

OFFICIAL

Making of National Gas Rules

National Gas (South Australia) Law – Section 294FB

I, Tom Koutsantonis, Minister for Energy and Mining for the Crown in right of the State of South Australia, as the Minister administering the *National Gas (South Australia) Act 2008* of South Australia, hereby make the National Gas Amendment (Gas Pipelines) Rule 2023 under section 294FB(1) of the National Gas (South Australia) Law on the unanimous recommendation of the Ministers of the participating jurisdictions sitting as the Ministerial Council on Energy for the purposes of that section.

This Rule has been signed by me for the purposes of identification as the National Gas Amendment (Gas Pipelines) Rule 2023 and commences operation on 16 March 2023.



Hon Tom Koutsantonis MP

Minister for Energy and Mining

10 March 2023

Part 1—Preliminary

1—Short title

These rules may be cited as the *National Gas Rules (Gas Pipelines) Amendment Rules 2023*.

2—Commencement

These rules come into operation on the date or dates stated in the notice published under section 294FB(4)(a) of the *National Gas (South Australia) Law*.

3—Amendment of *National Gas Rules*

The rules in Part 2 amend the *National Gas Rules*.

Part 2—Amendment of *National Gas Rules***4—Amendment of rule 3—Interpretation**

- (1) Rule 3, definition of *access arrangement proposal*, (a)—delete "a full or limited" and substitute:

an

- (2) Rule 3—after the definition of *access arrangement variation proposal* insert:

access contract means a contract between a user and a service provider under which the service provider provides or intends to provide a pipeline service to that person by means of a pipeline.

access dispute notice means a notice relating to an access dispute given under section 152 of the *NGL* and as provided by Part 12 of these rules.

access information standard means the access information standard under rule 101(2).

access negotiation information means, in relation to a party to negotiations under Part 11 or the determination of an access dispute under Part 12, the following information of the party:

- (a) *access offer information*; and
- (b) any other information that the party may seek to rely on for the determination of an access dispute in relation to the subject matter of the negotiations,

including information prepared for the party such as expert reports and consultant reports, data sets, models and other documents or materials.

access offer information means information relevant to the matters specified in rules 113Y and 113Z and includes:

- (a) information about the method used to determine the price in an access offer and the inputs used in the calculation of the price; and
- (b) information regarding the costs associated with the provision of a pipeline service sought by a user or prospective user.

- (3) Rule 3, definition of *approved CTP process*—delete the definition
- (4) Rule 3, definition of *credit support*—delete the definition and substitute:

credit support means:

- (a) for the purposes of Part 19 – see rule 200;
- (b) for the purposes of Part 20 – see rule 364;
- (c) for the purposes of Part 21 – see rule 523.

- (5) Rule 3, definitions of *CTP access arrangement* and *CTP pipeline*—delete the definitions

- (6) Rule 3, definition of *distributor*—delete the definition and substitute:

distributor means:

- (a) for the purposes of Part 12A – see rule 119A;
- (b) for the purposes of Part 15A – as set out in that Part;
- (c) for the purposes of Part 19 – see rule 200;
- (d) for the purposes of Part 20 – see the definition of STTM distributor in rule 364;
- (e) for the purposes of Part 21 – see rule 502.

- (7) Rule 3—after the definition of *exempt seller* insert:

existing access contract means, at any time, an *access contract* in force at that time, even if the service term for one or more pipeline services provided under the *access contract* has not commenced.

- (8) Rule 3, definitions of *full access arrangement proposal* and *full regulation pipeline*—delete the definitions

- (9) Rule 3, definition of *incremental services*—delete "*means*" and substitute:
means

- (10) Rule 3—after the definition of *incremental services* insert:

information includes data.

- (11) Rule 3, definitions of *light regulation pipeline*, *limited access arrangement proposal*, *National Energy Retail Law*, *National Energy Retail Rules*, *NER*, *NERL* and *NERR*—delete the definitions and substitute:

NER means the National Electricity Rules.

NERL means the National Energy Retail Law.

NERR means the National Energy Retail Rules.

- (12) Rule 3, definition of *reclassification application*—delete the definition

- (13) Rule 3, definition of *reference service proposal*—delete the definition and substitute:

reference service proposal means, in respect of a scheme pipeline service provider, the proposal submitted under rule 47A.

- (14) Rule 3, definitions of *related body corporate*, *retail customer*, *retailer* and *scheme pipeline service provider*—delete the definitions

- (15) Rule 3—after the definition of *serve* insert:

single user pipeline—see subrule (2)(b).

- (16) Rule 3, definition of *tender approval decision*—delete the definition and substitute:

third party access pipeline—see subrule (2)(a).

OFFICIAL

National Gas Rules (Gas Pipelines) Amendment Rules 2023

(17) Rule 3—after its present contents as amended by this rule (now to be designated as subrule (1)) insert:

(2) For the purposes of these rules:

- (a) a pipeline is a *third party access pipeline* if any pipeline services provided by means of the pipeline are provided, directly or indirectly, to any person other than:
 - (i) the service provider for the pipeline; or
 - (ii) a related body corporate of the service provider for the pipeline; or
 - (iii) a joint venture in which the service provider for the pipeline or a related body corporate of the service provider is a joint venture participant; and
- (b) a pipeline is a single user pipeline if:
 - (i) the pipeline is a *third party access pipeline*; and
 - (ii) all pipeline services provided by means of the pipeline are provided to a single user, taking into account pipeline services provided both directly and indirectly by the service provider.

(3) For the purpose of these rules, the circumstances in which a service provider provides a pipeline service to a user indirectly include where:

- (a) an associate of the service provider provides the pipeline service to the user; and
- (b) the pipeline service is bundled with the supply of natural gas.

Note—

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

Note—

Unless the contrary intention appears, words and expressions used in a rule have the same meaning as they have, from time to time, in the *NGL*, or relevant provisions of the *NGL* under or for the purposes of which the rule is made or is in force. See clause 13 of Schedule 2 of the *NGL*.

5—Insertion of rule 3A

After rule 3 insert:

3A—Excluded infrastructure (Section 2(1) of NGL)

For the purposes of the *NGL*, all tanks, reservoirs, machinery and equipment that form part of a pipeline are classified as excluded infrastructure.

6—Amendment of rule 7—Definitions

- (1) Rule 7, definition of *decision maker*—delete the definition and substitute:

decision maker means:

- (a) the AER; or
- (b) AEMO.

- (2) Rule 7, definition of **overall time limit**—delete "*decision maker*" and substitute:
decision maker

- (3) Rule 7, definition of **proposal**, (c)—delete "*decision maker*" and substitute:
decision maker

7—Amendment of rule 8—Standard consultative procedure

- (1) Rule 8—delete "*decision maker*" wherever occurring and substitute in each case:
decision maker

- (2) Rule 8—delete "*decision maker's*" wherever occurring and substitute in each case:
decision maker's

- (3) Rule 8(2)(a)—delete "and in a newspaper circulating generally throughout Australia"

8—Amendment of rule 9—Expedited consultative procedure

- (1) Rule 9—delete "*decision maker*" wherever occurring and substitute in each case:
decision maker

- (2) Rule 9—delete "*decision maker's*" wherever occurring and substitute in each case:
decision maker's

9—Amendment of rule 10—General power to reject non-compliant or frivolous proposals

Rule 10—delete "*decision maker*" wherever occurring and substitute in each case:
decision maker

10—Amendment of rule 11—Calculation of time

- (1) Rule 11—delete "*decision maker*" wherever occurring and substitute in each case:
decision maker

- (2) Rule 11—delete "*decision maker's*" wherever occurring and substitute in each case:
decision maker's

- (3) Rule 11(2)—delete "decision-maker" and substitute:
decision maker

11—Amendment of rule 12—Power to extend time limits

- (1) Rule 12—delete "*decision maker*" wherever occurring and substitute in each case:
decision maker

- (2) Rule 12—delete "*decision maker's*" wherever occurring and substitute in each case:
decision maker's
- (3) Rule 12(3)(b)—delete "and in a newspaper circulating generally throughout Australia"

12—Amendment of rule 14—Decisions made out of time

- (1) Rule 14—delete "*decision maker*" wherever occurring and substitute in each case:
decision maker
- (2) Rule 14(1)—delete "(whether absolute or not)"
- (3) Rule 14—delete "*decision maker's*" wherever occurring and substitute in each case:
decision maker's

13—Substitution of Parts 4 and 5

Parts 4 and 5—delete the Parts and substitute:

Part 4—Regulatory determinations and elections

Division 1—Scheme pipeline determinations

**15—Application for scheme pipeline determination
(Section 92(2) of NGL)**

An application for a scheme pipeline determination must:

- (a) be made in writing; and
- (b) include the applicant's name and *contact details*; and
- (c) identify the pipeline to which the application relates; and
- (d) state the applicant's reasons for the application; and
- (e) contain information the applicant considers relevant to the application of the principles set out in section 112 of the *NGL*; and
- (f) contain any other information on which the applicant relies in support of the application.

16—Notice to service provider and provision of information

- (1) If the AER:
 - (a) receives an application for a scheme pipeline determination;
or
 - (b) proposes to make a scheme pipeline determination on its own initiative,

the AER must notify the service provider for the pipeline to which the application or proposal relates that the application has been received or that the proposal is under consideration (as the case may be).

