are connected to the same hub
 - all the injection facilities have the same STTM facility operator
 - the STTM facility operator has elected to have the injection facilities treated as a single STTM injection facility
 - any requirements for aggregation in the STTM Procedures have been fulfilled
 - the relevant STTM distributor has agreed with the STTM facility operator that the injection facilities may be treated as a single STTM injection facility.
- amend rule 376(1) to require STTM facility operators to provide information to demonstrate that the criteria for aggregation in rule 378A are satisfied, if the STTM injection facility comprises two or more injection facilities
- amend rule 377(3) to require AEMO to identify which injection facilities in the list of STTM facilities and STTM distribution systems it maintains are being treated as a single STTM injection facility.

6.3.3

Allow for bidding and settlement to be undertaken on a net basis

The Commission's final policy recommendation was that bidding and settlement on a net basis should be facilitated for facilities that withdraw and inject gas at the same time. This is necessary for the efficient operation of the market in circumstances where the quantity to be

withdrawn by a facility is contingent on the quantity scheduled for injection by the facility (see section 6.3.4 of the final report).

Stakeholder responses

Jemena supported the policy position but suggested there remained uncertainties in how net bidding and settlement for a small distribution connected facility would work. It therefore proposed that additional text should be inserted into draft rule 378B to, in its view, provide AEMO the flexibility in its procedures to specify how injections and withdrawals should be measured.⁵⁴

Commission analysis

On advice from AEMO, the Commission does not consider any qualifying text should be inserted in draft rule 378B. The recommended drafting of rule 378B is already sufficiently flexible in how it details what should be covered in the STTM Procedures (see sub-rules (5) and (6)).

Further, the Commission notes that facilitating bidding and settlement on a net basis will involve using meter reads for withdrawals from the retail market. This is likely to be outside the scope of the STTM Procedures, but is sufficiently covered by the recommended final rule outlined in section 8.4.1 to amend rule 135EA of the NGR. This amendment specifies that the Retail Market Procedures (RMPs) should allow for the arrangements for registration of a net bidding meter, and arrangements for net withdrawals at a net metered facility to be treated as a meter reading for the purposes of the RMPs.

Conclusion

For the reasons noted, the Commission has decided not to alter its final policy recommendations or rule drafting relating to allowing bidding and settlement to be undertaken on a net basis in the STTM. Consequently, the recommended final rule is the same as the recommended draft rule.

Recommended final rules

To give effect to the final policy recommendation outlined in section 6.3.4 of the final report, the NGR should be changed as outlined in the box below. See section 6.7 for relevant recommended final transitional rules.

RECOMMENDATION 43: FINAL RULE — ALLOW NET BIDDING AND SETTLEMENT FOR SOME STTM INJECTION FACILITIES

Amend the NGR to:

- introduce and define the terms 'net metered facility', 'net energy injection' and 'net energy withdrawal'

⁵⁴ Jemena, submission to the final report, p. 13.

- amend the rules so that for net metered facilities:
 - in relation to quantities of gas supplied or to be supplied to a hub, the net energy injection is used for bidding and settlement and the determination of capacity relating to the facility (but not in relation to obligations to comply with the gas quality specifications)
 - where there is a net energy injection, gas withdrawn from the hub and used to calculate the net energy injection is not included in bidding or settlement.
- introduce rule 378B to specify that the STTM Procedures must set out the criteria for classification by AEMO as a net metered facility, and must provide for the application of Part 20 in respect of net energy injections and net energy withdrawals
- specify in rule 135EA(4) that the STTM Procedures may deal with net metered facilities and their participation in the STTM
- amend rule 376(1) to specify that an STTM facility operator must provide to AEMO, for an STTM injection facility, information to demonstrate whether the STTM injection facility satisfies the criteria in the STTM Procedures for classification as a net metered facility
- specify in rule 378A that when aggregating injection facilities, either all the injection facilities must be net metered facilities, or none of them
- amend rule 418 to specify how title to, custody and control of, and risk of loss of the quantity of gas withdrawn by a net metered facility passes between trading participants.

Amend the NGR to extend the definition of STTM User in rule 135ABA(1)(b) to include a person that is not otherwise registered under the paragraph and is a user of services provided by means of a net metered facility (whether under contract, subcontract or as an owner, operator or controller withdrawing gas on its own behalf from the STTM hub at the facility).

In rule 135ABA, define 'gas' and 'net metered facility' by reference to those defined terms in Part 20.

6.4 Establishment of custody transfer points

The Commission's final policy recommendation was to streamline the process for establishing CTPs. This involves removing the requirements in the NGR for the CTPs relevant to each hub to be defined in the STTM Procedures, and instead requiring AEMO to maintain a register of CTPs. This is likely to have the benefit of reducing AEMO's administration costs and should also minimise the regulatory burden, particularly on small-scale production facilities for all covered gases. Section 6.4.4 of the final report details the Commission's final policy recommendation.

6.4.1 Stakeholder responses

AGIG submitted that the acronym “CTP” is used in the drafting but is not defined. AGIG noted that CTP is defined in Part 24 of the NGR as Capacity Trading Platform, but here is more likely to mean Custody Transfer Point.⁵⁵

6.4.2 Conclusion

The Commission notes that the drafting of Part 20 of the NGR correctly referred to “custody transfer point” but acknowledges a typographical error in the recommended draft rule 135EA(4) in Part 15B. The reference to “CTP” in this recommended rule has been replaced with “custody transfer point”. This is the only difference between the recommended draft rule and recommended final rule.

6.4.3 Recommended final rules

To give effect to the final policy recommendation outlined in section 6.4.4 of the final report, the NGR should be changed as outlined in the box below. See section 6.7 for relevant recommended final transitional rules.

RECOMMENDATION 44: FINAL RULE — STREAMLINE THE PROCESS FOR ESTABLISHING NEW CTPS

Amend the NGR (using the term “custody transfer point” spelt out in full) to:

- specify in rule 135EA(4) that the STTM Procedures may deal with the arrangements for determining proposals for CTPs to be included in or removed from a hub
- introduce a new rule 372B that requires AEMO to specify the CTPs comprised in each hub in a register maintained by AEMO under the STTM Procedures
- in rule 372B, require the CTP for an injection facility or an STTM pipeline to be included in the relevant hub
- in rule 372B, require the STTM Procedures to set out the arrangements for AEMO to determine changes to CTPs for a hub, which must, among other things:
 - specify the time frame and process for AEMO to consider and determine a proposal, which must include notice to the relevant STTM distributor and must allow 20 business days for the STTM distributor to respond
 - require AEMO to publish notice of its determination on the proposal.
- amend rules 371, 372 and 372A to refer to the CTP register instead of the STTM Procedures
- amend rule 372A to specify that additional CTPs not connected to one of the STTM distribution systems specified in that rule can only be added with the consent of the STTM facility operator and the service provider of the STTM pipeline at the proposed CTP.

⁵⁵ AGIG, submission to the final report, p. 2.

6.5 Matched allocation mechanism

The Commission's final policy recommendation in the final report was that the matched allocation arrangement in Sydney — which allows gas purchased by the relevant distributor to offset unaccounted for gas (UAFG), and delivered by means of a transmission pipeline, to be excluded from the operation of the STTM — should not be extended to cover gas provided by distribution connected facilities. Settling all gas flows to and from distribution connected facilities through the market should facilitate dispatch of the least-cost mix of gas supply and this benefit would therefore be expected to enhance the NGO. Section 6.5.4 of the final report details the Commission's final policy recommendation.

Stakeholders did not raise any concerns with this recommendation nor suggest that changes to the NGR were required. The Commission is satisfied that the final report position is appropriate and should be retained.

6.6 Gas quality specification and responsibility for gas quality

The Commission's final policy recommendation (set out in section 6.6.4 of the final report) was to allow for alternative gas quality specifications at a CTP to be agreed or authorised. It also recommended that responsibility for ensuring compliance with the gas quality specification should continue to rest with STTM Shippers and be managed contractually.

This approach should have the benefit of allowing for in-pipe blending in distribution systems and reducing barriers to entry for relevant facilities with very little implementation costs incurred by the relevant parties. Additionally, maintaining the existing approach of using contractual arrangements between shippers and injecting facilities for managing gas quality should avoid introducing additional complexity and associated implementation costs.

6.6.1 Stakeholder responses

Alinta submitted that the final policy recommendation would require shippers to assume significant risk in being liable for the quality of gas supplied into a hub (which may not be able to be managed contractually).⁵⁶ Further, Red and Lumo questioned the appropriateness of retailers being responsible for gas delivered to customers if distributors and injecting participants agree to another gas quality specification.⁵⁷

6.6.2 Commission analysis

In relation to first issue, the Commission notes that currently rule 418(3) of the NGR provides that:

each STTM Shipper must ensure that natural gas supplied by it to a hub complies with the gas quality specification for that hub, unless otherwise agreed in writing by the relevant STTM distributor or specifically authorised under a law of the relevant adoptive jurisdiction.

⁵⁶ Alinta, submission to the final report, p. 2.

⁵⁷ Red and Lumo, submission to the final report, p. 4.

While, in the final report, the Commission recommended amending rule 418(3) of the NGR such that the obligation would relate to each CTP rather than the STTM hub generally, the Commission concluded that responsibility for ensuring compliance with the gas quality specification should continue to rest with STTM Shippers as it currently does in the NGR.

While a general concern was expressed, the Commission has not been provided with any new information to identify issues associated with the current contractual approach to managing gas quality in the STTM as reflected in the final report.

In relation to the second issue, as discussed in the final report, responsibility for the regulation of gas quality standards with regard to the delivery of gas to end users sits outside the NGR with jurisdictions and jurisdictional regulators, and the final recommendation does not alter this arrangement. For example, the final recommendation would not change jurisdictional obligations on distributors to ensure the gas being delivered to end users complies with the standard gas quality specification (AS 4564 – 2005).⁵⁸

6.6.3 Conclusion

The Commission has considered the points raised by stakeholders but concluded that no changes are required to the final policy recommendations or to the rule drafting in relation to gas quality specification and the responsibility of gas quality in the STTM. As a result, the recommended final rule on these issues does not differ to the recommended draft rule.

6.6.4 Recommended final rules

To give effect to the final policy recommendation outlined in section 6.6.4 of the final report, the NGR should be changed as outlined in the box below. See section 6.7 for relevant recommended final transitional rules.

RECOMMENDATION 45: FINAL RULE — ALLOW FOR ALTERNATIVE GAS QUALITY SPECIFICATIONS AT A CTP WHERE AUTHORISED

Amend the NGR to:

- introduce the definition of ‘standard gas quality specifications’ for a hub to reflect the current definition of ‘gas quality specification’
- redefine ‘gas quality specification’ as:
 - a. the standard gas quality specifications; or
 - b. the relevant gas quality specification where either:
 - i. another gas quality specification for the injection of gas at a CTP has been agreed in writing by persons injecting gas at the point and the relevant STTM distributor and a regulatory instrument of the relevant adoptive jurisdiction specifically authorises such an agreement to be reached; or

⁵⁸ For example, see Gas Supply (Safety and Network Management) Regulation 2013 (NSW) reg 23; Gas Regulations 2012 (SA) reg 38.

- ii. another gas quality specification has been specifically authorised under a regulatory instrument of the relevant adoptive jurisdiction and that authorisation is applicable to the injection of gas at the CTP.
- amend rule 418(3) to clarify that it only extends to arrangements in haulage agreements or under law that allow for the injection of off-specification gas (and does not allow an alternative gas specification to be agreed).

6.7 STTM transitional rules

The Commission's final policy recommendation in the final report (section 6.7 of the final report) was that no specific savings or transitional arrangements are required for the recommended final rules outlined for the STTM but that:

- the commencement date for the recommended final rules relating to the STTM should allow AEMO sufficient time to update its systems and procedures
- the transitional rules should enable the changes to the STTM Procedures to be finalised and available to market participants a reasonable time before the commencement date.

6.7.1 Stakeholder responses

AEMO advised that it will not be in a position to implement the STTM changes prior to March 2025. It has suggested an alternative commencement date of 3 March 2025.

6.7.2 Commission analysis

On the implementation timing of the changes to the STTM, AEMO is in the process of implementing a number of significant reforms across the electricity and gas markets. Having additional time to implement the system changes and update the STTM Procedures would be beneficial for AEMO and enable it to meet its obligations. This will also enable stakeholders to fully participate in all the relevant change processes.

Having regard to the stage of the industry's development, the Commission considers that the implementation timing for the STTM changes could be deferred until March 2025 with little impact. Therefore, the Commission has included a commencement date for the STTM changes of 3 March 2025 in its recommended final rules.

6.7.3 Conclusion

The Commission has decided not to alter its final policy recommendations relating to the transitional arrangements for the STTM. However, it has updated the recommended final transitional rule to reflect a commencement date for the STTM changes of 3 March 2025.

6.7.4 Recommended final rules

The timing for commencement of the recommended final rules outlined in this chapter is also covered in chapter 11.

To give effect to the transitional arrangement recommendation outlined above, the rules should be changed as outlined in the box below.

RECOMMENDATION 46: FINAL TRANSITIONAL RULE — STTM AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the STTM-related rules is 3 March 2025.

In proposed new Part 8 in Schedule 6 to the amending rule:

- insert definitions of 'amending rule', 'Part 20 amendments effective date' and 'new Part 20'
- require AEMO to, in accordance with the Part 15B review, and where necessary, amend and publish the STTM Procedures to take into account the amending rule, by no later than three months before the Part 20 amendments effective date
- require the amendments to the STTM Procedures to take effect on and from the Part 20 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 20 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR.

7 DECLARED WHOLESALE GAS MARKET

The Victorian declared wholesale gas market (DWGM) is a wholesale gas market that operates on an intra-day basis and uses participant injection and withdrawal bids and demand forecasts to manage supply, demand and linepack on the Victorian Declared Transmission System (DTS). The DWGM is a regulated market and participation in it is mandatory.

In contrast to the STTM — where gas is traded at the intersection of transmission pipelines and distribution systems — the Victorian DWGM encompasses the entire DTS. The DTS is subject to a market carriage access regime instead of the contract carriage arrangements used elsewhere in Australia. Under this model, the pipeline owner makes its pipeline available to AEMO, with access to it being allocated in line with market (the DWGM) outcomes. As a result, AEMO operates the DTS.

From an operational perspective, the physical characteristics of the DTS (specifically, that it is essentially a meshed network, the amount of gas it can store is relatively small such that it cannot be relied upon to manage significant deviations between demand and supply) mean it must be closely managed by AEMO to ensure that gas flows in the manner required and system integrity and safety is maintained.

For more information about the DWGM and the issues arising in this review see the consultation paper, chapter 5 'Facilitated gas markets'.⁵⁹

For more information on the final policy recommendations and recommended draft rules for the DWGM see the final report, chapter 7 'Declared wholesale gas market'.⁶⁰

This chapter sets out stakeholder feedback, Commission analysis and the recommended final rules in relation to:

- blend processing facilities connected to the DTS and changes required to facilitate their participation in the DWGM
- UAFG arrangements in the DWGM
- the treatment of declared distribution systems (DDSs) in Victoria that are connected to transmission pipelines other than the DTS with respect to the introduction of other covered gases.

Consequential changes to the NGR that are relevant to the DWGM are set out in appendix B.

For further detail on the recommended changes to the rules, see the accompanying recommended final rules.

7.1 Applying the assessment framework

The Commission's final recommendations, as outlined in the final report, are intended to:

⁵⁹ AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, 21 October 2021, p. 27.

⁶⁰ AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, final report, 8 September 2022, p. 135.

- facilitate the participation of DTS connected blend processing facilities in the DWGM by introducing 'blend processing provider' as a new registration category in Part 15A of the NGR, and extend to the operators of these facilities equivalent obligations to those that apply to producers and storage providers
- result in market outcomes that reflect the actual demand and supply balance by requiring the operator of a DTS connected blend processing facility to classify the facility as a net bidding facility if the criteria for classification are met, and require bidding and settlement for net bidding facilities to be undertaken on a net basis
- ensure that transparency of gas flows from all facilities is maintained by making no changes to UAAG arrangements in the DWGM.

Consistent with the efficiency limb of the assessment framework, the implementation of these final recommendations through the recommended final rules is expected to promote allocative, productive and dynamic efficiency by ensuring that all gas flows are settled through the market and permitting bidding and settlement on a net basis where necessary.

For example, the introduction of a new registered participant category for the DWGM does not impact on the requirements and obligations applied to current market participants. For AEMO, the cost of applying the current system arrangements to new market participants is very small. Prospective DWGM market participants will incur the same obligations. The benefit of making this change in the NGR now enables these parties to make informed business decisions for the future and provides the current gas sector and gas users the opportunity to make their own emissions reduction actions as soon as practicable and still be within the established market framework.

Further, by reducing barriers to entry for DTS connected blend processing facilities (such as by enabling net bidding), the final recommendations should facilitate the decarbonisation of the gas market. This recommended final rule, which provides transparency of all covered gases in the DWGM, enables market participants and gas users to be informed of hydrogen or renewable gases and make decisions to address their own emissions reduction goals. The cost of providing this benefit of information in the market is expected to be immaterial as it builds on current market arrangements, rather than any significant changes to market systems, to operationalise it.

More generally, the Commission considers that its final recommendations related to the DWGM are targeted, fit-for-purpose, and proportionate to the issues they are intended to address because they are focused on making the essential, practical changes needed for the market to operate with all covered gases while minimising costs to give effect to the intent. In addition, even if the hydrogen or renewable gas sector does not expand significantly in the future as currently anticipated, the enabling costs incurred are relatively small and not a significant burden on the natural gas industry or current gas users.

Additional detail on how each of the policy issues discussed for this topic through the course of the review and the Commission's considerations at each stage of the review can be found using the references in the table below.

Table 7.1: Policy issues for the DWGM

ISSUES	LOCATION IN EACH REPORT
DTS connected blend processing facilities	Consultation paper section n/a
	Draft report section n/a
	Final report section 7.3
Unaccounted for gas	Consultation paper section 5.3.2
	Draft report section 7.2
	Final report section 7.4
Non-DTS pipelines	Consultation paper section n/a
	Draft report section 7.3
	Final report section 7.5

7.2 Interaction with the DWGM distribution connected facilities rule change

As outlined in the final report, the AEMC’s consideration of the *DWGM distribution connected facilities rule change* (DWGM rule change) has been undertaken concurrently with this review. The rule change request sought to enable the participation of distribution connected production and storage facilities in the DWGM. While the request did not explicitly target the integration of other covered gases, its focus on allowing distribution connected facilities to participate in the DWGM has implications for enabling covered gases to be injected into gas distribution systems in Victoria.

All issues related to the settlement of distribution connected facilities in the DWGM have been addressed through the DWGM rule change process.⁶¹ Consequently, only issues falling outside of the scope of the rule change request were addressed through this review. The review’s final recommendations were therefore limited in their scope to DTS connected blend processing facilities, distribution systems not directly connected to the DTS, and UAFG in the DWGM.

7.3 DTS connected blend processing facilities

Changes to the NGR to enable distribution connected blend processing facilities have been implemented through the DWGM distribution connected facilities rule change. The final report for this review considered the related issue of including DTS connected blend processing facilities in the DWGM (see section 7.3.4 of that report).

The Commission did not receive any specific stakeholder feedback regarding the recommended draft rules related to DTS connected blend processing facilities. In addition, it

⁶¹ AEMC, *DWGM distribution connected facilities*, final determination, 8 September 2022.

has not identified any changes to the rule drafting that are necessary. As a result, the recommended final rules are the same as the recommended draft rules.

7.3.1

Recommended final rules

To give effect to the final policy recommendation outlined in section 7.3.4 of the final report, the NGR should be changed as outlined in the box below. See section 7.6 below for the relevant recommended final transitional rules.

RECOMMENDATION 47: FINAL RULE — ALLOW DTS CONNECTED BLEND PROCESSING FACILITIES IN THE DWGM

Amend the NGR to allow for registration for DTS connected blend processing facility operators by introducing 'Blend Processing Provider' as a new registration category in rule 135A — a blend processing service provider that injects gas into a DTS.

Amend the net bidding facility framework in Part 19 of the NGR to accommodate DTS connected blend processing facilities that satisfy the net bidding facility criteria by:

- extending the definition of 'net bidding facility' and 'net injected quantity' in rule 200 to blend processing facilities connected to a DTS
- extending rules 204B and 204C (on the classification of net bidding facilities and net injected quantities to be used for net bidding facilities) to Blend Processing Providers
- making consequential changes to rules 208 (Demand forecasts) and 235 (Imbalance payments and Deviation payments).

Amend rule 287(1) so that it is consistent with rule 287A(1) by adding introductory words to clarify that any agreed departure from the standard gas quality specification is subject to any duty or requirement under any regulatory instrument relating to gas quality or safety.

Amend Part 19 of the NGR to extend to the operators of DTS connected blend processing facilities equivalent obligations to those that apply to Producers and Storage Providers by:

- defining 'Blend Processing Provider' in rule 200 as a blend processing service provider whose blend processing facility is connected to the DTS
- extending the definition of 'DWGM facility operator' in rule 200 to include a 'Blend Processing Provider' so that the maintenance coordination arrangements in rule 326 apply
- extending the following rules to apply them to Blend Processing Providers in the same way they apply to Storage Providers: 216 (Failure to conform to scheduling instructions), 219 (Injection and withdrawal confirmations), 292(2) (Responsibility for metering installation) and 340 (Non-firm gas).

7.4

Unaccounted for gas

The Commission's final policy recommendation was that no changes should be made to the UAFG arrangements in Part 19 of the NGR. It considered that continuing with the existing

arrangements should have the benefit of promoting productive efficiency and avoiding the implementation costs associated with the development and introduction of alternative arrangements. Section 7.4.4 of the final report details the Commission's final policy recommendation.

Stakeholders did not raise any concerns with this recommendation nor suggest that changes to the NGR were required. The Commission is satisfied that the final report position is appropriate and remains relevant.

7.5 Non-DTS pipelines

The Commission's final policy recommendation was that no specific changes are required for DDSs not connected to the DTS. It concluded that these distribution systems, despite not being part of the DWGM, would still be included in the recommended changes made under the review, and that the final recommendations are relevant and proportionate to the needs of these distribution systems, and flexible to their governance arrangements. Section 7.5.4 of the final report details the Commission's final policy recommendation.

Stakeholders did not raise any concerns with this recommendation nor suggest that changes to the NGR were required. The Commission is satisfied that the final report position is appropriate and remains relevant.

7.6 DWGM transitional rules

The Commission's final policy recommendation was that no specific savings or transitional arrangements are required once the recommended final rules outlined in this chapter commence. However, it did recommend that:

- the commencement date for the recommended rules should be aligned with the commencement date for the DWGM distribution connected facilities rule change
- the transitional rules should provide for the changes to the Wholesale Market Procedures to be finalised and available to market participants at the same time as the changes made to the procedures to take into account the DWGM distribution connected facilities rule change.

Section 7.6 of the final report sets out further details on the recommended transitional rules.

7.6.1 Recommended final transitional rules

The timing for commencement of the recommended final rules outlined in this chapter is 1 May 2024 (see also chapter 11).

To give effect to the recommended transitional arrangements outlined above, the transitional rules described in the box below are recommended.

RECOMMENDATION 48: FINAL TRANSITIONAL RULE — DWGM AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the DWGM related rules is 1 May 2024.

In Part 7 in proposed new Schedule 6 to the NGR:

- insert definitions of 'amending rule', 'Part 19 amendments effective date' and 'new Part 19'
- require AEMO to, in accordance with Part 15B, review, and where necessary, amend and publish the Wholesale Market Procedures to take into account the amending rule, by no later than three months before the Part 19 amendments effective date
- require the amendments to the Wholesale Market Procedures to take effect on and from the Part 19 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 20 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR.

8 REGULATED RETAIL MARKETS

The regulated gas retail markets facilitate gas retail competition by enabling retailers to sell natural gas to residential and business customers in areas of New South Wales, the Australian Capital Territory, Queensland, South Australia and Victoria supplied by distribution systems. Distributors, retailers, exempt sellers and self-contracting users must register in the retail gas market that operates in those areas.⁶²

For more information about the regulated retail markets and the issues arising in this review see the consultation paper, chapter 6 'Regulated retail markets'.⁶³

For more information on the final policy recommendations and recommended draft rules for the regulated retail markets see the final report, chapter 8 'Regulated retail markets'.⁶⁴

This chapter sets out stakeholder feedback, Commission analysis and the recommended final rules in relation to:

- retail market registration categories
- governance arrangements for local heating values
- settlement and balancing arrangements
- competition, consumer choice and cost pass through of other covered gases in the retail market.

Consequential changes to the NGR that are relevant to the regulated retail markets are set out in appendix B.

For further detail on the recommended changes to the rules, see the accompanying recommended final rules.

8.1 Applying the assessment framework

The Commission's final recommendations, as outlined in the final report, are intended to:

- encourage the delivery of a new commodity (other covered gases) that could not otherwise be priced or traded within the gas market by expanding the existing retail market registration categories for participants withdrawing gas from regulated retail markets to cover blend processing service providers
- provide a clear allocation of roles and responsibilities in relation to the quality and safety of supply of other covered gases to consumers, by maintaining the existing jurisdictional responsibilities as currently relevant for natural gas
- provide stability and transparency in regulatory arrangements that will enable consumers, market participants and investors to make efficient decisions.

62 There are additional participants, for example, transmission service providers, in some markets.

63 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, October 2021, p. 46.

64 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, final report, 8 September 2022, p. 142.

Consistent with the efficiency limb of the assessment framework, implementation of the final recommendations is expected to promote allocative, productive and dynamic efficiency by allowing other covered gases to be supplied through retail markets. Accordingly, this should also provide the benefit of facilitating decarbonisation of the gas sector to support the reduction of emissions in the Australian economy.

The recommended changes to the regulated retail market rules include expanding the existing registration categories to include blend processing service providers, in order to allow them to withdraw gas. This change will allow the sale of other covered gases to be incorporated into the regulated retail markets, while resulting in no system changes or implementation costs for existing participants, or AEMO.

More generally, the final recommendations for the regulated retail market are: targeted in that they only make necessary changes; proportionate in that they only affect new entrants; and fit for purpose because they give effect to the Energy Ministers’ intention to incorporate renewable gases into the market. In addition, if the hydrogen or renewable gas sector does not expand significantly in the future as currently anticipated, the enabling costs incurred are relatively small and not a significant burden on the natural gas industry or current gas users.

Additional detail on how each of the policy issues discussed for this topic through the course of the review and the Commission’s considerations at each stage of the review can be found using the references in the table below.

Table 8.1: Policy issues for regulated retail markets

ISSUE	LOCATION IN EACH REPORT
Registration categories	Consultation paper section 6.2.1
	Draft report section 8.1
	Final report section 8.2
Metering and heating values	Consultation paper section 6.2.1
	Draft report section 8.2
	Final report section 8.3
Settlement and balancing	Consultation paper section 6.2.1
	Draft report section 8.3
	Final report section 8.4
Cost of gas and competition concerns	Consultation paper section 6.2.2
	Draft report section 8.4
	Final report section 8.5

8.2 Registration categories

The Commission's final policy recommendation (section 8.2.4 of the final report) was to expand the existing regulated retail market registration categories for withdrawals of gas to include blend processing service providers. This expansion of registration categories will cover new services and commodities that could not otherwise be priced or traded within the gas market, and will support the sale of other covered gases. The Commission acknowledges that there will be some impact on existing market participants and AEMO in changing some operational systems. However, the benefit of expanding the range of services for existing market participants also provides opportunities for new participants to enter the retail markets.

The Commission did not receive any specific stakeholder feedback regarding the recommended draft rules related to expanding existing registration categories in regulated retail markets. In addition, it has not identified any changes to the rule drafting that are necessary.

8.2.1 Recommended final rules

To give effect to the final policy recommendations outlined in section 8.2.4 of the final report, the NGR should be changed as outlined in the box below.

RECOMMENDATION 49: FINAL RULE — EXPAND EXISTING REGISTRATION CATEGORIES IN REGULATED RETAIL MARKETS

Amend the NGR:

- For the New South Wales and the Australian Capital Territory (rule 135AB(1)(c)), Queensland (rule 135AB(2)(c)) and South Australia (rule 135AB(3)(d)) regulated retail markets, amend the registrable category of 'self contracting user' to include any user that has a contract with a service provider for the haulage of gas but does not fall within the registrable capacity of 'retailer'. Amend the registrable capacity of 'retailer' in each of rules 135AB(1)(b), 135AB(2)(b) and 135AB(3)(c) to exclude from that registrable capacity any exempt seller that sells gas only to related bodies corporate of that exempt seller. This type of exempt seller will continue to fall within the registrable capacity of 'self contracting user'.
- For the Victorian regulated retail market (rule 135AB(4)(d)) expand the registrable category of 'market participant — other' to include any user of a declared distribution system that does not fall within any other registrable capacity for the market.

8.3 Metering and heating values

The Commission's final policy recommendations set out in the final report (see section 8.3.4 of the final report) were to:

- not make changes to the NGR in relation to metering arrangements since potential changes to metering requirements are being addressed through AEMO’s review of the Procedures
- not change the governance arrangements for heating value calculations and zone determination, with jurisdictional bodies retaining these responsibilities
- recommend that jurisdictions review measures for heating value calculations at injection and withdrawal points and consider if greater consistency across jurisdictions can be made.

These final recommendations provide a clear allocation of roles and responsibilities, and provide stability and transparency in regulatory arrangements that will enable consumers, market participants and investors to make efficient decisions.

Stakeholders did not raise any concerns with this recommendation nor suggest that changes to the NGR were required. The Commission is satisfied that the final report position is appropriate and remains relevant.

8.4 Settlement and balancing

The Commission’s final policy recommendation was that rule 135EA of the NGR governing the matters about which procedures may be made should be amended to specify that the RMPs should provide for the arrangements necessary to support the introduction of net metered facilities in the STTM. Enabling facilities, such as blend processing facilities, to operate in the market will provide greater opportunities for new facilities using other covered gases. This provides the additional benefit of supporting the decarbonisation of the gas sector and the reduction of emissions across the economy. The Commission acknowledges that AEMO will incur some cost to amend its retail market procedures in response to the rule made but this will be one component of a broader update of those procedures. Section 8.4.4 of the final report details the Commission’s final policy recommendation.

The Commission did not receive any specific stakeholder feedback regarding the recommended draft rules related to settlement and balancing for the regulated retail markets. In addition, it has not identified any changes to the rule drafting that are necessary.

8.4.1 Recommended final rules

To give effect to the final policy recommendation outlined in section 8.4.4 of the final report, the NGR should be changed as outlined in the box below.

**RECOMMENDATION 50: FINAL RULE — EXPAND MATTERS ABOUT WHICH
RETAIL MARKET PROCEDURES MAY BE MADE**

Amend rule 135EA of the NGR to specify that the RMPs should provide for the arrangements for registration of a net bidding meter, and arrangements for net withdrawals at a net metered facility to be treated as a meter reading for the purposes of the RMP.

8.5 Cost of gas and competition concerns

The Commission's final policy recommendation was that no changes are required to the NGR or NERR to address the potential impact of the cost of gas or the impact on retail competition.

This recommendation enables the existing market mechanisms to apply in the same way across all covered gases and for the success of any new covered gas to be determined on its competitive merit rather than by its treatment in the NGR or NERR. It also avoids any additional complexity and cost that would result from treating different covered gases in different ways. Section 8.5.4 of the final report details the Commission's final policy recommendation.

Stakeholders did not raise any concerns with this recommendation nor suggest that changes to the NGR were required. The Commission is satisfied that the final report position is appropriate and remains relevant.

9 CONSUMER PROTECTIONS

The NERL and NERR establish a national framework for the provision of a range of energy specific consumer protections to customers. The NERL and NERR have been adopted in the Australian Capital Territory, New South Wales, South Australia and Queensland. Local legislation regulates energy retail matters in Victoria, Tasmania and Western Australia.⁶⁵ The consumer protections under the NERL and NERR that relate to the sale and supply of natural gas are complemented by Part 12A of the NGR which relates to gas connections for retail customers and Part 21 of the NGR which relates to retail support obligations between distributors and retailers (together the national gas consumer protection framework).