- (2) The service provider must, at the request of the AER, give the AER the following information in relation to the pipeline:
- (a) the capacity of the pipeline and the extent to which that capacity is currently utilised; and
 - (b) for a transmission pipeline, a description of:
 - (i) all locations *served* by the pipeline; and
 - (ii) all pipelines that currently *serve* the same locations; and
 - (iii) all pipelines of which the service provider is aware that currently pass within 100 km of any location *served* by the pipeline; and
 - (c) for a distribution pipeline, a description of:
 - (i) the geographical area *served* by the pipeline; and
 - (ii) the points at which natural gas is, or is to be, injected into the pipeline; and
 - (d) an indication of any other sources of energy available to consumers of gas from the pipeline of which the service provider is aware; and
 - (e) the identity of the parties with an interest in the pipeline and the nature and extent of each interest; and
 - (f) a description of the following relationships:
 - (i) any relationship between the owner, operator and controller of the pipeline (or any 2 of them);
 - (ii) any relationship between the owner, operator or controller of the pipeline and a user, supplier or end user in a location or geographical area *served* by the pipeline;
 - (iii) any relationship between the owner, operator or controller of the pipeline and the owner, operator or controller of any other pipeline *serving* any one or more of the same locations or the same geographical area; and
 - (g) an estimate of the annual cost to the service provider of regulation as a scheme pipeline and as a non-scheme pipeline; and
 - (h) any other information that the AER considers relevant to the consideration of the application.
- (3) A service provider who receives a request under subrule (2) must provide the relevant information within a period specified by the AER.

- (4) If the service provider does not provide the information requested under subrule (2) within the period specified by the AER, the AER may:
 - (a) draw such adverse inferences from the failure to comply as the circumstances justify taking into account the extent of the service provider's non-compliance and the effect of the non-compliance on the AER's ability to make a decision on the application; and
 - (b) proceed to make a scheme pipeline determination in relation to the pipeline on the basis of such information as the AER considers relevant.
- (5) Information in the nature of a forecast or estimate must be supported by a statement of the basis of the forecast or estimate.
- (6) A forecast or estimate:
 - (a) must be arrived at on a reasonable basis; and
 - (b) must represent the best forecast or estimate possible in the circumstances.

17—Consultation and other processes

- (1) In dealing with an application for a scheme pipeline determination or a proposal to make a scheme pipeline determination, the AER must proceed in accordance with the *standard consultative procedure*.
- (2) The AER must make a *decision* on an application for a scheme pipeline determination within 6 months of receiving the application.
- (3) The AER may extend the time limit applying under subrule (2) by a further period not exceeding 2 months.
- (4) The AER is not required to consider an application for a scheme pipeline determination if:
 - (a) the AER reasonably considers that the application is misconceived or lacking in substance; or
 - (b) the AER has considered an application or a proposal to make a scheme pipeline determination in relation to the pipeline in the previous 12 months.

18—Determination or decision made by AER

- (1) In addition to any other requirements under these rules, a scheme pipeline determination, or a *decision* not to make a scheme pipeline determination, must:
 - (a) identify the pipeline to which the determination or *decision* relates; and
 - (b) in the case of a scheme pipeline determination – set out the pipeline's classification.

- (2) The AER may include in a scheme pipeline determination, or a *decision* not to make a scheme pipeline determination, any other information that the AER considers to be appropriate.
- (3) In addition to any other requirements under these rules, a copy of the determination, or a *decision* not to make a determination, must be given without delay to:
 - (a) the service provider; and
 - (b) the AEMC.

Division 2—Scheme pipeline elections

19—Election (Section 95(2) of NGL)

- (1) A scheme pipeline election must:
 - (a) be made in writing; and
 - (b) include the name and *contact details* of the service provider; and
 - (c) identify the pipeline to which the election relates; and
 - (d) set out the pipeline's classification; and
 - (e) contain any other information that the AER considers relevant to the election.
- (2) If an election is made in accordance with this rule, the AER must:
 - (a) determine the day on which the election will take effect; and
 - (b) publish a notice of the election and the day on which it will take effect on the AER's website; and
 - (c) give a copy of the notice and provide the day on which it will take effect to the AEMC.

Division 3—Scheme pipeline revocation determinations

20—Application for scheme pipeline revocation determination (Section 97(2) of NGL)

An application for a scheme pipeline revocation determination must:

- (a) be made in writing; and
- (b) include the applicant's name and *contact details*; and
- (c) identify the pipeline to which the application relates; and
- (d) state the applicant's reasons for the application; and
- (e) contain information the applicant considers relevant to the application of the principles set out in section 112 of the *NGL*; and
- (f) contain any other information on which the applicant relies in support of the application.

21—Provision of information

- (1) This rule applies if the AER:
 - (a) receives an application for a scheme pipeline revocation determination; or
 - (b) proposes to make a scheme pipeline revocation determination on its own initiative.
- (2) If the application is made by the service provider, the application must be accompanied by the information specified by subrule (4) in relation to the pipeline to which the application relates (insofar as may be relevant).
- (3) If the application is made by a person other than the service provider or the AER is acting on its own initiative:
 - (a) the AER must notify the service provider that the application has been received or that the proposal is under consideration (as the case may be); and
 - (b) the service provider must, at the request of the AER, give the AER the information specified by subrule (4) in relation to the pipeline to which the application or proposal relates.
- (4) The following information is specified:
 - (a) the capacity of the pipeline and the extent to which that capacity is currently utilised; and
 - (b) for a transmission pipeline, a description of:
 - (i) all locations *served* by the pipeline; and
 - (ii) all pipelines that currently *serve* the same locations; and
 - (iii) all pipelines of which the service provider is aware that currently pass within 100 km of any location *served* by the pipeline; and
 - (c) for a distribution pipeline, a description of:
 - (i) the geographical area *served* by the pipeline; and
 - (ii) the points at which natural gas is, or is to be, injected into the pipeline; and
 - (d) an indication of any other sources of energy available to consumers of gas from the pipeline of which the service provider is aware; and
 - (e) the identity of the parties with an interest in the pipeline and the nature and extent of each interest; and
 - (f) a description of the following relationships:
 - (i) any relationship between the owner, operator and controller of the pipeline (or any 2 of them);

- (ii) any relationship between the owner, operator or controller of the pipeline and a user, supplier or end user in a location or geographical area *served* by the pipeline;
 - (iii) any relationship between the owner, operator or controller of the pipeline and the owner, operator or controller of any other pipeline *serving* any one or more of the same locations or the same geographical area; and
 - (g) an estimate of the annual cost to the service provider of regulation as a scheme pipeline and as a non-scheme pipeline; and
 - (h) any other information that the AER considers relevant to the consideration of the application.
- (5) A service provider who receives a request under subrule (3)(b) must provide the relevant information within a period specified by the AER.
- (6) If the service provider does not provide the information requested under subrule (3)(b) within the period specified by the AER, the AER may proceed to make a scheme pipeline revocation determination in relation to the pipeline on the basis of such information as the AER considers relevant.
- (7) Information in the nature of a forecast or estimate must be supported by a statement of the basis of the forecast or estimate.
- (8) A forecast or estimate:
- (a) must be arrived at on a reasonable basis; and
 - (b) must represent the best forecast or estimate possible in the circumstances.

22—Consultation and other processes

- (1) In dealing with an application for a scheme pipeline revocation determination or a proposal to make a scheme pipeline revocation determination, the AER must proceed in accordance with the *standard consultative procedure*.
- (2) The AER must make a *decision* on an application for a scheme pipeline revocation determination within 6 months of receiving the application.
- (3) The AER may extend the time limit applying under subrule (2) by a further period not exceeding 2 months.
- (4) The AER is not required to consider an application for a scheme pipeline revocation determination if:
 - (a) the AER reasonably considers that the application is misconceived or lacking in substance; or

- (b) the AER has considered an application or a proposal to make a scheme pipeline revocation determination in relation to the pipeline in the previous 12 months.

23—Determination or decision made by AER

- (1) In addition to any other requirements under these rules, a scheme pipeline revocation determination, or a *decision* not to make a scheme pipeline revocation determination, must:
 - (a) identify the scheme pipeline determination or scheme pipeline election to which it relates; and
 - (b) identify the service provider; and
 - (c) identify the pipeline to which the determination or *decision* relates.
- (2) In addition to any other requirements under these rules, a copy of the determination, or a *decision* not to make a determination, must be given without delay to:
 - (a) the service provider; and
 - (b) the AEMC.

Division 4—Greenfields pipelines incentives

Subdivision 1—Greenfields incentive determinations

24—Pipeline description (Section 100(2)(c) of NGL)

- (1) A description for a proposed transmission pipeline for which a greenfields incentive determination is sought must contain the following information:
 - (a) a description sufficient to identify the pipeline and its route; and
 - (b) the end points of the trunk of the pipeline (i.e. the points defining the extremities, where the trunk begins and ends); and
 - (c) if a lateral forms part of the pipeline – the point where the lateral interconnects with the trunk and the end point of the lateral; and
 - (d) the range of diameters for the principal pipes (including laterals); and
 - (e) an estimate of the pipeline's capacity and an estimate of the extent to which the pipeline's capacity is likely to be utilised by the applicant or associates of the applicant; and
 - (f) a website address at which a map of the route of the pipeline may be inspected.

- (2) A description for a proposed distribution pipeline for which a greenfields incentive determination is sought must contain the following information:
- (a) a description sufficient to identify the pipeline and its route; and
 - (b) the geographical area to be *served* by the pipeline; and
 - (c) the points at which natural gas is to be injected into the pipeline; and
 - (d) an estimate of the pipeline's capacity and an estimate of the extent to which the pipeline's capacity is likely to be utilised by the applicant or associates of the applicant; and
 - (e) a website address at which a map of the route of the pipeline may be inspected.