Based on the approach set by the officials to extending the NERL, the Commission has considered the changes to consumer protections in the NERR that would be required if the NERL is extended to NGEs and other covered gases prescribed for the purposes of the NERL (prescribed covered gases).⁶⁶

For more information about the national gas consumer protection framework and the issues arising in this review see the consultation paper, chapter 7 'Consumer protections'.⁶⁷

For more information on the final policy recommendations and recommended draft rules see the final report, chapter 9 'Consumer protections'.⁶⁸

This chapter sets out stakeholder feedback, Commission analysis and the recommended final rules in relation to:

- customer notifications in relation to a change in the type of gas supplied in a pipeline or part of a pipeline
- customer notifications of changes to customer prices because of changes in the type of gas supplied to the customer
- arrangements for billing if there is a change in the type of gas that may be supplied to a customer
- gas quality risks, being the increased risk that customers could be supplied with gas that is unsuitable for use in their appliances if they are supplied with a gas other than natural gas.

Consequential changes to the NERR that are relevant to consumer protections are set out in appendix B.

65 The Northern Territory's gas reticulation and retail sale sectors are very small and there is no specific regulation of the retail sale and supply of natural gas in the Northern Territory. The *Dangerous Goods Regulations 1985* made under the *Dangerous Goods Act 1998* (NT) regulate gas works, gas installations (including meters) and appliances and gas fitters. The NERL also applies as a law of the Commonwealth in the offshore area of each state.

66 Under the proposed changes to the NERL, the NERL and NERR will be extended to an NGE supplied in a pipeline as if it were natural gas. The NERL and NERR will only be extended to a covered gas other than natural gas and NGEs if that gas is designated as a prescribed covered gas under the NERL.

67 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, consultation paper, 21 October 2021, p. 52.

68 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, final report, 8 September 2022, p. 156.

For further detail on the recommended changes to the rules, see the accompanying recommended final rules.

9.1 Applying the assessment framework

The Commission's final recommendations are intended to facilitate more efficient use of energy services by enhancing transparency and strengthening the confidence of gas consumers in the market by:

- requiring distributors to notify customers prior to a change in the type of gas they may be supplied
- amending the required contents of standard retail contracts and market retail contracts to require retailers to notify customers that information on the type of gas they may be supplied with can be obtained from the distributor's website
- amending the historical billing information provisions to require retailers to notify customers who request historical billing data that information on the type of gas they may be supplied with to their premises during the relevant historical billing period can be obtained from the distributor's website.

Consistent with the implementation considerations limb of the assessment framework, the final recommendations through the recommended final rules:

- are appropriately targeted, fit for purpose and proportionate to provide relevant information to consumers where they may be supplied with NGEs or prescribed covered gases, without imposing unnecessary costs on industry participants by minimising the need for changes to systems and processes.
- provide transparency in regulatory arrangements to enable consumers to readily access relevant information on the gas product they are supplied with, so they can make efficient decisions about their use of energy.

For example, the introduction of a requirement for distributors to publish information on their websites in relation to the type of gas supplied in their distribution systems and the date of any change to the type of gas supplied, will enable customers, retailers and other interested parties to access relevant information on the gas that may be supplied to customers without requiring costly changes to B2B⁶⁹ or retailer IT and business systems. Retailers can then use this information to highlight to new customers and customers requesting billing data where they can find information on the product supplied to them.

The Commission considers these practical changes are compatible with the development and application of consumer protections for small customers, including, existing consumer protections under the NERL and NERR,⁷⁰ and jurisdictional instruments which require customers to be provided with accurate and relevant information about how they consume energy.

⁶⁹ (Business-to-business: a communication system to share information between businesses)

⁷⁰ For example, see rules 32, 46A, 48A, 56, 59 of the NERR.

Additional detail on how each of the policy issues discussed for this topic through the course of the review and the Commission’s considerations at each stage of the review can be found using the references in the table below.

Table 9.1: Policy issues for consumer protections

ISSUES	LOCATION IN EACH REPORT
Notice of a change to gas type	Consultation paper section 7.2
	Draft report section 9.1
	Final report section 9.2
Notice of price changes because of a change to an NGE or prescribed covered gas	Consultation paper section 7.2
	Draft report section 9.2
	Final report section 9.3
Arrangements for billing on changing to an NGE or prescribed covered gas	Consultation paper section 7.2
	Draft report section 9.3
	Final report section 9.4
Gas quality risk issues	Consultation paper section 7.2
	Draft report section 9.4
	Final report section 9.5

9.2 Notice of a change to gas type

In the final report, the Commission recommended amending the NERR to require the provision of a notice to customers prior to changes being made to the type of gas supplied in a pipeline or part of a pipeline (section 9.2.4 of the final report).

The recommended draft rules required a notice to be provided from distributors to retailers and AEMO, and from retailers to small customers.

In the final report, the Commission also recommended:

- amending the model terms and conditions for standard retail contracts and the minimum requirements for market retail contracts to require retailers to specify the type of gas that may be sold to customers
- that the recommended draft rules should commence three months from the date the rule is made (the effective date).

9.2.1 Stakeholder responses

Customer notification

Some stakeholder's expressed general support for a customer's right to information about the type of product they are being supplied with, or may be supplied with.⁷¹ However, retailers expressed concern about the requirement for them to notify customers of a change of gas type and suggested distributors should be the party responsible for communicating directly to customers.⁷²

EnergyAustralia and Alinta shared similar views that additional responsibilities placed on retailers are incongruous with the nature of trials and the commercialisation of renewable gas blending. They considered that distributors are the only party able to address concerns raised by customers where those concerns relate to the type of gas they are supplied.⁷³

In addition, Alinta suggested the notification requirements:⁷⁴

- Transfers operational and reputational risk from the causer (the blending facility proponent) to entities with no stake in the blending of renewable gases;
- Ignores existing processes distributors have in place to manage routine changes in network conditions (such as planned outage notifications);
- Fails to recognise that distributors have contact centre infrastructure of their own and should take the opportunity to engage consumers in any transition to renewable gas blending should they choose, given they have the motivation and incentive to do so....

The Australian Energy Council and some of its members also raised concerns about the costs associated with retailers providing a notice to customers.⁷⁵

EnergyAustralia and Origin submitted that the customer notification requirements will impose significant costs on retailers by increasing operating expenditure for mail outs and the need to resource their contact centres to cope with the expected increase in call volumes from customers with queries and complaints.⁷⁶

The Australian Energy Council stated that:⁷⁷

notification is not a no cost/no regrets option and will require retailers (and possibly AEMO) to build systems that are likely to be comparable in scope and costs to something like an outage notification system

71 Submissions to the final report: Australian Energy Council, p. 3; Alinta, p. 2; Origin, p. 1.

72 Submissions to the final report: Australian Energy Council, p. 4; Alinta, p. 2; EnergyAustralia, p. 2; Origin, p. 1; Red and Lumo, p. 3.

73 Submissions to the final report: EnergyAustralia, p. 2; Alinta, p. 1.

74 Alinta, submission to the final report, p. 2.

75 Submissions to the final report: Australian Energy Council, p. 3; EnergyAustralia, p. 3; Origin, p. 1.

76 Submissions to the final report: EnergyAustralia, p. 3; Origin, p. 1.

77 Australian Energy Council, submission to the final report, p. 3.

Some stakeholders suggested that advanced notices from retailers to customers may create unnecessary concern and urgency for customers and questioned the need for a notice at all if hydrogen blending is restricted to levels suitable for existing appliances and gas networks such that there are no safety concerns.⁷⁸

In addition, a few retailers made drafting suggestions to amend the recommended draft rules.

Origin recommended revising recommended draft rule 147F to specify that any notifications should be in a form and manner that is consistent with a customer's preferred method of communication. It also suggested that retailers be permitted to notify customers as soon as practicable but no later than the next bill, instead of five days prior to the transition date.⁷⁹

Red and Lumo considered that to comply with recommended draft rule 147F, retailers would require information at the MIRN⁸⁰ level because if a distributor provided notice of a change of gas type for one particular network section, retailers would need to know which individual MIRNs were impacted in order to notify customers.⁸¹

Customer retail contracts

Some stakeholders expressed concern about the final recommendation to amend standard and market retail contracts to specify if a customer is or may be supplied with a gas other than natural gas.

Red and Lumo indicated that the recommended draft rules could require multiple variants of the contracts for each different combination of primary gases supplied. They suggested amending the draft rule to require retailers to link back to the definitions in the legislation, which they considered would only require one change to the contracts.⁸²

EnergyAustralia and the Australian Energy Council also considered the recommended draft rule is impractical given the composition of the blend of gases in the distribution network will change frequently which would require, in their view, retailers to update their terms and conditions at an unreasonable frequency.⁸³

Implementation timing

Some stakeholders expressed concern with the recommended draft transitional rules.⁸⁴

EnergyAustralia submitted that the implementation timeframe of three months was not plausible to make various changes to billing systems, communication methods, contract terms and conditions, internal processes and staff training. It suggested an 18-month period would be required due to retailers' current IT and project management workforce

78 Submissions to the final report: Origin, p. 1; Australian Energy Council, p. 3.

79 Origin, submission to the final report, pp. 1-2.

80 A unique meter identification number assigned to your gas service by your distributor and identifies your gas delivery point.

81 Red and Lumo, submission to the final report, p. 3.

82 Red and Lumo, submission to the final report, p. 2.

83 Submissions to the final report: EnergyAustralia, p. 4; Australian Energy Council, p. 3.

84 Submissions to the final report: Australian Energy Council, p. 4; Alinta, p. 2; Energy Australia, p. 3.

involvement in multiple regulatory reforms (such as Consumer Data Right, Better Bills and ESB 2025).⁸⁵

Subsequent stakeholder engagement

The Commission sought further feedback from several stakeholders (AEMO, AGIG, Jemena, AGL, Origin, Red and Lumo, and EnergyAustralia) to explore the issues raised in submissions and practical implementation of the notice requirements. A key focus of the meetings with retailers and distributors were systems and process issues⁸⁶ and associated costs⁸⁷ to help determine the most efficient way to notify consumers of changes to gas type.

9.2.2

Commission analysis

Customer notification

The Commission has considered the feedback received on the issue of who is best placed to notify customers of a change of gas type. It has concluded that distributors, instead of retailers, should provide customers with a notice of change of gas type. Distributors should also publish up to date information on their website on the types of gases that may be supplied in parts of their distribution systems (and the date that a change of gas type has occurred).

As outlined in the final report (section 9.2.3 of the final report), a key reason for recommending that retailers were the appropriate party to notify small customers of a change of gas type was that, while distributors will hold the relevant information on changes of gas type, retailers manage the customer relationship.

Stakeholders have confirmed that, while retailers routinely collect and maintain customer contact information⁸⁸ and the preferred method of communication, distributors at a minimum only hold the address of a customer's premises where the customer's meter (identified by a MIRN) is located. As a consequence, distributor notices to customers may need to be in the form of paper notifications distributed by mail or letter drop and would not be provided via the customer's preferred method of communication,⁸⁹ as is the case for retailer communications. However, the Commission considers these disadvantages are outweighed by the significant additional costs that would likely be associated with the provision of a notice to small customers by retailers due to the need to make costly B2B and retailer system changes in order to implement the policy recommendation in the final report.

⁸⁵ EnergyAustralia, submission to the final report, p. 3.

⁸⁶ For example: the ability to specifically identify parts of a distribution system that are supplied with a different type of gas and identify the customers connected to that system or part of that system; the accessibility and accuracy of customer contact information available to both parties; the process of sharing customer information, including a customer's preferred method of communication; the existing notification process for outages and planned interruptions; the ability to use existing B2B systems to maintain a record of notices being sent to customers; the ability to use existing MIRN databases to filter customers by suburb and postcode.

⁸⁷ For example: the composition and provision of a notice to the relevant parties; changing and updating B2B systems, MIRN databases, billing systems, contract terms and conditions, and other internal processes; responding to customer queries through call centres.

⁸⁸ This can include customer names, postal addresses, email addresses and mobile phone numbers.

⁸⁹ Unless the customer has opted in to receiving communications from the distributor by text message or email.

The relative costs of distributor led notification and retailer led notifications have been assessed from additional information provided by relevant stakeholders. Retailers considered that when the distributors notified them of customers impacted by a change of gas type, they would need to identify the relevant customers through the FRC Gas Hub⁹⁰ that 'flags' the impacted customers using the MIRN for the customers' premises. Retailers also considered it would not be possible for them to identify impacted customers based on the distributor providing them a communication (outside the FRC Gas Hub) with details of the relevant parts of the distribution system that may be supplied with the new gas (such as network section or postcode information) because retailers do not hold information on the part of a distribution system to which customers are connected. To enable a communication via the FRC Gas Hub, a new B2B field would need to be created for use on the hub involving system and process changes. Each retailer would also need to make changes to its own systems to enable them to obtain the relevant information from the FRC Gas Hub and record the customers to whom the change of gas type notices must be provided.

In addition, retailers argued that customer queries in relation to the type of gas that may be supplied to the customer and any associated safety concerns were best handled by distributors who hold the relevant technical information. Retailers were concerned that if they were to provide notices it is likely that they would receive queries and complaints that they were not best placed to manage and would need to redirect customers to distributors, leading to undesirable customer experiences. Poor customer experiences of this type can lead to increased involvement of the Ombudsman in resolving issues with associated impacts on dispute costs faced by industry participants.

Stakeholders supported their views by providing confidential indicative costings. These costings covered: costs for composing the notice; provision of the notice from distributor to a retailer; provision of the notice to customers; call centre costs of responding to customer questions on a change of gas type; and costs for any required system changes such as to the B2B system to facilitate the transfer of data between distributors and retailers.

The Commission has carefully considered these costs and the benefits associated with a customer notice being provided by the distributor or the retailer and the practical implications of implementing the final policy recommendation. The Commission considers that the costs associated with a notice provided by retailers would likely exceed the costs associated with a notice provided by distributors due to the need for information to be transferred from the distributor to the retailer which would likely require B2B and retailer system changes. On balance, it does not consider these additional costs can be justified on the basis that a notice from retailers would be more likely to be addressed to a specifically named customer and provided via their preferred communication method.

The provision of a change of gas type notice by distributors will still achieve the Commission's objective of enhancing transparency and strengthening the confidence of customers in the

90 The gas full retail competition (FRC) hub operated by AEMO to facilitate business to business communications relating to the retail market over common network, message and transaction protocols, including communications between distributors and retailers.

gas market by informing customers of the changes to the gas product they may receive, but at a lower cost to industry participants (and ultimately customers).

In addition to considering the appropriate party to give notices to customers, the Commission has, in light of stakeholder feedback, considered how best to provide information to interested parties of the type of gas that may be supplied in a distribution system or part of a distribution system from time to time. The Commission considers it would be beneficial for a distributor to publish up to date information on its website on the types of gases that may be supplied in parts of its distribution system (and the date of any changes to the type of gas that may be supplied) to enable interested parties, such as retailers, customers and the Ombudsman, to access this publicly available information at any time.

The Commission acknowledges the feedback provided by Origin, and Red and Lumo, on recommended draft rule 147F. However, these changes are not needed because the drafting of the recommended final rules has removed the requirement for retailers to provide a notice to customers.

Customer retail contracts

In response to stakeholder feedback on amending standard and market retail contracts, the Commission considers that a change from the recommended draft rule is appropriate. The policy intent of the recommended draft rule was that customers, when entering into retail contracts, are made aware of the gas product they may be supplied under the contract.

Feedback from retailers indicated that implementation of the recommended draft rule would require costly changes to systems and processes to:

- enable retailers to identify the type of gas that may be supplied to each MIRN
- create multiple variations of their contracts to reflect different gas types
- enable retail contracts prepared for individual customers to reflect the correct gas type, using the information on gas type for the MIRN.

These changes required to implement the recommended draft rule would likely impose significant costs on retailers and involve changes to the FRC Gas Hub. Potentially, the information retained in AEMO's metering databases under the retail market procedures might also need to change to enable retailers gaining new customers to readily access information on the gas type that may be supplied at a customer's premises (MIRN).

The Commission has concluded the recommended final rule should instead require retail contracts to include a new provision that customers can find information on its distributor's website in relation to the type of gas that may be supplied to the customer's premises. It considers this change is consistent with the policy intent of the final recommendation. This different approach to implementing the final policy recommendation should significantly reduce the compliance burden and implementation costs on retailers, compared to the recommended draft rule.

Implementation timing

The Commission has considered stakeholder feedback on implementation timing and has updated the recommended final transitional rule to extend the timeframe from three months to nine months.

It acknowledges that industry participants are currently managing multiple regulatory changes and that additional implementation time will enable distributors and retailers to implement any system and process changes needed to comply with the new notification and customer contract requirements. The Commission considers that nine months is a reasonable timeframe to enable distributors to take the necessary steps to prepare to provide notices of change of gas type to small customers and publish gas type information on their websites. Nine months is also reasonable for retailers to amend standard and market retail contracts.

9.2.3

Conclusion

Customer notification

The Commission has not decided to alter its final policy recommendation that notices of change of gas type should be provided to small customers. However, for the reasons outlined above, the Commission has decided to change its recommendation on how this policy is implemented by:

- requiring distributors, rather than retailers, to provide customers with a notice of change of gas type
- requiring distributors to publish on their websites up to date information on the type of gas that may be supplied in their distribution system or part of their distribution system.

There are no material changes to the proposed contents of the change of gas type notice from the recommended draft rule, although minor changes have been made to reflect that the distributor is providing the notice and is the point of contact for customer queries. Further, drafting changes have been reflected in the recommended final rule to make it clear that notices are not required where the only change is to the proportion of primary gases that form part of the gas blend.

The Commission is satisfied that the recommended final rules support the NERO. This is because they establish an approach to inform gas consumers of what gas type they may receive in a more cost effective manner.

Customer retail contracts

In addition, the Commission has changed the way it implements its final policy recommendation in relation to retail contracts by:

- removing the requirement that retail contracts specify the type of gas supplied under the contract
- requiring retailers to specify in retail contracts that the customer can find information on its distributor's website on the type of gas that may be supplied to the customer's premises.

The obligation for retailers to “signpost” to customers information provided on a distributor’s website is supported by a new obligation on distributors to publish on their websites up to date information on the type of gas that may be supplied in their distribution system or part of their distribution system (see recommendation 51 below).

The Commission has amended the rule drafting to reflect this change. Importantly, these amendments do not alter the intent of the final policy recommendations, which are expected to contribute to the achievement of the NERO by enabling consumers to access relevant information on the type of gas they are or may be supplied with and make efficient decisions about their energy usage.

Implementation timing

Additionally, the Commission has decided to update the recommended final transitional rule to delay the commencement of the new Part 8B of the NERR and the changes to retail contracts rules by nine months from the date the rule is made (the effective date).

9.2.4

Recommended final rules

To give effect to the final policy recommendation and transitional arrangements outlined in section 9.2.5 of final report and the recommended changes to those set out above, the NERR should be changed as outlined in the boxes below. See below for the recommended final transitional rules.

RECOMMENDATION 51: FINAL RULE — CUSTOMER INFORMATION ON GAS TYPE

Introduce a new Part 8B in the NERR to provide for:

- customers to be informed of a change in the type of gas they may be supplied with, and
- distributors to maintain on their website information on the type of gas that may be supplied to customers connected in their distribution system.

The rules will provide for customers to be informed of a change in the type of gas they may be supplied with by:

- requiring distributors to notify customers by any appropriate means prior to a change of gas type in a distribution system (or part of a distribution system) (recommended final rule 147D). The notice must include:
 - the date on which there may be a change of gas type in the distribution system
 - the premises which may be supplied with the new gas type
 - the type of gas that may be supplied. The type of gas could be a primary gas or a gas blend made up of one or more primary gases
 - whether the change of gas type will be for a fixed time period or on an ongoing basis
 - if the type of gas that may be supplied through a distribution system is a gas blend, the primary gases that may be blended together to make the gas blend and the

proportion of each primary gas the service provider reasonably expects to form part of the gas blend at any time, which may be expressed as a range

- the potential impact of the change of gas type on the volume of gas and heating value of gas that may be consumed by customers who are supplied with the gas
- the contact details of the distributor.
- allowing the AER to make guidelines, in accordance with the retail consultation procedures, in relation to the form and content of the notice (recommended final rule 147E).
- requiring a distributor to publish on its website information on the type of gas that may be supplied through a distribution system and, if there is a change to the type of gas, the transition date (recommended final rule 147F). The information must:
 - be kept up to date
 - be in a format that makes it easy for a small customer to understand
 - enable a small customer to obtain the information relevant to their premises using the postcode or address of their premises.

Customers will not be notified of a change of gas type if the type of gas they are supplied with changes from natural gas to biomethane or to a blend of natural gas and biomethane or from biomethane or a blend of natural gas and biomethane to natural gas (recommended final rule 147D(4)).

RECOMMENDATION 52: FINAL RULE — AMEND CUSTOMER RETAIL CONTRACTS

Amend Part 2 Division 7 and Schedule 1 of the NERR to introduce requirements for retailers to specify under market retail contracts and standard retail contracts that information on the type of gas that may be supplied under the contract can be found on the distributor's website (recommended final rule 49B and recommended final clause 3.3(b) of Schedule 1).

RECOMMENDATION 53: FINAL TRANSITIONAL RULE — CUSTOMER INFORMATION ON GAS TYPE AND AMENDMENTS TO CUSTOMER CONTRACTS

- Specify in the schedule of amending rules that Part 8B of the NERR and the recommended final rules to change retail contracts commence nine months from the date the rule is made (the effective date)
- Insert transitional rules (recommended final transitional rule in Schedule 3, New Part xx) that provide that:
 - distributors are not required to provide a notice under new subrule 147D(1) in relation to a change of gas type that occurred before the effective date

- distributors must comply with new rule 147F no later than the effective date
- retailers must make alterations to their standard retail contracts by the effective date
- new rule 49B applies to market retail contracts entered into prior to the effective date if, after the effective date, the contract is varied.

9.3 Notice of price changes because of a change to an NGE or prescribed covered gas

The Commission's final policy recommendation (section 9.3.4 of the final report) was that no changes be made to the NERR in relation to notification of price changes on the basis that the current NERL and NERR notification requirements are fit for purpose.

While the Commission considered it is appropriate to disclose any variation in price due to a change in the type of gas product supplied to customers, it did not consider that creating new specific arrangements to notify customers of a price variation for a change in gas type was warranted and that the potential costs outweighed the potential benefits.

Stakeholders did not raise any concerns with this recommendation nor suggest that changes to the NERR were required. The Commission is satisfied that the final report position is appropriate and should be retained.

9.4 Arrangements for billing on changing to an NGE or prescribed covered gas

In the final report, the Commission recommended (section 9.4.4 of the final report) introducing a requirement for retailers to indicate in historical billing data, requested by customers, the first date on which a pipeline changed its supply of a gas type during the relevant historical period. In addition, the Commission recommended that the commencement of the recommended draft rules should be six months from the date the rule is made.

9.4.1 Stakeholder responses

Stakeholders that provided feedback on the final recommendation did not support the recommended draft rule.

The Australian Energy Council stated that:⁹¹

further unnecessary and increased concerns and complaints will be generated by having the blend recorded in historical billing information, and short of providing evidence in support of customer claims for damaged appliances or those with shortened lives (which is not used in any justification) it represents no apparent value to customers along with being costly to implement.

⁹¹ Australian Energy Council, submission to the final report, p. 4.

Similarly, EnergyAustralia considered the requirement to include an indicator in historical billing information to reflect when a customer initially received a blended gas will not:⁹²

provide any information as to whether they are continuing to receive a blended gas, how much they were/are currently receiving, and/or the types of blended gas they have received. As such, EnergyAustralia believes this indicator will provide no benefit to customers, and therefore there is no justification for its cost to implement or the likely increase in concerns/complaints that will arise from its inclusion.

Further, Red and Lumo commented that the recommended draft rule would require retailers to change their existing bill format because.⁹³

'historical billing data' for gas customers with a standard volume meter consists of prior bills which carry the relevant data; consumption, heating value and pressure correction factors (there is no NEM13 equivalent data file for gas).

Red and Lumo suggested amending the recommended draft rule 28(1A) to require distributors to publish information on their websites regarding the transition by pipeline section which would enable retailers to refer customers to this information to support questions about how covered gases may impact their bill.

9.4.2

Commission analysis

The Commission considers amendments can be made to the final policy recommendation and the recommended final rule to reduce the compliance cost while still delivering on the policy intent and benefit of informing customers of when a change of gas type occurred.

Feedback from retailers indicated that implementation of the recommended draft rule would require changes to billing data and/or the systems and processes used to derive that billing data for provision to customers, leading to significant costs to retailers and subsequently consumers. Importantly, the intent of the final policy recommendation and the recommended draft rule was that a change of gas type be indicated to customers when providing historical billing data to provide customers (and their representatives) with greater insight in relation to the reasons why elements of the customer's billing data may have changed over the relevant period. The intent was not for retailers to make changes to billing data or billing systems to provide this information to customers.

However, the intent of the final policy recommendation can still be achieved by instead requiring retailers, when providing historical billing data to the customer, to state that information can be found on the customer's distributor's website in relation to the type of gas that may be supplied to their premises and the date of any change to the type of gas supplied to their premises. While this new implementation approach does impact distributors and retailers, on balance the Commission is satisfied that this will be less than implementing the recommended draft rule.

⁹² EnergyAustralia, submission to the final report, p. 3.

⁹³ Red and Lumo, submission to the final report, p. 2.

The Commission did not receive any specific feedback on the recommended draft transitional rule relating to historical billing data. However, it has changed the implementation timeframe from six months to nine months to align with the timeframe for distributors to publish on their websites information on the type of gas that may be supplied through a distribution system, as discussed in section 9.2.2 above. This will also allow retailers more time to develop processes to notify customers of change of gas type information when they request historical billing information.

9.4.3

Conclusion

Following its consideration of stakeholder feedback, the Commission has decided to make the following changes to implement its final policy recommendation in relation to historical billing data:

- remove the requirement for retailers to provide the date of any change of gas type in historical billing data provided to customers
- require retailers to notify customers who request historical billing data that the customer can find the following information on its distributor's website:
 - the type of gas that may be supplied to the customer's premises
 - the date of any change to the type of gas supplied to their premises.
- to support the "signposting" requirement above, require distributors to publish on their websites up to date information on the type of gas that may be supplied in their distribution system or part of their distribution system (see recommendation 51 above).

The Commission has amended the rule drafting to reflect these changes. Importantly, these amendments do not alter the intent of the final policy recommendations, which are expected to contribute to the achievement of the NERO by enabling the efficient use of energy services by customers by assisting them to understand the reasons for changes to components of their billing data that may result from a change in gas type. However, the changes outlined above will enable the benefits of the intended policy to be provided at a reduced cost to consumers.

Additionally, the Commission has decided to alter the time for the commencement of the rules to implement the final recommendation by delaying the commencement by nine months from the date the rule is made.

9.4.4

Recommended final rules

To give effect to the final policy recommendation and transitional arrangements outlined in section 9.4.5 of the final report and to account for the changes recommended above, the NERR should be changed as outlined in the boxes below. See below for the recommended final transitional rules.

RECOMMENDATION 54: FINAL RULE — AMEND HISTORICAL BILLING INFORMATION

Amend Part 2 Division 4 of the NERR to require a retailer to notify a customer who requests historical billing data, that the customer can find information on its distributors website relating to the type of gas that may be supplied to the customer's premises and the date of any change to the type of gas supplied to their premises (recommended final rule 28(1A)).

RECOMMENDATION 55: FINAL TRANSITIONAL RULE — HISTORICAL BILLING INFORMATION

Specify in the schedule of amending rules that recommended final rule 28(1A) commence nine months after the rule is made.

9.5 Gas quality risk issues

In the final report, the Commission recommended no changes to the NERL or NERR in relation to gas quality issues (section 9.5.4 of the final report). These included the immunity under s. 316(1) in relation to defective gas supply or changes to the NERR in respect of gas quality, and changes to the existing mechanisms to manage customer disputes for loss or damage suffered due to gas quality issues. However, the Commission recommended jurisdictional review of liability caps that apply to distributors under local legislation and jurisdictional gas composition measurement and monitoring frameworks.

9.5.1 Stakeholder responses

Alinta submitted that assigning responsibility for gas quality caused by the trialling and commissioning of gas blending facilities owned and operated by distributors is a misallocation of risk. Alinta suggested it:⁹⁴

essentially subsidises the activities of monopoly gas blending facility proponents and transfers risk to competitive gas market participants without compensation and with limited capacity to efficiently and effectively negotiate with the proponent.

9.5.2 Commission analysis

The Commission has considered Alinta's submission and decided not to alter its final policy recommendation relating to gas quality risk allocation between retailers and distributors.

⁹⁴ Alinta, submission to the final report, p. 2.

Consistent with the final report, the Commission considers these matters will need to be resolved through the contractual arrangements in place between retailers and pipeline service providers,⁹⁵ rather than through amendments to the NERL and NERR.

In the Commission's view, a change to the scope of the immunity under s. 316 of the NERL would not promote the NERO as it could result in additional costs flowing through to consumers in the form of higher prices. Further, no sufficient evidence has been provided to suggest that a change to the allocation of risk in s. 316 would promote more efficient operation and use of energy services.⁹⁶ The Commission is satisfied that the final report position is appropriate and remains relevant.

95 Including in the review of access arrangements including the form of reference service agreements.

96 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases*, final report, 8 September 2022, p. 170.

10 REGULATORY SANDBOX FRAMEWORK

A regulatory sandbox is a framework within which market participants can test innovative concepts in the market under relaxed regulatory requirements at a smaller scale, on a time limited basis and with appropriate safeguards in place.

A bill to amend the NEL, NGL and NERL has been introduced into the South Australian House of Assembly⁹⁷ and, if passed by the South Australian Parliament, will empower the South Australian Minister for Energy to make amendments to the NER, NGR and NERR in relation to a regulatory sandbox framework.

When implemented, the regulatory sandbox framework will provide:

- the AEMC with power to make rules in relation to trial projects
- the AER with powers to grant waivers in relation to trial projects. These waiver powers will be in addition to the AER's existing powers to grant waivers and exemptions under the national energy laws and rules, such as exemptions from the ring fencing requirements in the NGL.⁹⁸

In the final report, the Commission acknowledged that the South Australian Parliament has not yet made a decision to introduce the regulatory sandbox framework and the framework may be amended before it is passed. The Commission also acknowledged that if the regulatory sandbox rules are made in a substantially different form from the draft rules, further consideration would be required to determine whether any gaps arise if the NGL and NERL are extended to covered gases and NGEs.

There was limited stakeholder feedback provided in relation to the draft recommendation. Consequently, the final recommendation set out in the final report was consistent with that in the draft report.

For more information about the regulatory sandbox framework and the issues arising in this review see the consultation paper, chapter 8 'Regulatory Sandbox Framework'.⁹⁹

For more information on the final policy recommendations for the regulatory sandbox framework see the final report, chapter 10 'Regulatory Sandbox Framework'.¹⁰⁰

10.1 Applying the assessment framework

The Commission's final recommendation in the final report (see section 10.2 of that report) is that no changes to the regulatory sandbox rules are required.

97 Statutes Amendment (National Energy Laws) (Regulatory Sandboxing) Bill 2021.

98 The trial waiver provisions in the draft regulatory sandbox amendments do not empower the AER to give trial waivers in relation to the ring fencing requirements in the NGL. Under the draft regulatory sandbox amendments to the NGL, the AER is only empowered to give waivers of specified registration requirements in the NGL and provisions of the NGR (new s. 30W of the NGL, introduced by s. 35 of the Statutes Amendment (National Energy Laws) (Regulatory Sandboxing) Bill 2021).

99 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases, consultation paper*, 21 October 2021, p. 60.

100 AEMC, *Review into extending the regulatory frameworks to hydrogen and renewable gases, final report*, 8 September 2022, p. 172.

The regulatory sandbox rules, when extended to NGEs and other covered gases, are expected to be fit for purpose without any changes required to support the use of the regulatory sandbox framework to trial innovative approaches to the provision of covered gas services¹⁰¹ or the sale and supply of NGEs and prescribed covered gases. This provides the benefit of stable and transparent regulatory arrangements that will apply across all covered gases. A consistent framework will minimise the regulatory and administrative burden for service providers and the AER.

The extension of the regulatory sandbox framework to these gases is consistent with the NGO and NERO as it should provide the benefit of enabling innovation in the supply of new gas services that meet the needs and interests of consumers.