**25—Application for greenfields incentive determination
(Section 100(2) of NGL)**

- (1) An application for a greenfields incentive determination must be made in writing and include the following:
- (a) the name and *contact details* of the applicant; and
 - (b) a statement of the basis on which the project for the construction of the pipeline is to be regarded as a greenfields pipeline project; and
 - (c) a statement of expenditure already made on the construction of the pipeline and an estimate of the expenditure yet to be made; and
 - (d) a statement of the services to be provided by means of the pipeline; and
 - (e) a statement of the locations to be *served* by the pipeline and, in relation to each *downstream location*, a statement of other sources of natural gas available at the relevant location; and
 - (f) a statement of any existing pipelines, and any proposed pipelines of which the applicant is aware, that *serve* (or will *serve*) any of the same locations or that pass (or will pass) within 100 km of any of the same locations; and
 - (g) where relevant, an estimate of the reserves of natural gas available at any *upstream location* to be *served* by the pipeline and an estimate of the rate of production from that location; and
 - (h) in relation to the proposed operative period of the determination, an estimate of expected demand at each *downstream location* to be *served* by the pipeline including, for each location, a description of the expected customer base and an indication of the revenue expected from each location; and

- (i) the identity of all parties with an interest in the proposed pipeline and the nature and extent of each interest; and
 - (j) a description of the following relationships:
 - (i) any relationship between the owner, operator and controller of the pipeline (or any 2 of them);
 - (ii) any relationship between the owner, operator or controller of the pipeline and a user, supplier or end user in any of the locations *served* by the pipeline;
 - (iii) any relationship between the owner, operator or controller of the pipeline and the owner, operator or controller of any other pipeline *serving* any one or more of the same locations; and
 - (k) a statement of whether it would be feasible to expand the capacity of the pipeline and, if so, an explanation of how the capacity might be expanded and an estimate of the cost; and
 - (l) an estimate of the annual cost to the service provider of regulation as a scheme pipeline and as a non-scheme pipeline; and
 - (m) any information the applicant considers relevant to the application of the principles set out in section 112 of the *NGL*; and
 - (n) any other information on which the applicant relies in support of the application.
- (2) Information in the nature of a forecast or estimate must be supported by a statement of the basis of the forecast or estimate.
- (3) A forecast or estimate:
- (a) must be arrived at on a reasonable basis; and
 - (b) must represent the best forecast or estimate possible in the circumstances.

26—Consultation and other processes

- (1) In dealing with an application for a greenfields incentive determination, the AER must proceed in accordance with the *standard consultative procedure*.
- (2) The AER must make a *decision* on an application for a greenfields determination within 6 months of receiving the application.
- (3) The AER may extend the time limit applying under subrule (2) by a further period not exceeding 2 months.
- (4) The AER is not required to consider an application for a greenfields incentive determination if the AER reasonably considers that the application is misconceived or lacking in substance.

27—Determination or decision made by AER

- (1) In addition to any other requirement under these rules, a greenfields incentive determination, or a *decision* not to make a greenfields incentive determination, must identify the pipeline to which the determination or *decision* relates.
- (2) The AER may include in a determination, or a *decision* not to make a determination, any other information that the AER considers to be appropriate.
- (3) In addition to any other requirements under these rules, a copy of the determination or a *decision* not to make a determination must be given without delay to the AEMC.

Subdivision 2—Greenfields price protection determinations**28—Preliminary**

An application for a greenfields price protection determination may be combined with an application for a greenfields incentive determination.

29—Application for greenfields price protection determination (Section 109(2) of NGL)

An application for a greenfields price protection determination must be made in writing and include the following:

- (a) the name and *contact details* of the applicant; and
- (b) information in relation to the following:
 - (i) the price and non-price terms and conditions that will be made available to prospective users of the pipeline; and
 - (ii) the pipeline services in relation to which those terms and conditions apply (or will apply); and
 - (iii) any price escalation mechanism that will apply to prices for the term of the determination; and
 - (iv) how long the price and non-price terms and conditions will be made available to prospective users; and
- (c) information about whether the pipeline is being developed following a competitive process; and
- (d) if the pipeline is being developed following a competitive process – a description of the competitive process; and
- (e) if the pipeline is not being developed following a competitive process:

- (i) a description of the form of regulation factors that the applicant considers operated to constrain the exercise of market power by the service provider when the price and non-price terms and conditions that will be made available to prospective users of the pipeline were determined; and
 - (ii) the reasons why the grant of the determination will, or is likely to, contribute to the achievement of the national gas objective; and
- (f) any other information on which the applicant relies in support of the application.

29A—Consultation and other processes

- (1) In dealing with an application for a greenfields price protection determination, the AER must proceed in accordance with the *expedited consultative procedure*.
- (2) The AER is not required to consider an application for a greenfields price protection determination if the AER reasonably considers that the application is misconceived or lacking in substance.
- (3) This rule does not apply if an application for a greenfields price protection determination has been combined with an application for a greenfields incentive determination (and if the applications are combined then rule 26 will apply in relation to both applications).

29B—Determination or decision made by AER

- (1) In addition to any other requirement under these rules, a greenfields price protection determination, or a *decision* not to make a greenfields price protection determination, must identify the pipeline to which the determination or *decision* relates.
- (2) In addition, if the AER makes a greenfields price protection determination, the AER must specify, as part of its determination (and as provided to the AER as part of the application process):
 - (a) the price and non-price terms and conditions that will be made available to prospective users in connection with the determination; and
 - (b) the pipeline services to which the terms and conditions will apply; and
 - (c) any price escalation mechanism that will apply to prices during the operative period for the determination; and
 - (d) any assumptions that have been made about how capital will be recovered over the economic life of the pipeline (for example, on an accelerated or deferred basis).
- (3) The AER may include in a determination, or a *decision* not to make a determination, any other information that the AER considers to be appropriate.

- (4) In addition to any other requirements under these rules, a copy of the determination, or a *decision* not to make a determination, must be given without delay to the AEMC.

29C—Price protection under an access determination

Where:

- (a) an access dispute involving a pipeline that has obtained a greenfield price protection determination has been referred to arbitration; and
- (b) the access dispute relates to a pipeline service that is the same, or substantially the same, as a pipeline service for which prices and non-price terms and conditions are specified in a greenfields price protection determination,

an access determination made by the arbitrator must reflect those prices and non-price terms and conditions, and any related price escalation mechanism specified in the greenfields price protection determination.

Division 5—Classification and reclassification of pipelines

29D—Classification application (Section 117(3) of NGL)

An application for the classification of a pipeline must:

- (a) be made in writing; and
- (b) include the applicant's name and *contact details*; and
- (c) identify the pipeline to which the application relates; and
- (d) specify the nature of the classification sought by the applicant; and
- (e) demonstrate that the classification would be consistent with the pipeline classification criterion; and
- (f) include any other information and materials on which the applicant relies in support of the application.

29E—Reclassification application (Section 118(2) of NGL)

An application for the reclassification of a pipeline must:

- (a) be made in writing; and
- (b) include the applicant's name and *contact details*; and
- (c) identify the pipeline to which the application relates; and
- (d) specify the nature of the classification sought by the applicant and why this classification is more consistent with the national gas objective than the current classification; and
- (e) demonstrate that the reclassification would be consistent with the pipeline classification criterion; and

- (f) include any other information and materials on which the applicant relies in support of the application.

29F—Consultation and other processes

- (1) In dealing with an application for a classification or reclassification of a pipeline, or a proposal for the reclassification of a pipeline where the AER is acting on its own initiative, the AER must proceed in accordance with the *expedited consultative procedure*.
- (2) In addition, if the AER proposes the reclassification of a pipeline acting on its own initiative, the AER must notify the service provider for the pipeline, as soon as practicable after deciding to act, that the proposal is under consideration.
- (3) The AER must also, before making its *decision* in relation to the classification or reclassification of a pipeline, consult with:
 - (a) in the case of:
 - (i) a pipeline situated wholly within a participating jurisdiction – the Minister of the participating jurisdiction; or
 - (ii) a pipeline partly situated in the jurisdictional areas of two or more participating jurisdictions – the Minister of each participating jurisdiction in which the pipeline is situated; and
 - (b) the relevant jurisdictional safety and technical regulator; and
 - (c) AEMO; and
 - (d) the AEMC.

29G—Classification or reclassification decision made by AER

- (1) In addition to any other requirements under these rules, a classification *decision* or a reclassification *decision* must identify the pipeline or part of the pipeline to which the *decision* relates.
- (2) In addition to any other requirements under these rules, a copy of a classification *decision* or a reclassification *decision*, or a *decision* not to make a classification *decision* or a reclassification *decision*, must be given without delay to:
 - (a) the service provider; and
 - (b) the AEMC.

Division 6—Regulatory determinations and elections guide**29H—Guide**

- (1) The AER must publish and maintain a regulatory determinations and elections guide.

- (2) The guide must provide persons who apply for a determination or make an election under this Part, and other interested persons, with a guide in relation to:
 - (a) the functions and powers of the AER under this Part and Chapter 3 of the *NGL*; and
 - (b) the process to be followed by persons when making an application or an election under this Part; and
 - (c) the process that the AER will follow when assessing an application under this Part and Chapter 3 of the *NGL*.
- (3) The AER may in its discretion develop and publish and may from time to time amend other non-binding guides relating to this Part.