Additional detail on how the policy issues discussed for this topic through the course of the review and the Commission’s considerations at each stage can be found using the references in the table below.

Table 10.1: Policy issues for the regulatory sandbox framework

ISSUE	LOCATION IN EACH REPORT
Supply of natural gas equivalents in trials	Consultation paper section 8.2
	Draft report section 10.1
	Final report section 10.2

10.2 Supply of natural gas equivalents in trials

The Commission’s final policy recommendation was that no changes are required to the NGR and NERR on this issue. It considered the regulatory sandbox framework, if made in the same form or substantially in the same form as consulted on, will allow trial proponents to seek trial waivers or trial rules for genuinely innovative projects that test an approach to the provision of covered gas services or the sale and supply of natural gas, NGEs or prescribed covered gases. Section 10.2.4 of the final report details the Commission’s final policy recommendation.

Stakeholders did not raise any concerns with this recommendation nor suggest that changes to the NGR or NERR were required. The Commission is satisfied that the final report position is appropriate and should be retained.

¹⁰¹ Under the draft amendments to the NGL, covered gas services will mean a pipeline service, the supply of a covered gas or a service ancillary to the supply of covered gas.

11 TRANSITIONAL ARRANGEMENTS

This chapter provides additional information on the recommended approach to implementing the Commission’s recommended changes to the NGR and NERR and the associated transitional and savings arrangements.

11.1 Approach to implementation

In this final rules report, the Commission has recommended specific amendments to the NGR and the NERR. Accompanying this report are relevant sections from the NGR and the NERR that implement those recommendations shown in mark-up.

The recommended rule changes will be sent to officials for consideration. The amending rules making changes to the NGR and NERR will be agreed by Energy Ministers and will be made by the South Australian Minister under proposed new section 294FC of the NGL and proposed new section 238AC of the NERL.¹⁰²

11.2 Commencement timing

In preparing the recommended rules, the Commission has assumed that the changes to the NGR for the regulatory sandbox framework and the pipeline reform package will have been made and commenced before the Minister made rules resulting from this review.

The Commission has also considered the commencement timing for each set of recommendations. Table 11.1 sets out the recommended commencement timing for each set of changes. The dates in the table assume that the South Australian Minister will make the NGR and NERR amending rules by the end of 2023 so AEMO has sufficient time to make the necessary changes to its systems and procedures before the relevant rules commence.

Table 11.1: Recommended commencement timing

TOPIC	RULES AFFECTED	PROPOSED COMMENCEMENT
Transitional rules for the NGR	New schedule 6 to the NGR	When the Minister makes the NGR amending rule
Transitional rules for the NERR	New Part 18 of Schedule 3 of the NERR	When the Minister makes the NERR amending rule
Economic regulation	Parts 6, 8, 9, 10, 11, 12 and 15 of the NGR	When the amending rule is made, except in the case of changes to the prescribed transparency provisions which will commence two months after the amending rule is made
Ring fencing framework	Part 5 of the NGR	When the amending rule is made, except in the case of the new

¹⁰² Under the National Gas Access (Western Australia) Law only changes to the NGR that have been adopted under an order made by the Western Australian minister will apply in Western Australia.

TOPIC	RULES AFFECTED	PROPOSED COMMENCEMENT
		advance notice of associate contract provisions (rule 32A) which will commence 20 business days after the amending rule is made
Market transparency - GSOO	Part 15D of the NGR	31 July 2024
Market transparency - AER gas price reporting	Part 17 of the NGR	When the NGR amending rule is made, with reporting to commence after the ACCC Inquiry
Market transparency - Gas Bulletin Board	Part 18 of the NGR Rule 135 EA(3)(ib)	3 March 2025
Market transparency - non-pipeline infrastructure terms and prices	Part 18A of the NGR	Three months after the NGR amending rule is made
Market transparency - VGPR	VGPR-related rules in Part 19 of the NGR	1 May 2024
Short term trading market	Part 20 of the NGR and related changes in Parts 15A and 15B	3 March 2025
Declared wholesale gas market including changes for market transparency	Part 19 of the NGR (excluding VGPR changes) and related changes in Parts 15A and 15B	1 May 2024
Consumer protections	Parts 2 and new 8B, Schedule 1 of the NERR	Nine months after the amending rule is made for all amendments
Consequential amendments	Parts 21 to 26 of the NGR	When the Minister makes the NGR amending rule

The Commission has also considered the need for transitional and savings rules. Its specific recommendations are included in each chapter of the report.

ABBREVIATIONS

AA	access arrangement
ACCC	Australian Competition & Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AGIG	Australian Gas Infrastructure Group
APGA	Australian Pipelines and Gas Association
ARENA	Australian Renewable Energy Agency
BB	Bulletin Board
Commission	See AEMC
CTP	custody transfer point
DDS	declared distribution system
DTS	declared transmission system
DTS SP	declared transmission system service provider
DWGM	Declared Wholesale Gas Market
ERA	Economic Regulation Authority
ESC	Essential Services Commission
GJ	gigajoule
GSOO	Gas Statement of Opportunities
LNG	liquefied natural gas
MIRN	Meter Installation registration Number
MJ	megajoule
MJ/h	megajoule-hour
MOS	market operator services
NERL	National Energy Retail Law
NERO	national energy retail objective
NERR	National Energy Retail Rules
NGE	natural gas equivalent
NGL	National Gas Law
NGO	national gas objective
NGR	National Gas Rules
RMP	Retail Market Procedures
STTM	Short Term Trading Market
TJ	terajoule
UAFG	unaccounted for gas
VGPR	Victorian Gas Planning Report

A ASSESSMENT FRAMEWORK

The terms of reference from Energy Ministers are made under the NGL and the NERL and specify the purpose of the review is for the AEMC to:¹⁰³

advise Energy Ministers on the initial rules required in the national gas and retail regulatory frameworks to accommodate low level hydrogen blends and renewable gases, and advise on any changes to the law required to enable these rules.

This appendix outlines the:

- decision-making framework the Commission must apply to determine whether the draft recommended rules contribute to the NGO and the NERO
- assessment framework.

A.1 Achieving the NGO and NERO

In light of the purpose of this review, the Commission's advice to Energy Ministers reflects its considerations of what amendments to the NGR and NERR should be made to achieve the Energy Ministers' objective but also be consistent with achieving the relevant energy objectives.

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)¹⁰⁴ and the national energy retail objective (NERO).¹⁰⁵

The NGO is:¹⁰⁶

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 NERO is:¹⁰⁷

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

In relation to the NERO, the Commission must also, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the "consumer protections test").¹⁰⁸

103 Energy Ministers, terms of reference, 24 August 2021, p. 3.

104 Section 291(1) of the NGL.

105 Section 236(1) of the NERL.

106 Section 23 of the NGL.

107 Section 13 of the NERL.

108 Section 236(2)(b) of the NERL.

Where the consumer protections test is relevant in the making of a rule, the Commission must be satisfied that both the NERO test and the consumer protections test have been met.¹⁰⁹ If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made.

There may be some overlap in the application of the two tests. For example, a rule that provides a new protection for small customers may also, but will not necessarily, promote the NERO.

A.2 Assessment framework

To determine whether the review's recommendations would be likely to promote the NGER and the NERO, the Commission has carried out its assessment against the framework outlined below.

The assessment framework includes the following criteria:

- **Efficiency:** By expanding an existing market to cover new services and commodities that could not otherwise be priced or traded within the gas market, do the changes being considered encourage the delivery of a new service or commodity and thereby encourage:
 - Allocative efficiency — do the changes being considered enable market prices which facilitate the allocation of gas, including natural gas equivalents, to their highest valued uses.
 - Productive efficiency — do the changes being considered enable operational signals to facilitate dispatch of the least-cost mix of gas supply, including natural gas equivalents, to meet demand.
 - Dynamic efficiency — do the changes being considered minimise barriers to entry and promote efficient investment in the gas market, including investment in production and storage facilities as well as investment in the distribution and transmission systems to meet gas demand over time.
- **Innovation:** whether the proposed changes facilitate innovation in the development of gas production, storage, transmission and distribution facilities and in the provision of gas services to end users.
- **Implementation considerations:** Are the proposed changes targeted, fit for purpose and proportionate to the issues they are intended to address. Do the proposed changes provide the stability and transparency in regulatory arrangements to enable consumers, market participants and investors to make efficient decisions. Consideration will be given to existing and prospective production facilities and the impact of any changes recommended on their actual and planned operations. Consideration of implementation factors will include considering whether and how future production facilities can be incorporated into the existing market design without introducing excessive complexity.

¹⁰⁹ That is, the legal tests set out in s. 236(1) and (2)(b) of the NERL.

- **Decarbonisation:** Whether market arrangements will enable the decarbonisation of the energy market.
- **Quality, safety, reliability and security of supply of natural gas:** Whether the changes provide a clear allocation of roles and responsibilities in relation to the quality and safety of supply of natural gas equivalents to consumers.
- **Consumer protections:** Whether changes being considered under the review are compatible with the development and application of consumer protections for small customers, including, but not limited to protections relating to hardship customers. Whether the changes being considered allow for additional protections for the supply of natural gas equivalents.

B CONSEQUENTIAL RULE CHANGES REQUIRED

Beyond the recommended final rules specific to the focus areas of the review that have been outlined in this final rules report, there are also consequential changes required to the NGR and NERR to extend the national gas regulatory frameworks to other covered gases. Table B.1 outlines these consequential changes.

Table B.1: Consequential changes to the NGR and NERR

PART	CHANGES
NGR Part 1: Preliminary	References to 'natural gas' would be changed to 'covered gas'. This would ensure all the definitions extend to all covered gas. Where relevant, a Part will have its own definition of 'gas'.
NGR Part 4: Regulatory determinations and elections	References to 'natural gas' would be changed to 'covered gas'. Rule 25 would be amended by requiring an application for a greenfield incentive determination to include, where relevant, an estimate of the feedstock used to create a primary gas (other than natural gas) at any upstream location to be served by the pipeline and an estimate of the rate of production from that location. This mirrors the existing requirement for applications to include information on natural gas reserves and rate of production from upstream locations.
NGR Part 5: Ring fencing	References to 'natural gas services' would be changed to 'covered gas services'.
NGR Part 8: Access arrangements for scheme pipelines	References to 'natural gas' would be changed to 'covered gas'.
NGR Part 10: Prescribed transparency information	References to 'natural gas' would be changed to 'gas' and 'gas' would be defined as covered gas. The reference to the Natural Gas Services Bulletin Board would be changed to 'Gas Bulletin Board'.
NGR Part 11: Access negotiation framework	'Gas' would be defined as covered gas.
NGR Part 12A: Gas connection for retail customers	References to 'natural gas' would be changed to 'gas' and 'gas' would be defined as covered gas.
NGR Part 15A: Registered participants	In Division 1, all references to 'natural gas' would be changed to gas and would be given: <ul style="list-style-type: none"> in rule 135A, the meaning in Part 19; in rule 135ABA, the meaning in Part 20.

PART	CHANGES
	<p>The definition of 'blend processing facility' and 'blend processing service provider' in new 135A(2), added by the DWGM rule change, would be removed, since the NGL term would apply once the NGL is amended.</p> <p>The reference to the Natural Gas Services Bulletin Board in rule 135CF would be changed to 'Gas Bulletin Board'.</p> <p>The reference to 'natural gas' in rule 135D would be changed to 'gas'.</p>
<p>NGR Part 15B: Procedures</p>	<p>All references to 'natural gas' would be changed to 'gas'.</p> <p>The references to the Natural Gas Services Bulletin Board in rule 135EA(3) would be changed to 'Gas Bulletin Board'.</p>
<p>NGR Part 15C: Dispute resolution</p>	<p>Rule 135G(2)(c) (which currently refers to the natural gas industry) would be amended to refer to 'the relevant parts of the covered gas industry'.</p>
<p>NGR Part 15D: Gas statement of opportunities</p>	<p>Except where the reference is to natural gas reserves or to natural gas being used for LNG, references to 'natural gas' would be changed to gas and would be defined as covered gas.</p>
<p>NGR Part 15E: Trial waivers, trial Rules and trial Projects</p>	<p>In rule 135MB(2) and 135N(1)(j), the reference to AEMO's 'operation and administration of markets for natural gas' would be amended to refer to AEMO's operation and administration of 'wholesale or retail gas markets'.</p> <p>Otherwise, references to 'natural gas' would be changed to 'covered gas'.</p>
<p>NGR Part 16: Confidential information</p>	<p>In rule 136, references to 'natural gas' would change to 'covered gas'.</p>
<p>NGR Part 17: Miscellaneous provisions relating to the AER</p>	<p>Except where the reference is to natural gas reserves or to natural gas being used for LNG, references to 'natural gas' would be changed to 'gas' and would be defined as covered gas.</p>
<p>NGR Part 18: Natural Gas Bulletin Board</p>	<p>Except where the reference is to natural gas reserves or to natural gas being used for LNG, references to 'natural gas' would be changed to 'gas'. Gas would mean any covered gas.</p> <p>The reference to the 'Natural Gas Services Bulletin Board' in the Bulletin Board definition in rule 141 would be changed to 'Gas Bulletin Board'.</p> <p>The references to the 'natural gas industry', 'natural gas services' and 'natural gas industry facility' in the Part would be replaced with 'covered gas industry', 'covered gas services' and 'covered gas industry facility'.</p>

PART	CHANGES
NGR Part 18A: Compression and storage terms and prices	<p>The name of the Part would be changed to 'Non-pipeline infrastructure access terms and prices'.</p> <p>References to natural gas would be changed to 'gas' and defined as covered gas.</p>
NGR Part 19: DWGM	<p>The definition of 'gas production facility' in rule 200 would be amended to extend it to any gas processing plant including a biogas processing plant (that is, a plant processing biogas to produce biomethane) and any primary gas production plant.</p> <p>The definition of 'gas' would be amended so it includes 'any covered gas and processable gas'.</p>
NGR Part 20: STTM	<p>References to 'natural gas' would be replaced with 'gas' and gas would mean 'any covered gas'.</p>
NGR Part 24: Facilitating capacity trades and the capacity auction	<p>References to natural gas in this Part would not be amended, but a new definition of natural gas would be added in rule 593 to give it an extended meaning, to include a gas blend that is suitable for consumption as natural gas. The purpose of the change is to avoid doubt about whether Part 24 applies to a facility where a methane-based gas is blended with natural gas.</p> <p>The definition of 'Part 24 facility' would be limited to facilities providing services in relation to natural gas.</p> <p>The references to the 'Natural Gas Services Bulletin Board' in the defined term 'publish' in rule 593 and in rule 629 would be changed to 'Gas Bulletin Board'.</p>
NGR Part 25: Capacity auction	<p>References to 'natural gas' or 'natural gas industry' in this Part would not be amended, but a new definition of natural gas would be added in rule 647 to give it an extended meaning, to include a gas blend that is suitable for consumption as natural gas. The purpose of the change is to avoid doubt about whether Part 25 applies to a facility where a methane-based gas is blended with natural gas.</p> <p>The definition of 'auction facility' would be limited to facilities providing services in relation to natural gas (under the extended meaning).</p>
NGR Part 26: Standard market timetable	<p>The term 'natural gas facility' would be changed to 'covered gas facility' and would be expanded to include a blend processing facility and would be used in place of 'natural gas facility' in the Part.</p> <p>In 'gas storage facility', the reference to 'natural gas' would be replaced with 'covered gas'.</p> <p>The defined term 'production facility', would be replaced with a new term that covers any gas processing plant (including a biogas</p>

PART	CHANGES
	<p>processing plant) and any primary gas production plant and their respective associated facilities.</p> <p>In the term 'renomination', the phrase 'for the use of transportation capacity' would be deleted to reflect the extended meaning of 'covered gas facility'.</p> <p>Other references to 'natural gas' would be replaced with 'covered gas'.</p> <p>In rule 677(2)(b), the words 'the points' would be added before 'at or between' to correct an existing error.</p>
NERR Part 13: Trial waivers, trial Rules and trial projects	References to natural gas would be changed to 'gas'.

C CIVIL AND CONDUCT PROVISIONS

C.1 Civil penalty provisions

The Commission cannot create new civil penalty provisions. However, it may recommend to the Energy Ministers Meeting that new or existing provisions of the NGR and NERR be classified as civil penalty provisions. In considering the classification of recommended civil penalty provisions, the Commission has consulted with the AER, ERA and AEMO.

Table C.1 outlines the recommended new civil penalty provisions in the NGR and Table C.2 outlines the recommended new civil penalty provisions in the NERR.

Table C.1: Recommended new civil penalty provisions in the NGR

RULE	DESCRIPTION OF RECOMMENDED CIVIL PENALTY PROVISION	PROPOSED TIER AND RATIONALE
Part 5, rule 32A(1)	This subrule requires a service provider to give the AER advance notice of entry into, or variation of, specified associate contracts.	A tier 2 civil penalty provision is proposed for alignment with the existing classification of rule 33 relating to the notification of entry into associate contracts.
Part 5, rule 34(6)	This subrule requires a service provider that has been granted an exemption from the minimum ring fencing requirements to notify the AER without delay if circumstances change such that the service provider no longer qualifies for the exemption	A tier 1 civil penalty provision is proposed as a breach may result (indirectly) in consumer harm through competition impacts if ring fencing is not appropriate. Breaches can also be considered as inappropriate market participant behaviour.
Part 5, rule 35(2)	This subrule requires a service provider granted an exemption from the minimum ring fencing requirements to comply with any conditions imposed on that exemption.	A tier 1 civil penalty provision is proposed as a breach may result (indirectly) in consumer harm through competition impacts if ring fencing is not appropriate. Breaches can also be considered as inappropriate market participant behaviour.
Schedule 6, Part 4, subrule 3(2)	This subrule requires specific persons to apply to AEMO to register under the new Part 18 as the Bulletin Board reporting entity for the relevant facility no later than 20 business days after the Part 18 effective date.	Tier 1 is proposed because this is consistent with the tier applicable to the obligation to register in Part 18 and with the approach taken in the Minister-made rules for the transparency reforms.

Table C.2: Recommended new civil penalty provisions in the NERR

RULE	DESCRIPTION OF RECOMMENDED CIVIL PENALTY PROVISION	PROPOSED TIER AND RATIONALE
New Part 8B, rule 147D(1)	This subrule requires distributors to notify customers in writing prior to a change of gas type in a distribution system or part of a distribution system.	A tier 3 civil penalty provision is proposed because the subrule imposes requirements relating to the provision of notices or information to customers.
New Part 8B, rule 147F	This rule requires distributors to publish information on the type of gas that may be supplied and, if there is a change of gas type that may be supplied, the transition date.	A tier 3 civil penalty provision is proposed because the rule imposes requirements relating to the provision of notices or information to customers.

Table C.3 outlines existing civil penalty provisions in the NGR that are amended in the recommended final rules. The Commission recommends that the current classifications for these rules remain unchanged. No existing civil penalty provisions in the NERR have been amended in the recommended final rules.

Table C.3: Existing civil penalty provisions in the NGR to be amended

RULE	DESCRIPTION OF CHANGE	DESCRIPTION OF RULE	CLASSIFICATION
Part 5, rule 33(1)	Amended to require the relevant service provider to provide specified information on the contract when notifying the regulator of contracts or variations.	This subrule requires a service provider who has entered into or varied an associate contract to provide the contract to the AER.	Tier 2
Part 18, rule 150(2)	Amended to substitute term natural gas industry with covered gas industry facility.	This subrule requires a facility operator to apply to AEMO to register as the BB reporting entity for a BB facility for which it is or intends to be an operator.	Tier 1 (when the Minister-made transparency rules come into effect)
Part 20, rule 399(2)	Amended, substitute term natural gas with gas.	This subrule requires a STTM Shipper to not submit a MOS increase or decrease offer unless it is entitled under a registered trading right to increase or decrease the	Tier 1

RULE	DESCRIPTION OF CHANGE	DESCRIPTION OF RULE	CLASSIFICATION
		quantity of gas supplied to or withdrawn from a hub.	
Part 20, rule 410(1)	Amended, substitute term natural gas with gas.	This subrule requires a Trading Participant to submit to AEMO in good faith ex ante offers, ex ante bids or price taker bids (and any variations) for that gas day, to reflect the estimate of the quantities of gas the Trading Participant expects to supply or withdraw.	Tier 1
Part 20, rule 414(1)	Amended to insert at start of paragraph the words 'subject to subrule (4)' and substitute term natural gas with gas.	This subrule requires an STTM facility operator to notify AEMO of the quantity of gas which it expects the facility will be able to deliver to the relevant hub on different gas days.	Tier 1
Part 20, rule 418(3)	Amended to provide greater clarity on location of gas supply i.e. at a custody transfer point.	This subrule requires a STTM Shipper to ensure gas supplied by it to a hub at a custody transfer point complies with quality specifications unless there has been an agreement in writing with the STTM Distributor to supply that gas or the Shipper is authorised under law.	Tier 1
Part 20, rule 288(10)	Amended, substitute term natural gas with gas.	This subrule requires a STTM User to undertake certain actions such as cease to withdraw gas from the STTM distribution system, if AEMO issues a suspension notice, no later than 10 business days after the commencement of the gas day from which the suspension takes effect.	Tier 1

C.2 Conduct provisions

The Commission cannot create new conduct provisions. However, it may recommend to the Energy Ministers Meeting that new or existing provisions of the NGR be classified as conduct provisions. In considering the classification of recommended conduct provisions, the Commission has consulted with the AER, ERA and AEMO.

The Commission recommends that a new subrule 32A(1) in Part 5 of the NGR be classified as a conduct provision. This subrule requires a service provider to give the AER advance notice of entry into, or variation of, specified associate contracts. The classification is proposed for alignment with the existing civil penalty classification of rule 33 of the NGR relating to the notification of entry into associate contracts.

The Commission recommends amendments to the existing conduct provisions listed below (Table C.4) and recommends retaining their current classifications.

Table C.4: Existing conduct provisions in the NGR to be amended

RULE	DESCRIPTION OF RECOMMENDED CONDUCT PROVISION
33(1)	Amended to insert new subrules (1)(b) and (1)(c).
165(1)	Amended, substituted in the note the term natural gas industry to covered gas industry.
399(2)	Amended, substitute the term natural gas with gas.
410(1)	Amended, substitute the term natural gas with gas.
418(4)	Amended, substitute the term natural gas with gas.
452(6)	Amended, substitute the term natural gas with gas.
488(10)	Amended, substitute the term natural gas with gas.

D RECOMMENDED FINAL RULES

RECOMMENDATION 1: FINAL RULE — CLARIFY THE RIGHT TO CONNECT TO A PIPELINE AND CONNECTION COST RECOVERY FOR SERVICE PROVIDERS

Amend the interconnection rules in the new Part 6 of the NGR that will be implemented through the pipeline reforms to:

- state that a person will only have a right to connect a facility to a pipeline where the connection is consistent with the safe and reliable supply of gas to end users (recommended final rule 37(a))
- enable a service provider (where it has developed an interconnection or part of an interconnection and gas will be injected at the interconnection point), to recover as part of its interconnection fee the directly attributable cost of metering and monitoring the quality of the gas injected by the connecting facility (recommended final rule 38(3)(b)).

Amend the access negotiation framework rules in Part 11 of the NGR to:

- clarify that further investigations relating to interconnections can relate to the safe and reliable supply of gas to end users (recommended final rule 105A(1))
- recognise that a service provider does not have to make an access offer in relation to an interconnection that would be inconsistent with the safe and reliable supply of gas to end users (recommended final rule 105D(4)(b)).

Amend the access dispute provisions in Part 12 of the NGR to recognise the ability of the dispute resolution body not to make an access determination that would require an interconnection that is inconsistent with the safe and reliable supply of gas to end users (recommended final rule 113V(5)(c)).

RECOMMENDATION 2: FINAL RULE — REQUIRE PUBLICATION OF INFORMATION ON COVERED GAS SUPPLIER CONNECTIONS

Amend the pipeline information provisions in Part 10 of the NGR (recommended final rules 101B(2)(b)(ii) and 101B(2)(c)(iii)) to require all pipeline service providers to publish on their website the following details of each covered gas supply facility that is connected to the pipeline:

- the location of the facility
- the type of the facility
- the type of gas or gas blend injected into the pipeline by the facility
- the gas specification that applies at the receipt point at which the facility is connected.

RECOMMENDATION 3: FINAL TRANSITIONAL RULE — PUBLICATION OF INFORMATION ON COVERED GAS SUPPLIER CONNECTIONS

Specify in the schedule of amending rules that the obligation to report on covered gas supplier connections does not commence until two months after the rules are made.

RECOMMENDATION 4: FINAL RULE — REQUIRE SERVICE PROVIDERS TO PUBLISH SUPPLIER CURTAILMENT METHODOLOGY

Amend the NGR to:

- include a definition of supplier curtailment methodology in Part 1 of the NGR (see recommended final rule 3(1)). This definition will be expanded relative to the draft rule to include injections at any receipt point (including injections from transmission pipelines).
- require service providers to publish the supplier curtailment methodology on their website, with this methodology to form part of 'pipeline information' for the purposes of Part 10 of the NGR (see recommended final rule 101B(2)(f)).

RECOMMENDATION 5: FINAL RULE — INCLUDE SUPPLIER CURTAILMENT METHODOLOGY IN AN ACCESS ARRANGEMENT

Amend the access arrangement provisions in Part 8 of the NGR to require scheme pipeline service providers to include their supplier curtailment methodology in the access arrangement, so that it is subject to review by the regulator (see recommended final rule 48(1)).

RECOMMENDATION 6: FINAL TRANSITIONAL RULE — SUPPLIER CURTAILMENT METHODOLOGIES

Specify in the schedule of amending rules that the obligation to publish the supplier curtailment methodology under Part 10 of the NGR does not commence until two months after the rules are made.

Insert transitional rules (recommended final transitional rule Schedule 6, Part 3) that states that the new rule 48(1) does not:

- apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.

- require a service provider to seek a variation of its access arrangement during an access arrangement period that commenced prior to the commencement date.

RECOMMENDATION 7: FINAL RULE — REQUIRE SERVICE PROVIDERS TO REPORT ON GAS TYPES AND CHANGES

Amend rule 100A of the NGR to define blending limit as a limitation or set of limitations, which may vary according to circumstance, on the proportion of a primary gas that the service provider allows to form part of the gas blend, whether for operational, compliance or other reasons.

Amend the pipeline information provisions in Part 10 of the NGR to require service providers to include the following on their website (recommended rule 101B(2)):

- (a) the type of gas the pipeline is transporting
- (b) if a gas blend is being transported and the pipeline is subject to or applies a blending limit, that blending limit
- (c) the following if the service provider is aware that the type of gas transported through the pipeline is going to change in the future:
 - the new type of covered gas that will be transported through the pipeline
 - the date on which the change of gas type is expected to occur, and if the change will be for a fixed time period, the end date of that period
 - information about whether the new type of gas will be transported between all receipt points and delivery points on the pipeline or only a subset of points
 - if the new type of gas will only be transported between a subset of points, an indicative map that shows the location of delivery points that could be supplied with the gas
 - information about whether the service provider has received approval from any jurisdictional safety and technical regulator to change the type of gas transported
 - if the type of gas transported through the pipeline is going to change on an on-going basis, information about whether the change is being made to comply with a regulatory obligation or requirement.

Amend the access arrangement and access arrangement information provisions in Part 8 of the NGR to require scheme pipeline service providers to include:

- the information referred to in (a) and (b) above in their access arrangement (recommended rule 48(1)(a1))
- the information referred to in (c) above in their access arrangement information, which could also be provided by way of a website link (recommended rule 72(1)(o)).

Amend the gas pipeline register provisions in Part 15 of the NGR to require the information in

(a)-(c) to be included in the gas pipeline register (recommended rule 133(3)).

RECOMMENDATION 8: FINAL TRANSITIONAL RULE — OBLIGATION TO REPORT ON GAS TYPE AND CHANGES

Specify in the schedule of amending rules that a service provider's obligation to report on its website the information on gas type and changes set out in recommended draft rule 101B(2) does not commence until two months after the rules are made.

RECOMMENDATION 9: FINAL RULE — AMEND ARBITRATION PRICING PRINCIPLES APPLYING TO NON-SCHEME PIPELINES

Amend the arbitration pricing principles applying to non-scheme pipelines to allow regulatory obligations and requirements to be considered by:

- including a new limb in the pricing principles stating that the price of access to a non-scheme pipeline should reflect the cost of providing that service, including the cost the service provider incurs in complying with a regulatory obligation or requirement (recommended final rule 113Z(4)(ii))
- including a definition for regulatory obligation or requirement in Part 1 of the NGR, which largely mirrors the definition in the NGL with amendments to remove those parts of the NGL definition that are specific to scheme pipelines (recommended final rule 3(1A)).

RECOMMENDATION 10: FINAL RULE — REGULATORY TREATMENT OF GOVERNMENT GRANTS PROVIDED DIRECTLY TO A SERVICE PROVIDER

Amend rule 82 of the NGR to recognise that a service provider may receive a capital contribution towards its capital expenditure from parties other than a user, which would then allow the regulator to treat it as a capital contribution (recommended draft rule 82(1)-82(3))

RECOMMENDATION 11: FINAL TRANSITIONAL RULE — GOVERNMENT GRANTS

Insert a transitional rule (recommended final transitional rule in Schedule 6, Part 3 (3)) that states that the new rule 82 does not apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.

RECOMMENDATION 12: FINAL RULE — REGULATORY TREATMENT OF CONCESSIONAL FINANCE

Amend rule 82 of the NGR to:

- Define government contribution to include in relation to the service provider, concessional finance and in relation to a related body corporate of the service provider, concessional finance or a grant (recommended rule 82(9)(a)). Also define:
 - Concessional finance to be a below market rate finance provided for the purpose of capital expenditure by the service provider, or for that and other purposes (recommended rule 82(9)(b)).
 - Grant to be sum of money provided for the purposes of capital expenditure by the service provider or for that and other purposes (recommended rule 82(9)(c)).
- Require a service provider to inform the regulator if it or another entity receives a government contribution from a government funding body (recommended rule 82(4)).
- Require the regulator to:
 - consult with the service provider, the government funding body and, if relevant, the entity that received the government contribution if it is informed by that a government contribution has been received (recommended rule 82(5))
 - seek submissions or comments from the government funding body on whether it intended some or all of the government contribution to be treated as a capital contribution and, if so, what proportion should be treated in this way (recommended rule 82(6))
 - treat some or all of the value of the government contribution as a capital contribution if it is satisfied that this was the government funding body's intention and determine the value that is to be treated as a capital contribution (recommended rule 82(7))
 - have regard to the information provided by the service provider, government funding body and, if relevant, the entity that received the government contribution, and any other information it considers relevant.
- Amend rule 72(1) to require the access arrangement information to include the information in rule 82(4) if a government contribution has been received.

RECOMMENDATION 13: FINAL TRANSITIONAL RULE — CONCESSIONAL FINANCE

Insert a transitional rule (recommended transitional rule in Schedule 6, Part 3) that states that the new rule 82 does not apply to an access arrangement for which the regulator has made an access arrangement draft decision before the commencement date.

RECOMMENDATION 14: FINAL RULE — CLARIFY THE INTENDED OPERATION OF THE EXEMPTION CRITERION

Amend the exemption criterion that apply to exemptions from minimum ring fencing requirements (recommended final rule 34(3)(c)) to state that:

- the service provider has, by arrangement with the AER, established internal controls that substantially replicate the controls that would apply to associate contracts if the related business was carried on by an associate of the service provider and sections 147 and 148 of the NGL applied.

RECOMMENDATION 15: FINAL RULE — ALLOW FOR CONDITIONS ON EXEMPTIONS AND ASSOCIATED CHANGES

Amend the ring fencing provisions in Part 6 of the NGR to:

- require the regulator to consider whether to impose any conditions when granting an exemption from the minimum ring fencing requirements (recommended final rule 35(1))
- require a service provider to comply with any conditions of an exemption (recommended final rule 35(2))
- require a service provider that has been granted an exemption to notify the regulator without delay if it no longer qualifies for the exemption (recommended final rule 34(6))
- require the regulator to revoke exemptions from the minimum ring fencing requirements if, in its reasonable opinion, the exemption criteria are no longer satisfied (recommended final rule 35A(1))
- empower the regulator to vary any conditions it has imposed on an exemption from the minimum ring fencing requirement (recommended final rule 35(3)).