14—Substitution of heading to Part 6

Heading to Part 6—delete the heading and substitute:

Part 5—Ring fencing

15—Repeal of rule 31

Rule 31—delete the rule

16—Amendment of rule 32—Approval of associate contracts etc (Sections 147 and 148 of the NGL)

Rule 32(2), Note—delete "comparative" and substitute:
competitive

17—Insertion of rules 34 and 35

In Part 5 (as designated by these rules) after rule 33 insert:

34—Exemptions from ring fencing requirements (Section 148A of NGL)

- (1) A service provider may apply to the AER for an exemption from one or more of the requirements under section 139, 140 or 141 of the *NGL*.
- (2) The AER must deal with such an application in accordance with the *expedited consultation procedure*.
- (3) An exemption is to be granted from section 139 of the *NGL* if the AER is satisfied that:
 - (a) either:
 - (i) the relevant pipeline is not a significant part of the pipeline system for any participating jurisdiction; or
 - (ii) the service provider does not have a significant interest in the relevant pipeline and does not actively participate in the management or operation of the pipeline; and

- (b) the cost of compliance with the relevant requirement for the service provider and its associates would outweigh the public benefit resulting from compliance; and
 - (c) the service provider has, by arrangement with the AER, established internal controls within the service provider's business that substantially replicate, in the AER's opinion, the effect that would be achieved if the related business were divested to a separate entity and dealings between the service provider and the entity were subject to the controls applicable to associate contracts.
- (4) An exemption is to be granted from section 140 or section 141 of the *NGL* if the AER is satisfied that the cost of compliance with the relevant requirement for the service provider and its associates would outweigh the public benefit resulting from compliance.
- (5) If compliance with a relevant requirement would, in the AER's opinion, lead to increased competition in a market, the AER must, in carrying out an assessment under subrule (3)(b) or subrule (4), disregard costs associated with losses arising from increased competition in upstream or downstream markets.

35—General exemption

- (1) This rule applies to a pipeline for which an exemption has been granted under Category 1 in Part 10 Division 2 Subdivision 2 of these rules.
- (2) The service provider for a pipeline to which this rule applies is exempt from:
 - (a) the requirement under section 139 of the *NGL*; and
 - (b) a requirement under section 140 of the *NGL*; and
 - (c) the requirement under section 141 of the *NGL*; and
 - (d) a requirement under section 147 of the *NGL*; and
 - (e) a requirement under section 148 of the *NGL*.
- (3) If an exemption referred to in subrule (1) is revoked, subrule (2) will continue to apply in relation to the service provider for 12 months after the revocation takes effect, or for such longer period determined by the AER.

18—Insertion of new Part 6

After Part 5 (as designated by these rules) insert:

Part 6—Pipeline interconnection principles

36—Pipeline interconnection principles (Section 136 of *NGL*)

- (1) For the purposes of section 136 of the *NGL*, the principles set out in the following rules in this Part are specified as the pipeline interconnection principles.

- (2) These principles do not limit or derogate from any requirement to gain any permission or authorisation that otherwise applies under the *NGL* or these rules in relation to making a connection to a pipeline (an *interconnection*).

37—Right to interconnect

A person has a right to connect a pipeline or other facility to a pipeline where:

- (a) it is technically feasible and consistent with the safe and reliable operation of the pipeline; and
- (b) the person agrees to fund the costs associated with making the interconnection.

38—Interconnection processes and costs

- (1) The party seeking to establish the interconnection (the *interconnecting party*) has, subject to rule 37, the option to:
- (a) construct, operate and maintain the interconnection at its own cost (*option A*); or
 - (b) have the existing service provider do so (*option B*); or
 - (c) proceed with a combination of option A and option B if both the interconnecting party and the existing service provider:
 - (i) will own equipment or infrastructure associated with the interconnection; or
 - (ii) agree to share the costs and responsibilities associated with the interconnection.
- (2) If the interconnecting party develops the interconnection (or part of the interconnection), it must do so in accordance with good industry practice and comply with all standards and legislation that relate to the establishment and on-going operation of the interconnection and with any reasonable technical, safety and reliability requirements requested by the existing service provider.
- (3) If the existing service provider develops the interconnection (or part of the interconnection), the interconnection fee that it charges to the interconnecting party must be based on the directly attributable cost of constructing, operating and maintaining the interconnection to the extent that this is undertaken by the service provider, including so as to achieve a rate of return calculated in accordance with:
- (a) for an interconnection with a scheme pipeline – the *applicable rate of return instrument*; and
 - (b) for an interconnection with a non-scheme pipeline – a commercial rate of return that reflects the pricing principles set out in rule 113Z(4).

- (4) Without limiting any other provision, the existing service provider must ensure that there is sufficient information available to the interconnecting party to enable it to assess the likely availability of capacity to or from the interconnection point.

39—Interconnection policy

- (1) A service provider must develop and maintain an interconnection policy that relates to the principles applying under this Part.
- (2) The policy must:
 - (a) set out information about the right to interconnect to the pipeline in accordance with the pipeline interconnection principles; and
 - (b) describe the interconnection process, starting at the application stage through to the point of commencing operations using an interconnection; and
 - (c) set out the information to be provided in an application by a person seeking to establish an interconnection, and the information that each party will then provide to each other in the course of the process associated with establishing an interconnection; and
 - (d) provide a link to any of the service provider's policies that are relevant to establishing an interconnection; and
 - (e) include a description of any technical, safety or reliability principles, requirements or processes that the service provider will use to assess an interconnection application; and
 - (f) set out information about how interconnection fees will be calculated and recovered (taking into account the requirements under rule 38(3)); and
 - (g) set out the standard terms and conditions of any connection agreement that the service provider may require an interconnecting party to enter into.
- (3) An interconnection policy must be published as part of a user access guide under Part 11.

19—Substitution of Part 7

Part 7—delete the Part and substitute:

Part 7—Prohibition against increasing charges to subsidise particular development

39A—Exemption (Section 136A(3) of NGL)

- (1) A service provider may apply to the AER for an exemption from complying with section 136A(2) of the *NGL*.

- (2) An application under this rule must:
 - (a) be made in writing; and
 - (b) identify the pipeline to which the application relates; and
 - (c) provide a description of the extension or expansion of capacity that is being undertaken; and
 - (d) demonstrate that one or both of the exemption criteria specified in subrule (3) are satisfied; and
 - (e) include any other information and materials on which the applicant relies in support of the application.
- (3) The following exemption criteria are specified:
 - (a) the overall economic value of the expenditure on the extension or expansion is positive and no other person is competing to meet the demand for pipeline services that would be met by undertaking the extension or expansion;
 - (b) the extension or expansion is necessary:
 - (i) to maintain or improve the safety of pipeline services; or
 - (ii) to maintain or improve the integrity of pipeline services; or
 - (iii) to comply with a regulatory obligation or requirement; or
 - (iv) to maintain the service provider's capacity to meet existing levels of demand for services.
- (4) In deciding whether the overall economic value of the expenditure on the extension or expansion is positive, consideration is to be given only to economic value directly accruing to the service provider, producers, users and end users.

39B—AER's decision on application

- (1) In deciding an application for an exemption, the AER must proceed in accordance with the *expedited consultative procedure*.
- (2) The AER must, when publishing its *decision* under these rules, identify the pipeline, and the extension or expansion of capacity, to which the *decision* relates.
- (3) In addition to any other requirement under these rules, a copy of the AER's *decision* on the application must be given without delay to the AEMC.

20—Substitution of heading to Part 8

Heading to Part 8—delete the heading and substitute:

Part 8—Access arrangements for scheme pipelines

21—Insertion of Part 8 Division A1

Part 8—before Division 1 insert:

Division A1—Preliminary

40—Application of Part

This Part applies in relation to scheme pipelines.

22—Repeal of Part 8 Division 3

Part 8 Division 3—delete Division 3

23—Substitution of heading to Part 8 Division 4

Heading to Part 8 Division 4—delete the heading and substitute:

Division 4—Access arrangements – general requirements

24—Substitution of heading to rule 46

Heading to rule 46—delete the heading and substitute:

46—Submission of access arrangement proposal (Section 113 of NGL)

25—Amendment of section 46—Submission of access arrangement proposal (Section 113 of NGL)

Rule 46(1), (1A) and (2)—delete subrules (1), (1A) and (2) and substitute:

(1) Within 20 business days after a pipeline becomes a scheme pipeline, the service provider must submit for the AER's approval a *reference service proposal* under rule 47A in respect of the *access arrangement proposal* it is required to make in respect of the pipeline.

(1A) Within 3 months after the AER makes a *reference service proposal decision* in respect of a *reference service proposal* submitted under subrule (1), the service provider must submit for the AER's approval an *access arrangement proposal*.

26—Repeal of rule 47

Rule 47—delete the rule

27—Amendment of rule 47A—Reference services

- (1) Rule 47A(1)—delete "A service provider in respect of a *full regulation pipeline*" and substitute:

A service provider

- (2) Rule 47A(1)—delete "*full*"
- (3) Rule 47A(3)—delete "A service provider in respect of a *full regulation pipeline*" and substitute:

A service provider

28—Substitution of heading to rule 48

Heading to rule 48—delete the heading and substitute:

48—Requirements for access arrangement (and access arrangement proposal)

29—Amendment of rule 48—Requirements for access arrangement (and access arrangement proposal)

- (1) Rule 48(1)—delete "A full" and substitute:

An

- (2) Rule 48(1)(b)—delete "*proposal decision*" and substitute:

proposal decision

- (3) Rule 48(1)(i) and (j)—delete paragraphs (i) and (j) and substitute:

- (i) state the *review submission date* and the revision commencement date.

- (4) Rule 48(2)—delete "full"

30—Substitution of heading to Part 8 Division 5

Heading to Part 8 Division 5—delete the heading and substitute:

Division 5—Review of certain access arrangements

31—Substitution of rule 49

Rule 49—delete the rule and substitute:

49—Review submission and revision commencement dates

An access arrangement:

- (a) must contain a *review submission date* and a revision commencement date; and
- (b) must not contain an *expiry date*.

32—Amendment of rule 50—Review of access arrangements

Rule 50(1)—delete "for a full access arrangement (other than a voluntary access arrangement)"

33—Amendment of rule 53—Access arrangement proposal for division or consolidation of access arrangements

- (1) Rule 53(1)—delete "for a covered pipeline"
- (2) Rule 53(1)—delete "the covered pipeline" and substitute:
the pipeline
- (3) Rule 53(2)—delete "covered" wherever occurring
- (4) Rule 53(2), Example—delete "covered" wherever occurring

34—Repeal of Part 8 Division 7

Part 8 Division 7—delete Division 7

35—Substitution of heading to Part 8 Division 8

Heading to Part 8 Division 8—delete the heading and substitute:

Division 8—Procedure for dealing with access arrangement proposal

36—Substitution of rule 56

Rule 56—delete the rule and substitute:

56—Application of Division

This Division does not apply to an *access arrangement variation proposal* relating to an access arrangement if the proposal is approved by the AER under Division 10 as a proposal for a non-material variation.

37—Substitution of heading to rule 58

Heading to rule 58—delete the heading and substitute:

58—Notification of submission of access arrangement proposal for approval

38—Amendment of rule 58—Notification of submission of access arrangement proposal for approval

- (1) Rule 58(1)—delete "*a full*" and substitute:
an
- (2) Rule 58(3)—delete "*a full*" and substitute:
an

39—Amendment of rule 63—AER's power to make or revise access arrangement on failure by service provider to submit an access arrangement proposal

- (1) Rule 63(1)(a)—delete paragraph (a) and substitute:
- (a) the service provider is required to submit an *access arrangement proposal* under section 113 of the *NGL* and rule 46, and fails to do so;
- (2) Rule 63(1)(b)—delete "132" and substitute:
- 113
- (3) Rule 63(3)—delete subrule (3) and substitute:
- (3) In making a *decision* under subrule (2), the AER must proceed in accordance with the *standard consultative procedure*.

40—Amendment of rule 64—AER's power to make or revise access arrangement on refusing to approve an access arrangement proposal

Rule 64(1), Exception—delete the Exception

41—Amendment of rule 66—Preliminary assessment of access arrangement variation proposal

Rule 66(3)—delete subrule (3) and substitute:

- (3) If the AER does not consider the proposed variation non-material, the AER must refer the *access arrangement variation proposal* to be dealt with as an *access arrangement proposal* under Division 8.

42—Insertion of Part 8 Division 12

Part 8—after Division 11 insert:

Division 12—Other provisions about access arrangements

68A—Availability of applicable access arrangement

A service provider must ensure that an up to date version of any applicable access arrangement for the pipeline is published on the service provider's website.

Note—

This rule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

Note—

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

68B—General requirement for consistency

- (1) The provisions of an access arrangement must be consistent with:
 - (a) the national gas objective; and
 - (b) these rules and the Procedures as in force when the terms and conditions of the access arrangement are determined or revised.
- (2) In deciding whether the non-tariff terms and conditions of an access arrangement are appropriate, the AER must have regard to the risk-sharing arrangements implicit in the reference tariff.

68C—Variable operation of access arrangement

- (1) The operation of an applicable access arrangement may vary according to factors, or in accordance with a formula, stated in the arrangement.
- (2) A variation in the operation of an applicable access arrangement that is made, or occurs, in accordance with the provisions of the access arrangement is not to be regarded as a variation of the access arrangement itself.

68D—Queuing requirements

- (1) An access arrangement must contain queuing requirements if:
 - (a) the access arrangement is for a transmission pipeline; or
 - (b) the access arrangement is for a distribution pipeline and the AER notifies the service provider that the access arrangement must contain queuing requirements.
- (2) If the AER gives a notification under subrule (1), the access arrangement must contain queuing requirements as from the commencement of the first access arrangement period to commence after the date of the notification (but this requirement lapses if the AER, by notice to the service provider, withdraws the notification).
- (3) Queuing requirements must establish a process or mechanism (or both) for establishing an order of priority between prospective users of spare or developable capacity (or both) in which all prospective users (whether associates of, or unrelated to, the service provider) are treated on a fair and equal basis.
- (4) Queuing requirements might (for example) provide that the order of priority is to be determined:
 - (a) on a first-come-first-served basis; or
 - (b) on the basis of a publicly notified auction in which all prospective users of the relevant spare capacity or developable capacity are able to participate.

- (5) Queuing requirements must be sufficiently detailed to enable prospective users:
 - (a) to understand the basis on which an order of priority between them has been, or will be, determined; and
 - (b) if an order of priority has been determined – to determine the prospective user's position in the queue.

68E—Extension and expansion requirements

- (1) Extension and expansion requirements may state whether the applicable access arrangement will apply to *incremental services* to be provided as a result of a particular extension to the pipeline made during the access arrangement period or may allow for later resolution of that question on a basis stated in the requirements.
- (2) Extension and expansion requirements may, if the service provider agrees, state that the applicable access arrangement will apply to *incremental services* to be provided as a result of a particular extension to the pipeline made before the revision commencement date for the applicable access arrangement.
- (3) Extension and expansion requirements must state that the applicable access arrangement will apply to *incremental services* to be provided as a result of any expansion to the capacity of the pipeline during the access arrangement period and deal with the effect of the expansion on tariffs.
- (4) Extension and expansion requirements included in an access arrangement must, if they provide that an applicable access arrangement is to apply to *incremental services* provided as a result of an extension to the pipeline:
 - (a) in the case of extensions made before the revision commencement date for the applicable access arrangement deal with:
 - (i) the effect of the extension on the opening capital base under rule 77(2)(c1); and
 - (ii) the effect of the extension on the description of reference services specified in the *access arrangement proposal*; and
 - (b) in all cases, deal with the effect of the extension on tariffs.
- (5) The extension and expansion requirements cannot require the service provider to provide funds for work involved in making an extension or expansion unless the service provider agrees.

68F—Capacity trading requirements

- (1) Capacity trading requirements must provide for transfer of capacity:
 - (a) if the service provider is registered as a participant in a gas market, or is the facility operator of a Part 24 facility – in accordance with rules or Procedures governing the relevant gas market; or
 - (b) if the service provider is not so registered, or the relevant rules or Procedures do not deal with capacity trading – in accordance with this rule.
- (2) A user may, without the service provider's consent, transfer, by way of subcontract, all or any of the user's contracted capacity to another (the **third party**) with the following consequences:
 - (a) the transferor's rights against, and obligations to, the service provider are (subject to paragraph (b)) unaffected by the transfer; but
 - (b) the transferor must immediately give notice to the service provider of:
 - (i) the subcontract and its likely duration; and
 - (ii) the identity of the third party; and
 - (iii) the amount of the contracted capacity transferred.
- (3) A user may, with the service provider's consent, transfer all or any of the user's contracted capacity to another (the **third party**) with the following consequences:
 - (a) the transferor's rights against, and obligations to, the service provider are terminated or modified in accordance with the capacity trading requirements; and
 - (b) a contract arises between the service provider and the third party on terms and conditions determined by or in accordance with the capacity trading requirements.
- (4) The service provider must not withhold its consent under subrule (3) unless it has reasonable grounds, based on technical or commercial considerations, for doing so.
- (5) An adjustment of rights and liabilities under subrule (3) does not affect rights or liabilities that had accrued under, or in relation to, the contract before the transfer took effect.
- (6) The capacity trading requirements may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.
- (7) For the purposes of subrule (1), a reference to a gas market includes a reference to a regulated gas market, a gas trading exchange and a capacity auction.

68G—Change of receipt or delivery point by user

- (1) An access arrangement must provide for the change of a *receipt or delivery point* in accordance with the following principles:
 - (a) a user may, with the service provider's consent, change the user's *receipt or delivery point*;
 - (b) the service provider must not withhold its consent unless it has reasonable grounds, based on technical or commercial considerations, for doing so.
- (2) The access arrangement may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.

43—Substitution of heading to Part 9

Heading to Part 9—delete the heading and substitute:

Part 9—Price and revenue regulation for scheme pipelines**44—Amendment of rule 69—Interpretation**

Rule 69, definition of **tariff class**—delete "a full" and substitute:

an

45—Substitution of rule 70

Rule 70—delete the rule and substitute:

70—Application of Part

This Part applies in relation to an access arrangement in respect of a scheme pipeline (or an *access arrangement proposal* in respect of a scheme pipeline).