RECOMMENDATION 16: FINAL RULE — TRANSPARENCY OF RING FENCING DECISIONS

Amend the NGR to require:

- the regulator to maintain a register of ring fencing decisions (including exemption decisions, decisions not to grant exemptions, ring fencing determinations, variation and revocation decisions) (recommended final rule 35E)
- ring fencing decisions to be included on the AEMC's pipeline register (recommended final rule 133(4)).

RECOMMENDATION 17: FINAL RULE — ALLOW A SIMPLER CONSULTATION PROCESS FOR MINOR MISTAKES, OMISSIONS & DEFECTS

Amend the ring fencing provisions in Part 5 of the NGR to include a new rule (recommended final rule 35F) that:

- allows the AER to employ a simpler consultation process for variations or revocations of minimum ring fencing exemptions and additional ring fencing requirements if the decision is affected by a material error or deficiency of one or more of the following kinds:
 - a clerical mistake or an accidental slip or omission
 - a miscalculation or misdescription
 - a defect in form
- specifies that in these instances, the AER can vary or revoke a decision following consultation with the relevant service provider and any other persons with whom it considers consultation appropriate.

RECOMMENDATION 18: FINAL TRANSITIONAL RULE — MINIMUM RING FENCING REQUIREMENTS TRANSITIONAL EXEMPTIONS

Amend Schedule 6 Part 2 of the NGR to:

- provide designated entities (ATCO, AGIG and Jemena) with an exemption from the specified minimum ring fencing requirements for the transition period (i.e. the earlier of the end of the trial and 30 November 2026) in relation to the designated trial project (i.e. ATCO's Clean Energy Innovation Hub, Hydrogen Refueller Station and hydrogen blending trial project, AGIG's HyP SA and HyP Gladstone projects, Jemena's Western Sydney Green Gas Project)
- subject the exemption to the conditions that the designated entity:
 - establish internal controls that substantially replicate the controls that would apply to associate contracts if the related business carried on by the designated entity was carried on by an associate of the designated entity and provide details of the internal controls to the regulator
 - maintain separate accounts for the designated trial projects
 - provide these accounts to the regulator annually, along with the methodology used to allocate costs to the designated trial projects.
- specify the conditions relating to establishing internal controls and maintaining separate accounts must be complied with within three months after the commencement date and the requirement to provide accounts to the regulator annually must be complied with within 15 months after the commencement date.

- clarify that the exemption should not be taken to mean that a related business carried on by the designated entities is a pipeline service.

RECOMMENDATION 19: FINAL RULE — AMEND THE ASSOCIATE CONTRACT NOTIFICATION REQUIREMENTS

Amend the associate contract provisions in Division 2 of Part 5 of the NGR to:

- introduce an advance notice requirement (recommended final rule 32A) that requires a service provider that is proposing to enter into an associate contract (or variation) that meets the following criteria (referred to in the recommended final rule as “specified associate contracts”) to notify the regulator 20 days prior to entering into the contract (or variation):
 - the associate contract (or variation) is between the service provider and an associate that carries on a related business (as that term is defined in the NGL)
 - the price and conditions of access that would apply to the associate would not be based on the standing terms published by the service provider under rule 101C.
- As part of the notification, a service provider would be required to provide the regulator with “associate contract information” (recommended final rule 31), being:
 - a description of the relationship of the associate to the service provider
 - a description of the business operated by the associate
 - a description of the key terms of the proposed contract (or variation) or the form of the proposed contract (or variation)
 - an explanation as to why the contract (or variation) does not breach NGL prohibitions.
- Advance notice would not be required where a service provider has sought regulatory approval for the proposed contract (see recommended final rule 31, definition of “excluded contract”).

Amend the post-notification requirements to require a service provider to provide the regulator with the same type of information provided in respect of contracts for which advance notice is provided, or approval sought. If a service provider has sought pre-approval of an associate contract or provided advance notice of the contract (or variation), the service provider may provide a statement describing any changes in the information that has previously been provided (recommended final rule 33(1)(c)).

RECOMMENDATION 20: FINAL TRANSITIONAL RULE — ASSOCIATE CONTRACT NOTIFICATION TRANSITIONAL RULES

Specify in the schedule of amending rules that recommended final rule 32A does not commence until 20 business days after the rule is made.

RECOMMENDATION 21: FINAL RULE — AMEND THE ASSOCIATE CONTRACT APPROVAL PROCESS

Amend the associate contract approval process provisions to:

- require service providers that apply to have an associate contract or variation approved, to include in the application a statement setting out the reasons that (recommended final rule 32(1A) and (1B)):
 - the contract or variation does not breach the NGL prohibitions, or
 - if the contract or variation would breach the NGL prohibitions, that the public benefits would outweigh the public detriment.
- require the regulator to consult using the standard consultative procedure if it is considering making a decision to approve a contract that breaches the NGL prohibitions (recommended final rule 32(3A))
- for contracts other than those specified above:
 - only require the regulator to approve an associate contract if the service provider has demonstrated to the regulator's reasonable satisfaction that it will not breach the NGL prohibitions (recommended final rule 32(2))
 - extend the decision making timeframe to 40 business days and include a stop-the-clock provision that can be triggered if the regulator seeks further information (recommended final rule 32(6)).

Include a new rule that requires the regulator to publish a guide that sets out the process to be followed and the information to be provided by a service provider for any ring fencing and associate contract related decisions made under the NGR (recommended final rule 35D).

RECOMMENDATION 22: FINAL RULE — TRANSPARENCY OF ASSOCIATE CONTRACT APPROVAL DECISIONS

Amend the NGR to require:

- the regulator to publish associate contract decisions (including approval decisions, decisions not to approve, variation and revocation decisions) (recommended final rule 35E)

- associate contract decisions to be included on the AEMC's pipeline register (recommended final rule 133(4)).

RECOMMENDATION 23: FINAL TRANSITIONAL RULE — ASSOCIATE CONTRACT APPROVAL

Include transitional rules in the NGR that:

- exclude from the operation of amended rule 32 applications for approval of associate contracts made by a service provider prior to the commencement of the new rules (recommended final transitional rule Schedule 6, Part 1, rule 2)
- require the regulator to publish the ring fencing decision guide within eight months of the commencement of the rules (recommended final transitional rule Schedule 6, Part 1, rule 3)
- exclude associate contract decisions made before the commencement date from the publication requirements in recommended final rules 35E and 133(4) (recommended final transitional rule Schedule 6, Part 1, rule 4).

RECOMMENDATION 24: FINAL RULE — EXTEND THE GSOO TO OTHER COVERED GASES

Amend Part 15D of the NGR to:

- define the gases that will be subject to the GSOO (i.e. all covered gases) and recognise the expanded scope of the GSOO by replacing the terms 'natural gas' and 'natural gas industry' with 'covered gas' and 'covered gas industry' (recommended final rules 135K and 135KE)
- exclude remote BB facilities from the scope of the GSOO (recommended final rules 135K and 135KA)
- include a new definition for the term 'gas processing plant' to make clear that it extends to facilities producing primary gases (recommended final rule 135K)
- define gas blend processing to cover only blending (and not deblending) (recommended final rule 135K)
- require the GSOO to include the following information on gas blend processing (recommended final rule 135KB):
 - blend processing forecasts
 - the volume of gas blend processing contracted in each year of forecast horizon
 - annual and peak day capacity of, and constraints on, blend processing facilities

- committed and proposed, new or expanded blend processing facilities
- factors that may affect the volume of gas supplied by blend processing facilities.
- allow, but not require, the GSOO to include information on the feedstock used to create primary gases (excluding natural gas) and the factors that may affect the availability of that feedstock (recommended final rule 135KB(2A)).

RECOMMENDATION 25: FINAL RULE — ENABLE AEMO TO USE INFORMATION FROM THE GSOO SURVEY FOR VGPR AND VICE VERSA

Amend Parts 15D and 19 of the NGR to allow AEMO to use information for either purpose by:

- amending the use and disclosure of GSOO survey information rule in Part 15D to allow AEMO to use any information it obtains through this survey for the purposes of the VGPR (recommended final rule 135KH(1A))
- amending the use and disclosure of VGPR information in Part 19 to allow AEMO to use any information it obtains for the VGPR for the purposes of the GSOO (recommended final rule 324(8)).

RECOMMENDATION 26: FINAL TRANSITIONAL RULE — GSOO AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the new GSOO rules in Part 15D is 31 July 2024.

Insert transitional rules (recommended final transitional rule Schedule 6, Part 4) that:

- require AEMO to review and where necessary, amend and publish the GSOO Procedures to take into account the amending rule by that effective date
- require the GSOO procedures to take effect on and from that effective date
- allow consultation undertaken by AEMO before that effective date to be taken to satisfy the consultation requirements in Part 15B of the NGR.

RECOMMENDATION 27: FINAL RULE — EXTEND THE VGPR TO OTHER COVERED GASES

Amend Part 19 and 15B of the NGR to extend the VGPR to other covered gases by:

- specifying the gases to be captured by the VGPR (i.e. natural gas, processable gas and other covered gases) (recommended final rule 200)
- requiring the VGPR to include forecasts in respect of blend processing facility capacities by facility (recommended final rule 323(3)(h))
- requiring AEMO to take into account for the VGPR committed projects for new or additional blend processing facilities (recommended final rule 323(4))
- requiring the registration of the operators of DTS connected blend processing facilities (recommended final rules 135A and 200) and treating the blend processing service provider as a DWGM facility operator (recommended final rule 200)
- requiring blend processing facility operators to provide AEMO with information on:
 - blend processing capacities (recommended final rule 324(2)(e))
 - blend processing facility projects (including expansions) (recommended final rule 324(2)(c)).

RECOMMENDATION 28: FINAL RULE — ENABLE AEMO TO COLLECT VGPR INFORMATION FROM PARTIES NOT REGISTERED IN THE DWGM

Amend Part 19 and Part 15B of the NGR to:

- allow AEMO to collect information for the VGPR from persons that are not DWGM registered participants (recommended final rule 324A)
- require any information that AEMO intends to collect using this power and who it intends to collect the information from to be set out in the wholesale market procedures (recommended final rules 324A and 135EA(2)).

RECOMMENDATION 29: FINAL RULE — EXTEND THE BULLETIN BOARD TO OTHER COVERED GASES

Extend the Bulletin Board by making the following changes to the NGR:

- replace the term 'Natural Gas Services Bulletin Board' with 'Gas Bulletin Board' in the title of Part 18 and throughout other Parts of the NGR where the term is used
- recognise the extended scope of the Gas Bulletin Board under the NGL by replacing the terms 'natural gas services', 'natural gas industry' and 'natural gas industry facilities' with 'covered gas services', 'covered gas industry' and 'covered gas industry facilities' in Part 18 (recommended final rules 141(1), 145, 150(2) and 165)

- extend the application of Part 18 to other covered gases by defining 'gas' to mean any covered gas and using the term 'gas' in place of 'natural gas' except where referring to LNG (recommended final rule 141(1))
- add a new term 'compression service point' and use it in 'compression delivery point' and 'compression receipt point' in order to remove the link to the defined terms in Part 25 (which will remain linked to natural gas only) (recommended final rule 141(1))
- amend 'BB production facility' so that it is clear it applies to facilities producing hydrogen and biomethane (recommended final rule 141(1))
- accommodate blend processing facilities with a nameplate rating of 10 TJ/day or more by:
 - including these facilities as a new type of BB facility and excluding them from the definition of 'production facility' (recommended final rule 141)
 - including the owner, operator or controller of these facilities as a new type of facility operator (recommended final rule 141)
 - recognising blend processing facilities in the definitions of 'daily capacity', 'reporting threshold' and 'nameplate rating' (recommended final rules 141(1) and (2))
 - amending Division 5 where necessary to extend the reporting obligations in that Division to blend processing facilities (recommended final rules 169(4)(b), 172(1), 175(1), 184A and 188).

RECOMMENDATION 30: FINAL RULE — REQUIRE PIPELINE SERVICE PROVIDERS TO REPORT BLENDING INFORMATION

Introduce the new blending information reporting obligations by:

- including a definition of 'BB blended gas distribution system' and adding this as a type of BB facility and the owner, operator and controller as a type of BB facility operator (recommended final rule 141)
- limiting the reporting obligations relating to BB blended gas distribution systems under Division 5 of Part 18 to rules 168 (nameplate rating) and 190G (blend level and gas blend curtailment information) (recommended final rule 144A)
- amending the definitions of 'daily capacity', 'reporting threshold' and 'nameplate rating' to provide for distribution systems (recommended final rules 141(1) and (2))
- inserting a new rule that requires BB blended gas distribution systems and BB pipelines transporting a gas blend to report on (recommended final rule 190G):
 - the highest, lowest and average blending levels achieved in the last month
 - the number of times any injecting facility has been curtailed in the last month to maintain blending limits (other than where arising under the scheduling

arrangements in Part 19) and the extent of the curtailment on each occasion it has occurred (aggregated across affected facilities).

- amending Part 15B to allow AEMO to provide guidance on the calculation of gas blend levels through the Bulletin Board Procedures (recommended final rule 135EA(3)).

RECOMMENDATION 31: FINAL RULE — ALLOW BULLETIN BOARD PROCEDURES TO PROVIDE GUIDANCE ON NAMEPLATE RATING

Amend Part 15B to allow AEMO to provide guidance on the determination of nameplate ratings through the Bulletin Board Procedures (recommended final rule 135EA(3)).

RECOMMENDATION 32: FINAL RULE — APPLY PART 18 TO DISTRIBUTION CONNECTED PRODUCTION FACILITIES

Clarify that Part 18 of the NGR extends to distribution connected production facilities by:

- amending the definition of 'production facility' in rule 141 to remove the link to BB pipelines (recommended final rule 141)
- extending the definitions of 'BB shipper' and 'nomination' to distribution systems (recommended final rule 141)
- amending the nominated and forecast use of production facility reporting obligation in rule 185 to recognise that gas may be supplied into a distribution system (recommended final rule 185).

RECOMMENDATION 33: FINAL TRANSITIONAL RULE — BULLETIN BOARD AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the new Bulletin Board rules in Part 18 is 3 March 2025.

Insert transitional rules (recommended final transitional rule Schedule 6, Part 5) that:

- require AEMO to review and where necessary, amend and publish the Bulletin Board Procedures by no later than the Part 18 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 18 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR

- require new facilities and facility development projects that become subject to the Bulletin Board as a result of the changes to register with AEMO within 20 business days after the Part 18 amendments effective date.

RECOMMENDATION 34: FINAL RULE — EXTEND THE AER’S GAS PRICE REPORTING FUNCTION TO OTHER COVERED GASES

Amend Part 17 of the NGR to extend the AER’s gas price reporting function to other covered gases by:

- replacing the term ‘natural gas’ with ‘gas’ (recommended final rules 140B(1)(d) and 140B(7))
- defining ‘gas’ to include all covered gases (recommended final rule 140B(7)).

RECOMMENDATION 35: FINAL RULE — EXTEND NON-PIPELINE INFRASTRUCTURE REPORTING TO OTHER COVERED GASES

Amend Part 18A of the NGR to extend its application to other covered gases by:

- replacing the term ‘natural gas’ with ‘gas’ and defining ‘gas’ to include all covered gases (recommended final rules 198B, 198G(3)-(4))
- replacing the term ‘natural gas service’ with ‘covered gas service’ and ‘covered gas industry’ (recommended final rule 198B).

RECOMMENDATION 36: FINAL RULE — EXTEND NON-PIPELINE INFRASTRUCTURE REPORTING TO BLEND PROCESSING FACILITIES

Amend Part 18A of the NGR to extend its application to blend processing facilities by:

- changing the name of Part 18A to ‘Non-pipeline infrastructure access terms and prices’ to reflect its broader application
- amending the definition of a Part 18A facility to include a blend processing facility (recommended final rule 198B)
- amending the definition of user to include a person who is a party to a contract with a service provider for the provision of a blend processing service (recommended final rule 198B)
- amending the actual prices payable information rule to:

- recognise blend processing services as an example of the type of service a facility may provide (recommended final rule 198G(1)(d))
- require blend processing facilities to report the contracted quantities as the maximum daily quantity (in GJ/day) (recommended final rule 198G(1)(f)(iii)).