46—Amendment of rule 72—Specific requirements for access arrangement information relevant to price and revenue regulation

- (1) Rule 72(1)—delete "a *full*" and substitute:

an

- (2) Rule 72(2)—delete "a full" and substitute:

an

- (3) Rule 72(3)—delete "a *full*" and substitute:

an

47—Amendment of rule 75B—Contents of the financial models

Rule 75B(3)—delete "*full regulation pipeline*" and substitute:

scheme pipeline

48—Amendment of rule 77—Opening capital base

- (1) Rule 77(1)—delete "covered pipeline" and substitute:
scheme pipeline
- (2) Rule 77(2)(c1)—delete "rule 104(2)" and substitute:
rule 68E(2)
- (3) Rule 77(3)—delete "a full" and substitute:
an
- (4) Rule 77(3)(a)—delete "full"
- (5) Rule 77(3)(b1)—delete "rule 104(2)" and substitute:
rule 68E(2)

49—Amendment of rule 79—New capital expenditure criteria

- (1) Rule 79(6)(b)—delete "covered pipeline" and substitute:
scheme pipeline
- (2) Rule 79(6)(c)—delete "uncovered" and substitute:
non-scheme

50—Amendment of rule 83—Surcharges

Rule 83(6)—delete "an arbitrator" and substitute:
the dispute resolution body

51—Amendment of rule 84—Speculative capital expenditure account

Rule 84(1)—delete "A full" and substitute:
An

52—Amendment of rule 85—Capital redundancy

Rule 85(1)—delete "A full" and substitute:
An

53—Amendment of rule 87A—Estimated cost of corporate income tax

Rule 87A—delete "(1)"

54—Amendment of rule 90—Calculation of depreciation for rolling forward capital base from one access arrangement period to the next

Rule 90(1)—delete "A full" and substitute:
An

55—Amendment of rule 91—Criteria governing operating expenditure

- (1) Rule 91(2)—delete "full"
- (2) Rule 91(2)(b)—delete "covered pipeline" and substitute:
scheme pipeline

- (3) Rule 91(2)(c)—delete "uncovered" and substitute:
non-scheme

56—Amendment of rule 92—Revenue equalisation

- (1) Rule 92(1)—delete "A full" and substitute:
An
- (2) Rule 92(3)—delete "a full" and substitute:
an

57—Amendment of rule 98—Incentive mechanism

- Rule 98(1)—delete "A full" and substitute:
An

58—Amendment of rule 99—Fixed principles

- Rule 99(1)—delete "A full" and substitute:
An

59—Substitution of Parts 10, 11 and 12

- Parts 10, 11 and 12—delete the Parts and substitute:

Part 10—Prescribed transparency information

Division 1—Preliminary

100—Application

This Part is made for the purposes of section 136C(1)(a) of the *NGL*.

100A—Definitions and interpretation

- (1) In this Part:

actual prices payable information means the information published under rule 101E.

application date, in relation to a pipeline, means the date on which the pipeline is commissioned.

business day means a day that is not a Saturday, Sunday or public holiday in any participating jurisdiction or in relation to a pipeline in Western Australia, that jurisdiction alone.

daily flow data means, for a large distribution pipeline:

- (a) the quantity of natural gas that is metered as having been, or estimated by the service provider to have been, injected at each receipt point on the pipeline on a gas day; and
- (b) the quantity of natural gas that is metered as having been, or estimated by the service provider to have been, withdrawn at each delivery point on the pipeline on the gas day.

financial information, historical demand information and cost allocation methodology means the information published under rule 101D.

financial year, in relation to a service provider, means:

- (a) in the case of a scheme pipeline – the relevant regulatory year as determined by reference to the access arrangement that applies in relation to the pipeline; and
- (b) in the case of a non-scheme pipeline – the financial year of the service provider.

flow rate means the rate at which gas flows past a point on a pipeline in an hour, expressed in GJ/hour.

further investigations means investigations to determine the terms and conditions for provision of a pipeline service sought by a user or prospective user in a manner that is technically feasible and consistent with the safe and reliable operation of the pipeline.

Gas Bulletin Board means, as applicable:

- (a) the Natural Gas Services Bulletin Board established under Part 18 of these rules; or
- (b) the gas bulletin board established under the *Gas Services Information Act 2012* of Western Australia.

gas day means in respect of a pipeline, the 24 hour period for which nominations for use of pipeline services on the pipeline are provided or if no such nomination period applies to the pipeline, the 24 hour period commencing at 6:00 am Australian eastern standard time.

hourly flow data means, for a large distribution pipeline:

- (a) the quantity of natural gas that is metered as having been, or estimated by the service provider to have been, injected at each receipt point on the pipeline in each hour of the gas day; and
- (b) the quantity of natural gas that is metered as having been, or estimated by the service provider to have been, withdrawn at each delivery point on the pipeline in each hour of the gas day.

large distribution pipeline means a distribution pipeline or part of a distribution pipeline that is a scheme pipeline and has a maximum daily capacity under normal operating conditions greater than or equal to 10 TJ/day and a maximum pressure capability under normal operating conditions greater than 4 MPa.

meter means a device that measures and records quantities of gas by reference to volume, mass or energy content.

nameplate rating means, for each direction in which natural gas can be transported on a pipeline, the maximum quantity of natural gas that can be transported through the pipeline on a gas day for the pipeline in that direction under normal operating conditions.

pipeline information means the information described in rule 101B(2).

pipeline information disclosure guidelines means the guidelines published by the AER under rule 103 as amended from time to time.

pipeline service information means the information described in rule 101B(3).

service and access information means the information described in rule 101B(1).

service availability information means the information described in rule 101B(5).

service term, in relation to a pipeline service provided to a user under an *access contract*, means the period during which the pipeline service is available to the user under that *access contract*.

service usage information means the information described in rule 101B(4).

standing terms means:

- (a) for a scheme pipeline:
 - (i) the applicable access arrangement for reference services approved by the AER; and
 - (ii) the information required to be published under rule 101C for non-reference services and rebateable services;
- (b) for a non-scheme pipeline with a greenfields price protection determination:
 - (i) the price and non-price terms and conditions applicable to the pipeline services set out in that determination; and
 - (ii) the information required to be published under rule 101C for other pipeline services;
- (c) for any other non-scheme pipeline – the information required to be published under rule 101C.

terms and conditions includes prices and non-price terms and conditions.

- (2) For the purposes of this Part, a pipeline service is to be treated as distinct from another pipeline service having regard to matters including service type (for example, forward haul, backhaul, park and loan) and the priority of the service relative to other pipeline services of the same type.
- (3) For the purposes of this Part, in relation to a user or prospective user, a pipeline service is also to be treated as distinct from another pipeline service having regard to the service term and the capacity sought by the prospective user.

100B—Person cannot rely on duty of confidence to avoid compliance with Part

- (1) A person must not refuse to comply with this Part on the ground of any duty of confidence.
- (2) A person incurs, by complying with this Part, no liability for breach of contract, breach of confidence, or any other civil wrong.

Division 2—Obligations on service providers**Subdivision 1—Information disclosure requirements****101—Access information standard**

- (1) A service provider required by this Division to prepare, publish and maintain information must do so in accordance with the *access information standard*.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

- (2) The *access information standard* is the requirement that information:
 - (a) is not false or misleading in a material particular; and
 - (b) in relation to information of a technical nature, is prepared, published and maintained in accordance with the practices, methods and acts that would reasonably be expected from an experienced and competent person engaged in the ownership, operation or control of a pipeline in Australia acting with all due skill, diligence, prudence and foresight; and
 - (c) in relation to a forecast or estimate:
 - (i) is supported by a statement of the basis of the forecast or estimate; and
 - (ii) is arrived at on a reasonable basis; and
 - (iii) represents the best forecast or estimate possible in the circumstances.

- (3) If a service provider becomes aware that information required to be published by it under this Division does not comply with the *access information standard* or any other provision of this Division, or is no longer accurate, the service provider must publish information that does comply, or is accurate, as soon as practicable after the service provider becomes aware of the non-compliance or inaccuracy.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

- (4) Information published under this Division must include the date of publication, the date to which the information is current and, if the information replaces an earlier version as provided for by subrule (3), notice of that fact.

101A—Obligation to publish information

- (1) Subject to subrule (5), a service provider must prepare, publish and maintain:
- (a) the service and access information specified in rule 101B; and
 - (b) standing terms in accordance with rule 101C; and
 - (c) financial information, historical demand information and a cost allocation methodology in accordance with rule 101D; and
 - (d) actual prices payable information in accordance with rule 101E,

in accordance with the *NGL*, this Part and the pipeline information disclosure guidelines.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

- (2) The information referred to in subrule (1) must be published at the following times.

| | | |
|--------------------------------|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| service and access information | pipeline information | No later than 20 business days after the application date for the pipeline. Updated pipeline information must be published within 20 business days after there is a change. |
| | pipeline service information | No later than 20 business days after the application date for the pipeline. Updated pipeline service information must be published within 20 business days after a new pipeline service is added or an existing pipeline service |

OFFICIAL

National Gas Rules (Gas Pipelines) Amendment Rules 2023

| | | |
|--------------------------------------------------------------------------------------|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | changes or is withdrawn. |
| | service usage information | Each month after the application date for the pipeline, by the last business day of the month for the prior month. |
| | service availability information | Each month after the application date for the pipeline, by the last business day of the month for the next 36 or 12 months as applicable. |
| standing terms | | No later than 20 business days after the application date for the pipeline. Updated standing terms must be published within 20 business days after a new pipeline service is added or an existing pipeline service changes or is withdrawn. |
| financial information, historical demand information and cost allocation methodology | | Annually no later than 5 months after the end of the financial year of the service provider for the pipeline, subject to the qualification that the information does not need to be provided before the application date for the pipeline. |
| actual prices payable information | | No later than 20 business days after the <i>access contract</i> is entered into or varied to provide for the particular prices (as the case may be), subject to the qualification that the information does not need to be provided before the application date for the pipeline. |

- (3) Where required, a service provider must publish the information referred to in subrule (1) by:
- (a) making the information publicly available in accordance with the pipeline information disclosure guidelines; or
 - (b) where the information is also required to be provided by the service provider to AEMO for publication on a Gas Bulletin Board, by providing a publicly available link on its website to the part of the Gas Bulletin Board where the information is to be located.
- (4) When the service provider publishes financial information, historical demand information and actual prices payable information, it must immediately notify the AER that the information has been published and give a copy of the published information to the AER in accordance with any requirements specified in the pipeline information disclosure guidelines.
- (5) A service provider is not required to comply with subrule (1) in relation to a pipeline to the extent that an exemption from the obligation to publish the information has been granted in relation to the pipeline under Subdivision 2 and that exemption remains in effect.

- (6) A service provider must ensure that the financial information, historical demand information and actual prices payable information for its pipeline continues to be publicly available for the following periods, by continuing to make that information available in accordance with subrule (3):
- (a) in relation to financial information and historical demand information, for a period of 5 years after the date on which the information is first published;
 - (b) in relation to actual prices payable information, for a period of 5 years:
 - (i) from the date on which the prices cease to apply under the relevant *access contract*; or
 - (ii) from the date on which the relevant *access contract* terminates,whichever first occurs.
- (7) Where information covered by subrule (1) is contained in an access arrangement, the publication requirement is satisfied by including a link to the access arrangement, and to the page or pages on which the information is to be found, on the service provider's website.

101B—Service and access information

- (1) The service and access information comprises:
- (a) the pipeline information described in subrule (2); and
 - (b) the pipeline service information described in subrule (3); and
 - (c) the service usage information described in subrule (4); and
 - (d) the service availability information described in subrule (5).
- (2) The pipeline information in respect of a pipeline comprises:
- (a) the classification of the pipeline as a transmission pipeline or a distribution pipeline; and
 - (b) for a transmission pipeline:
 - (i) the pipeline's nameplate rating; and
 - (ii) the details of all *receipt or delivery points* on the pipeline and key facilities to which those *receipt or delivery points* connect; and
 - (iii) a schematic map of the pipeline that shows the location on the pipeline of each *receipt or delivery point* and other key facilities; and
 - (c) for a distribution pipeline:
 - (i) subject to subrule (6), the quantity of natural gas that can be transported through each gate station on the distribution pipeline in any 24 hour period; and

- (ii) the details of all points on the pipeline where the service provider takes delivery of natural gas; and
 - (iii) a schematic map of the pipeline that shows the location on the pipeline of the points referred to in subparagraph (ii) and the geographic limits of the areas served by the pipeline; and
- (d) any technical or physical characteristics of the pipeline that may affect access to or use of the pipeline or the price for pipeline services provided by means of the pipeline; and
- (e) policies of the service provider that may affect access to or use of the pipeline or the price for pipeline services provided by means of the pipeline which may include:
 - (i) queuing requirements; and
 - (ii) a *receipt or delivery point* change policy; and
 - (iii) a metering and measurement policy; and
 - (iv) for a distribution pipeline – a balancing policy.
- (3) The pipeline service information for a pipeline comprises a list of the pipeline services available on the pipeline and for each pipeline service:
 - (a) a description of the service and any locational limitations on availability; and
 - (b) the priority ranking of the service in relation to the other pipeline services including when scheduling and in the event of curtailment.
- (4) The service usage information for a pipeline for a month comprises:
 - (a) for a transmission pipeline:
 - (i) the total quantity of natural gas metered as having been injected into the pipeline during the month; and
 - (ii) the total quantity of natural gas metered as having been withdrawn from the pipeline during the month; and
 - (iii) the total quantity of natural gas scheduled for injection into the pipeline during the month (after taking into account rescheduling); and
 - (iv) the total quantity of natural gas scheduled for withdrawal from the pipeline during the month (after taking into account rescheduling); and
 - (v) of the scheduled quantities referred to in subparagraphs (iii) and (iv), the quantities attributable to each pipeline service on the pipeline as identified in the pipeline service information; and

- (b) subject to subrule (6), for each entry and exit point on a large distribution pipeline that is owned, operated or controlled by the service provider or for which the service provider holds the information:
 - (i) daily flow data; and
 - (ii) where a meter is installed at the relevant entry or exit point, the hourly flow data; and
 - (iii) minimum inlet and minimum outlet pressures over each hour; and
 - (iv) a static table or chart showing the maximum flow rate of the entry or exit point against pressure.
- (5) The service availability information for a pipeline for a month comprises:
 - (a) an outlook of the firm capacity of the pipeline that the service provider has available for sale or that it will have available for sale for each month in the following 36 month period; and
 - (b) information about matters expected to affect the capacity of the pipeline (including any planned expansions of the capacity) for each month in the following 12 month period, including:
 - (i) the expected start and end dates of the matters expected to affect the capacity of the pipeline; and
 - (ii) a description of the matters expected to affect the capacity of the pipeline; and
 - (iii) the expected capacity of the pipeline during the period it is affected by the matters referred to in subparagraphs (i) and (ii); and
 - (c) information on any other limitations on the availability of the pipeline services identified in the pipeline service information.
- (6) The service and access information for a pipeline does not include:
 - (a) the information specified in subrule (2)(c)(i) if the nameplate rating for the relevant gate station is provided to AEMO by a BB reporting entity under rule 168; or
 - (b) the information specified in subrule (4)(b) if the relevant entry point is a gate station and daily flow data for that gate station is reported to AEMO by a BB reporting entity under rule 187.

101C—Standing terms

- (1) The service provider for a pipeline must publish:
 - (a) standing terms for each pipeline service on the pipeline in accordance with subrule (2); and
 - (b) the methodology used to calculate the standing price referred to in subrule (2)(b), the inputs used in the calculation of the standing price and any other information specified in the pipeline information disclosure guidelines.
- (2) The standing terms must in each case include:
 - (a) the standard terms and conditions applicable to each pipeline service; and
 - (b) the standing price, being the price applicable to each pipeline service under the terms and conditions referred to in paragraph (a); and
 - (c) other information about prices and charges applicable to each pipeline service including the charging structure for the pipeline service, any minimum charge and any additional charges such as imbalance or overrun charges.

101D—Financial information, historical demand information and cost allocation methodology

- (1) A service provider for a pipeline must prepare and publish on its website:
 - (a) financial information and historical demand information for each of its pipelines, which must:
 - (i) be in the form and contain the information specified in the pipeline information disclosure guidelines; and
 - (ii) be certified in the manner provided for in the pipeline information disclosure guidelines; and
 - (b) the cost allocation methodology used for each of its pipelines, which must comply with the cost allocation principles set out in the pipeline information disclosure guidelines.
- (2) To avoid doubt, the relevant adjudicator, in making an access determination, is not bound by financial information, historical demand information or the cost allocation methodology published under this rule or by any methods, principles or inputs that have been used to calculate information published under this rule.

101E—Actual prices payable information

- (1) A service provider must publish the following information for each pipeline service that a user has procured under an *access contract* with the service provider:
- (a) the pipeline by means of which the pipeline service is provided; and
 - (b) the date the *access contract* was entered into or varied (as the case requires); and
 - (c) the service term (start and end dates); and
 - (d) the pipeline service type (for example, forward haul, backhaul, interconnection, park and loan); and
 - (e) the priority given to the pipeline service (such as firm, as available or interruptible); and
 - (f) the contracted quantity for the pipeline service expressed, where relevant, as:
 - (i) the maximum daily quantity (in GJ/day); and
 - (ii) the maximum hourly quantity (in GJ/hour); and
 - (g) for a transmission pipeline:
 - (i) in the case of a forward haul or backhaul service, the direction of the service; and
 - (ii) for services other than interconnection services:
 - (A) the *receipt* and *delivery points* between which the pipeline service is provided; and
 - (B) the imbalance allowance applicable to the pipeline service; and
 - (C) the overrun allowance applicable to the pipeline service; and
 - (h) whether the pipeline service is provided on the same or substantially the same non-price terms as those set out in the standing terms published for the pipeline under rule 101C(1)(a); and
 - (i) the price structure applicable to the pipeline service (for example whether it is a fixed price or a variable price or a combination of the two); and
 - (j) the prices payable for the service as set out in the contract (excluding any amount on account of GST); and
 - (k) for services other than interconnection services, if a price provided under paragraph (j) is not expressed as \$/GJ/day or, if relevant, \$/GJ, that price converted into \$/GJ/day or \$/GJ, together with an explanation about how the conversion has been made; and

- (1) a description of any price escalation mechanism applicable to the prices payable for the service.
- (2) A service provider must update the information published under subrule (1) if the information is no longer accurate due to a variation to the terms of the *access contract* between the service provider and the user.
- (3) A scheme pipeline service provider is not required to comply with subrule (1) in relation to users of reference services specified in an approved access arrangement if the service provider:
 - (a) publishes on its website information about the number of users using each reference service; and
 - (b) updates that information whenever there is a variation to that number.
- (4) A service provider is not required to comply with subrule (1) where a user's total pipeline capacity right under one or more *access contracts* with the service provider by means of the same pipeline is less than 10 TJ of natural gas per annum.