RECOMMENDATION 37: FINAL RULE — REQUIRE FACILITY OPERATORS TO REPORT ON THE TYPE OF COVERED GAS

Insert a new requirement in the standing terms information rule (recommended final rule 198F) to require:

- facility operators to report on the type or types of gases in respect of which the facility provides services
- blend processing facility operators to report on the primary gases that may be blended and the applicable blending limits.

RECOMMENDATION 38: FINAL TRANSITIONAL RULE — PART 18A AMENDMENTS COMMENCEMENT DATE

Specify in the schedule of amending rules that the changes to Part 18A do not take effect until three months after the rules are made.

Insert transitional rules (recommended final transitional rule Schedule 6, Part 6) that:

- require the AER to review and where necessary, amend and publish the price reporting guidelines by no later than the Part 18A amendments effective date
- clarify that in relation to blend processing facilities commissioned on or before the Part 18A amendments effective date:
 - reporting obligations commence only from the Part 18A amendments effective date
 - the requirement to publish actual prices payable information only applies to contracts in force immediately before the Part 18A amendments effective date or that is entered into on or after that date.

RECOMMENDATION 39: FINAL RULE — EXTEND THE STTM SHIPPER REGISTRATION CATEGORY TO PERSONS THAT INJECT FROM BLEND PROCESSING FACILITIES

Amend the NGR to extend the definition of STTM Shipper in rule 135ABA(1)(a) to include a

person that:

- is a party to a contract with a blend processing facility operator for the delivery of gas to an STTM hub from a blend processing facility that is directly connected to that STTM hub, or holds rights subcontracted from such a person; or
- is a blend processing facility operator who supplies gas on its own behalf to an STTM hub from its blend processing facility that is directly connected to that STTM hub.

RECOMMENDATION 40: FINAL RULE — CREATE A SINGLE INJECTION FACILITY CATEGORY

Amend the NGR to:

- introduce the definition of 'injection facility' as a facility (other than a pipeline) at which gas is produced, processed, blended or stored for injection directly from that facility into an STTM distribution system at a custody transfer point included in a hub, and including an associated pipeline connecting that facility directly to the hub
- introduce the definition of 'STTM injection facility' to mean either a single injection facility, or two or more injection facilities that have been aggregated as permitted under Part 20
- remove the definitions of 'STTM production facility' and 'STTM storage facility'
- replace all instances of 'STTM production facility' and 'STTM storage facility' with 'STTM injection facility'.

RECOMMENDATION 41: FINAL RULE — MODIFY THE OBLIGATION FOR FACILITY OPERATORS TO PROVIDE EXPECTED CAPACITY INFORMATION

Amend the NGR in order to modify rule 414 by:

- specifying that a facility operator is not required to notify AEMO of expected capacity in respect of the following three gas days if there is no 'material difference' between the quantity of gas which the facility operator expects the facility will be able to deliver to the relevant hub and the substitute information that would be generated, in accordance with the STTM Procedures, by AEMO in the event that the facility operator does not provide this data
- specifying that there is a 'material difference' if the magnitude of the difference exceeds 600 GJ.

RECOMMENDATION 42: FINAL RULE — ALLOW FOR FACILITY AGGREGATION AND SUBMISSION OF OFFERS BY AGGREGATED FACILITY

Amend the NGR to:

- use the new term 'STTM injection facility' to refer to a single injection facility or two or more injection facilities that satisfy the criteria for aggregation in rule 378A and that the STTM facility operator has elected to have treated as a single STTM injection facility for the purposes of Part 20
- introduce rule 378A that allows two or more injection facilities to be treated as a single STTM injection facility (with multiple CTPs) where the following criteria are satisfied, among other things:
 - all the injection facilities are connected to the same hub
 - all the injection facilities have the same STTM facility operator
 - the STTM facility operator has elected to have the injection facilities treated as a single STTM injection facility
 - any requirements for aggregation in the STTM Procedures have been fulfilled
 - the relevant STTM distributor has agreed with the STTM facility operator that the injection facilities may be treated as a single STTM injection facility.
- amend rule 376(1) to require STTM facility operators to provide information to demonstrate that the criteria for aggregation in rule 378A are satisfied, if the STTM injection facility comprises two or more injection facilities
- amend rule 377(3) to require AEMO to identify which injection facilities in the list of STTM facilities and STTM distribution systems it maintains are being treated as a single STTM injection facility.

RECOMMENDATION 43: FINAL RULE — ALLOW NET BIDDING AND SETTLEMENT FOR SOME STTM INJECTION FACILITIES

Amend the NGR to:

- introduce and define the terms 'net metered facility', 'net energy injection' and 'net energy withdrawal'
- amend the rules so that for net metered facilities:
 - in relation to quantities of gas supplied or to be supplied to a hub, the net energy injection is used for bidding and settlement and the determination of capacity relating to the facility (but not in relation to obligations to comply with the gas quality specifications)

- where there is a net energy injection, gas withdrawn from the hub and used to calculate the net energy injection is not included in bidding or settlement.
- introduce rule 378B to specify that the STTM Procedures must set out the criteria for classification by AEMO as a net metered facility, and must provide for the application of Part 20 in respect of net energy injections and net energy withdrawals
- specify in rule 135EA(4) that the STTM Procedures may deal with net metered facilities and their participation in the STTM
- amend rule 376(1) to specify that an STTM facility operator must provide to AEMO, for an STTM injection facility, information to demonstrate whether the STTM injection facility satisfies the criteria in the STTM Procedures for classification as a net metered facility
- specify in rule 378A that when aggregating injection facilities, either all the injection facilities must be net metered facilities, or none of them
- amend rule 418 to specify how title to, custody and control of, and risk of loss of the quantity of gas withdrawn by a net metered facility passes between trading participants.

Amend the NGR to extend the definition of STTM User in rule 135ABA(1)(b) to include a person that is not otherwise registered under the paragraph and is a user of services provided by means of a net metered facility (whether under contract, subcontract or as an owner, operator or controller withdrawing gas on its own behalf from the STTM hub at the facility).

In rule 135ABA, define 'gas' and 'net metered facility' by reference to those defined terms in Part 20.

RECOMMENDATION 44: FINAL RULE — STREAMLINE THE PROCESS FOR ESTABLISHING NEW CTPS

Amend the NGR (using the term "custody transfer point" spelt out in full) to:

- specify in rule 135EA(4) that the STTM Procedures may deal with the arrangements for determining proposals for CTPs to be included in or removed from a hub
- introduce a new rule 372B that requires AEMO to specify the CTPs comprised in each hub in a register maintained by AEMO under the STTM Procedures
- in rule 372B, require the CTP for an injection facility or an STTM pipeline to be included in the relevant hub
- in rule 372B, require the STTM Procedures to set out the arrangements for AEMO to determine changes to CTPs for a hub, which must, among other things:
 - specify the time frame and process for AEMO to consider and determine a proposal, which must include notice to the relevant STTM distributor and must allow 20 business days for the STTM distributor to respond
 - require AEMO to publish notice of its determination on the proposal.

- amend rules 371, 372 and 372A to refer to the CTP register instead of the STTM Procedures
- amend rule 372A to specify that additional CTPs not connected to one of the STTM distribution systems specified in that rule can only be added with the consent of the STTM facility operator and the service provider of the STTM pipeline at the proposed CTP.

RECOMMENDATION 45: FINAL RULE — ALLOW FOR ALTERNATIVE GAS QUALITY SPECIFICATIONS AT A CTP WHERE AUTHORISED

Amend the NGR to:

- introduce the definition of 'standard gas quality specifications' for a hub to reflect the current definition of 'gas quality specification'
- redefine 'gas quality specification' as:
 - a. the standard gas quality specifications; or
 - b. the relevant gas quality specification where either:
 - i. another gas quality specification for the injection of gas at a CTP has been agreed in writing by persons injecting gas at the point and the relevant STTM distributor and a regulatory instrument of the relevant adoptive jurisdiction specifically authorises such an agreement to be reached; or
 - ii. another gas quality specification has been specifically authorised under a regulatory instrument of the relevant adoptive jurisdiction and that authorisation is applicable to the injection of gas at the CTP.
- amend rule 418(3) to clarify that it only extends to arrangements in haulage agreements or under law that allow for the injection of off-specification gas (and does not allow an alternative gas specification to be agreed).

RECOMMENDATION 46: FINAL TRANSITIONAL RULE — STTM AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the STTM-related rules is 3 March 2025.

In proposed new Part 8 in Schedule 6 to the amending rule:

- insert definitions of 'amending rule', 'Part 20 amendments effective date' and 'new Part 20'

- require AEMO to, in accordance with the Part 15B review, and where necessary, amend and publish the STTM Procedures to take into account the amending rule, by no later than three months before the Part 20 amendments effective date
- require the amendments to the STTM Procedures to take effect on and from the Part 20 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 20 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR.

RECOMMENDATION 47: FINAL RULE — ALLOW DTS CONNECTED BLEND PROCESSING FACILITIES IN THE DWGM

Amend the NGR to allow for registration for DTS connected blend processing facility operators by introducing 'Blend Processing Provider' as a new registration category in rule 135A — a blend processing service provider that injects gas into a DTS.

Amend the net bidding facility framework in Part 19 of the NGR to accommodate DTS connected blend processing facilities that satisfy the net bidding facility criteria by:

- extending the definition of 'net bidding facility' and 'net injected quantity' in rule 200 to blend processing facilities connected to a DTS
- extending rules 204B and 204C (on the classification of net bidding facilities and net injected quantities to be used for net bidding facilities) to Blend Processing Providers
- making consequential changes to rules 208 (Demand forecasts) and 235 (Imbalance payments and Deviation payments).

Amend rule 287(1) so that it is consistent with rule 287A(1) by adding introductory words to clarify that any agreed departure from the standard gas quality specification is subject to any duty or requirement under any regulatory instrument relating to gas quality or safety.

Amend Part 19 of the NGR to extend to the operators of DTS connected blend processing facilities equivalent obligations to those that apply to Producers and Storage Providers by:

- defining 'Blend Processing Provider' in rule 200 as a blend processing service provider whose blend processing facility is connected to the DTS
- extending the definition of 'DWGM facility operator' in rule 200 to include a 'Blend Processing Provider' so that the maintenance coordination arrangements in rule 326 apply
- extending the following rules to apply them to Blend Processing Providers in the same way they apply to Storage Providers: 216 (Failure to conform to scheduling instructions), 219 (Injection and withdrawal confirmations), 292(2) (Responsibility for metering installation) and 340 (Non-firm gas).

RECOMMENDATION 48: FINAL TRANSITIONAL RULE — DWGM AMENDMENTS COMMENCEMENT DATE AND PROCEDURES

Specify in the schedule of amending rules that the effective date for the commencement of the DWGM related rules is 1 May 2024.

In Part 7 in proposed new Schedule 6 to the NGR:

- insert definitions of 'amending rule', 'Part 19 amendments effective date' and 'new Part 19'
- require AEMO to, in accordance with Part 15B, review, and where necessary, amend and publish the Wholesale Market Procedures to take into account the amending rule, by no later than three months before the Part 19 amendments effective date
- require the amendments to the Wholesale Market Procedures to take effect on and from the Part 19 amendments effective date
- allow any consultation undertaken by AEMO prior to the Part 20 amendments effective date to satisfy the consultation requirements in Part 15B of the NGR.

RECOMMENDATION 49: FINAL RULE — EXPAND EXISTING REGISTRATION CATEGORIES IN REGULATED RETAIL MARKETS

Amend the NGR:

- For the New South Wales and the Australian Capital Territory (rule 135AB(1)(c)), Queensland (rule 135AB(2)(c)) and South Australia (rule 135AB(3)(d)) regulated retail markets, amend the registrable category of 'self contracting user' to include any user that has a contract with a service provider for the haulage of gas but does not fall within the registrable capacity of 'retailer'. Amend the registrable capacity of 'retailer' in each of rules 135AB(1)(b), 135AB(2)(b) and 135AB(3)(c) to exclude from that registrable capacity any exempt seller that sells gas only to related bodies corporate of that exempt seller. This type of exempt seller will continue to fall within the registrable capacity of 'self contracting user'.
- For the Victorian regulated retail market (rule 135AB(4)(d)) expand the registrable category of 'market participant — other' to include any user of a declared distribution system that does not fall within any other registrable capacity for the market.

RECOMMENDATION 50: FINAL RULE — EXPAND MATTERS ABOUT WHICH RETAIL MARKET PROCEDURES MAY BE MADE

Amend rule 135EA of the NGR to specify that the RMPs should provide for the arrangements

for registration of a net bidding meter, and arrangements for net withdrawals at a net metered facility to be treated as a meter reading for the purposes of the RMP.

RECOMMENDATION 51: FINAL RULE — CUSTOMER INFORMATION ON GAS TYPE

Introduce a new Part 8B in the NERR to provide for:

- customers to be informed of a change in the type of gas they may be supplied with, and
- distributors to maintain on their website information on the type of gas that may be supplied to customers connected in their distribution system.

The rules will provide for customers to be informed of a change in the type of gas they may be supplied with by:

- requiring distributors to notify customers by any appropriate means prior to a change of gas type in a distribution system (or part of a distribution system) (recommended final rule 147D). The notice must include:
 - the date on which there may be a change of gas type in the distribution system
 - the premises which may be supplied with the new gas type
 - the type of gas that may be supplied. The type of gas could be a primary gas or a gas blend made up of one or more primary gases
 - whether the change of gas type will be for a fixed time period or on an ongoing basis
 - if the type of gas that may be supplied through a distribution system is a gas blend, the primary gases that may be blended together to make the gas blend and the proportion of each primary gas the service provider reasonably expects to form part of the gas blend at any time, which may be expressed as a range
 - the potential impact of the change of gas type on the volume of gas and heating value of gas that may be consumed by customers who are supplied with the gas
 - the contact details of the distributor.
- allowing the AER to make guidelines, in accordance with the retail consultation procedures, in relation to the form and content of the notice (recommended final rule 147E).
- requiring a distributor to publish on its website information on the type of gas that may be supplied through a distribution system and, if there is a change to the type of gas, the transition date (recommended final rule 147F). The information must:
 - be kept up to date
 - be in a format that makes it easy for a small customer to understand

- enable a small customer to obtain the information relevant to their premises using the postcode or address of their premises.

Customers will not be notified of a change of gas type if the type of gas they are supplied with changes from natural gas to biomethane or to a blend of natural gas and biomethane or from biomethane or a blend of natural gas and biomethane to natural gas (recommended final rule 147D(4)).

RECOMMENDATION 52: FINAL RULE — AMEND CUSTOMER RETAIL CONTRACTS

Amend Part 2 Division 7 and Schedule 1 of the NERR to introduce requirements for retailers to specify under market retail contracts and standard retail contracts that information on the type of gas that may be supplied under the contract can be found on the distributor's website (recommended final rule 49B and recommended final clause 3.3(b) of Schedule 1).

RECOMMENDATION 53: FINAL TRANSITIONAL RULE — CUSTOMER INFORMATION ON GAS TYPE AND AMENDMENTS TO CUSTOMER CONTRACTS

- Specify in the schedule of amending rules that Part 8B of the NERR and the recommended final rules to change retail contracts commence nine months from the date the rule is made (the effective date)
- Insert transitional rules (recommended final transitional rule in Schedule 3, New Part xx) that provide that:
 - distributors are not required to provide a notice under new subrule 147D(1) in relation to a change of gas type that occurred before the effective date
 - distributors must comply with new rule 147F no later than the effective date
 - retailers must make alterations to their standard retail contracts by the effective date
 - new rule 49B applies to market retail contracts entered into prior to the effective date if, after the effective date, the contract is varied.

RECOMMENDATION 54: FINAL RULE — AMEND HISTORICAL BILLING INFORMATION

Amend Part 2 Division 4 of the NERR to require a retailer to notify a customer who requests historical billing data, that the customer can find information on its distributors website relating to the type of gas that may be supplied to the customer's premises and the date of any change to the type of gas supplied to their premises (recommended final rule 28(1A)).

RECOMMENDATION 55: FINAL TRANSITIONAL RULE — HISTORICAL BILLING INFORMATION

Specify in the schedule of amending rules that recommended final rule 28(1A) commence nine months after the rule is made.