Subdivision 2—Exemptions from information disclosure requirements

102—Exemption categories

- (1) The AER must, on the application of the service provider for a non-scheme pipeline, grant an exemption under this Subdivision in respect of the service provider's pipeline if:
 - (a) the exemption sought is one of the exemption categories in subrule (4); and
 - (b) the service provider has demonstrated to the reasonable satisfaction of the AER that the pipeline satisfies the exemption criteria applicable to the exemption category; and
 - (c) the AER is otherwise satisfied that the exemption should be granted.
- (2) Subject to this Subdivision, the AER may grant an exemption in respect of a class or group of pipelines on the application of a service provider for one or more of the pipelines or on its own initiative.
- (3) The AER must only grant exemptions in the categories specified in the table in subrule (4) and may grant more than one category of exemption in respect of a pipeline.
- (4) The exemption categories and the exemption criteria are as follows:

| Exemption category | Exemption criteria |
|----------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| Category 1: The service provider is exempt from the obligation to publish information under Subdivision 1 in relation to the pipeline. | The pipeline is not a <i>third party access pipeline</i> . |

| Exemption category | Exemption criteria |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Category 2: The service provider is exempt from the obligations to publish financial information, historical demand information and a cost allocation methodology under rule 101D. | <p>The pipeline is a <i>single user pipeline</i> or the following criteria apply:</p> <p>(a) in the case of a transmission pipeline – the nameplate rating of the pipeline is less than 10 TJ/day;</p> <p>(b) in the case of a distribution pipeline – the maximum daily capacity of the pipeline under normal operating conditions is less than 10 TJ/day.</p> |

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

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

102A—Exemption conditions

- (1) An exemption may be granted subject to any conditions determined by the AER.
- (2) The service provider for a pipeline for which an exemption has been granted must comply with any conditions of the exemption.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

- (3) The AER may on the application of the service provider for the pipeline concerned or on its own initiative vary the conditions of an exemption.
- (4) A variation to the conditions of an exemption takes effect on the date specified by the AER in its decision to grant the variation.

102B—Revocation

- (1) The AER must revoke an exemption where, in the AER's reasonable opinion, the relevant exemption criteria in rule 102(4) is no longer satisfied.
- (2) The AER may revoke an exemption on its own initiative or on application made by any person.
- (3) A revocation of an exemption takes effect on the date specified by the AER in its decision to revoke the exemption.
- (4) If an exemption is revoked for a pipeline, for the purpose of rule 101A(2) the application date for the pipeline is taken to be the date on which the revocation takes effect.

102C—Making and form of application

- (1) A service provider for a pipeline may apply to the AER for:
 - (a) the grant of an exemption for its pipeline; or
 - (b) a variation to any condition of an exemption for its pipeline.
- (2) Any person may apply to the AER for the revocation of an exemption.
- (3) An application under this Subdivision must be in the form, and contain the information, specified in any guidelines issued by the AER for the purposes of this rule.
- (4) The AER may, within the period for making a *decision* on the application under rule 102D, ask the applicant to provide further information or clarification in support of the application if the AER considers that the application is incomplete or requires clarification.
- (5) If the AER asks for further information or clarification under subrule (4), the application is taken to have been made when the further information or clarification is provided to the AER's satisfaction.

102D—Decision on application

- (1) The AER must decide whether to grant or refuse to grant an application under this Subdivision within 40 business days after the application is made.
- (2) The AER may extend the time period in subrule (1) by a further period of 20 business days by giving the applicant written notice of the extension no later than 30 business days after the application is made.
- (3) The AER must:
 - (a) give the applicant written notice of its *decision* to grant or refuse to grant an application, including any conditions imposed under this Subdivision; and

- (b) if the AER imposes conditions on the grant of an exemption or a variation of an exemption, or refuses to grant an application, it must give the applicant written reasons for its *decision*.

102E—Decision to vary or revoke an exemption

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

Division 3—AER guidelines and pricing template

103—Pipeline information disclosure guidelines

- (1) The AER must publish and maintain pipeline information disclosure guidelines.
- (2) The pipeline information disclosure guidelines must:
 - (a) provide for the publication of financial and historical demand information about each pipeline on a pipeline by pipeline basis and in respect of the financial year of the service provider for the pipeline, which must include:
 - (i) financial statements; and
 - (ii) information on the methods, principles and inputs used to calculate:
 - (A) the value of any assets used in the provision of pipeline services; and
 - (B) depreciation allowances; and
 - (C) the allocation of costs between the different categories of pipeline services provided by the pipeline; and
 - (D) the allocation of costs to the pipeline if the service provider operates more than one pipeline; and
 - (E) the return on capital and the rate of return used in the calculation of the return on capital; and

- (iii) in the case of:
 - (A) scheme pipelines – the value of the capital base calculated in accordance with Part 9 and information on the inputs used to calculate this value;
 - (B) non-scheme pipelines – the asset value calculated in accordance with rule 113Z(5) and information on the inputs used to calculate this value; and
 - (C) each pipeline – the cost of any extension to, or expansion of the capacity of, the pipeline and information on the inputs used to calculate this value; and
 - (iv) financial performance metrics; and
 - (v) historical demand information, being information on the amount of capacity that was contracted in each financial year and the amount of capacity that was actually used in each financial year; and
 - (vi) any other financial and historical demand information the AER considers appropriate; and
 - (b) specify the information that a service provider must report on as to the methodology used to calculate standing prices, the inputs used in the calculation of standing prices, and any related information as determined by the AER; and
 - (c) specify the level of detail of information required for the matters set out in paragraphs (a) and (b), which must be the level of detail reasonably required to enable a user or prospective user to negotiate on an informed basis with a service provider for the provision of a pipeline service and to provide a true and fair statement of the financial performance of the pipeline; and
 - (d) specify any accounting or audit standards that apply to the reported information under paragraph (a) or (b); and
 - (e) specify where and how information that a service provider is required to publish under rule 101A is to be published on a service provider's website; and
 - (f) provide for the manner in which the financial information, historical demand information and cost allocation methodology is to be certified as being true and fair; and
 - (g) specify where and how a user access guide is to be published by a service provider under Part 11,
- and may provide for such other matters as the AER considers appropriate.

- (3) The pipeline information disclosure guidelines must set out the cost allocation principles that service providers must comply with, which must give effect to and be consistent with relevant principles specified by subrule (4).
- (4) The following principles are specified:
 - (a) the detailed principles and policies used by a service provider to allocate costs between different pipelines must be described in sufficient detail to enable the AER to replicate reported outcomes through the application of those policies and principles;
 - (b) the allocation of costs must be determined according to the substance of a transaction or event rather than its legal form;
 - (c) only the following costs may be allocated to a pipeline:
 - (i) costs which are directly attributable to the pipeline;
 - (ii) costs which are not directly attributable to the pipeline but which are incurred in providing services by means of the pipeline, in which case such costs must be allocated to the pipeline using an appropriate allocator, which should:
 - (A) except to the extent the cost is immaterial or a causal based method of allocation cannot be established without undue cost and effort, be causation based; and
 - (B) to the extent the cost is immaterial or a causal based method of allocation cannot be established without undue cost and effort, be an allocation that accords with a well accepted cost allocation method;
 - (d) for any cost allocation method which is used – the reasons for using that method and the numeric quantity (if any) of the chosen allocator must be clearly described
 - (e) the same cost must not be allocated more than once;
 - (f) the principles, policies and approach used to allocate costs must be consistent with any ring fencing requirements under Chapter 4 Part 2 of the *NGL*;
 - (g) for scheme pipelines – costs which have been allocated to a particular service cannot be reallocated to another service during the course of an access arrangement period determined by the AER for the purposes of this subrule.
- (5) The AER may from time to time amend the pipeline information disclosure guidelines in accordance with the *standard consultative procedure*.

103A—Pricing template

- (1) The AER must publish and maintain a pricing template.
- (2) The pricing template must provide a process or mechanism by which users and prospective users can transform the financial and historical demand information published by service providers into one or more cost-based pricing benchmarks.
- (3) Before making a change to the pricing template, the AER must:
 - (a) unless paragraph (b) applies – proceed in accordance with the *standard consultative procedure*; or
 - (b) if the change is not material – proceed in accordance with the *expedited consultative procedure*.

Division 4—User disclosure obligations for unutilised contracted capacity**104—Specific requirements relating to unutilised contracted capacity**

- (1) A user must, within 10 business days after receiving a request from a prospective user for information about the user's unutilised contracted capacity (if any), provide the prospective user with the following information:
 - (a) whether unutilised contracted capacity is, or is likely to become, available; and
 - (b) if so:
 - (i) the quantity of the unutilised contracted capacity that is, or is likely to become, available; and
 - (ii) the nature of the unutilised contracted capacity (i.e. whether it is firm or interruptible and whether it is forward or backhaul); and
 - (iii) when the unutilised contracted capacity will be, or is likely to become, available nominating, if possible, a specific date; and
 - (iv) the terms and conditions (which may include price) on which the user would be prepared to transfer the unutilised capacity; and
 - (c) whether technical or safety considerations might limit the utilisation of the user's unutilised contracted capacity and, if so, the nature of those considerations.

Note—

This subrule is classified as a tier 2 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

Note—

This subrule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

- (2) On providing information under subrule (1), a user must immediately notify the service provider of the provision of the information:

- (a) stating the name and *contact details* of the person to whom the information was provided; and
- (b) giving full details of the information provided.

Note—

This subrule is classified as a tier 2 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

Note—

This subrule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

- (3) A user incurs, by providing information under this rule, no liability for breach of contract or breach of confidence or any other civil liability.

Part 11—Access negotiation framework

105—Preliminary

- (1) This Part is made for the purposes of section 148C of the *NGL*.
- (2) A service provider will be taken to have complied with an obligation to provide or publish information under this Part to the extent that the information is:
 - (a) *access arrangement information* published under Part 8; or
 - (b) included in an access arrangement published under rule 68A.

105A—Definitions and interpretation

- (1) In this Part:

access offer means an offer to provide access to a pipeline service that complies with rule 105E.

access request means a request referred to in rule 105D.

application date, in relation to a pipeline, means the date on which the pipeline is commissioned.

business day means a day that is not a Saturday, Sunday or public holiday in any participating jurisdiction or in relation to a pipeline in Western Australia, that jurisdiction alone.

disclose, in relation to confidential information, includes publishing or communicating or otherwise supplying the confidential information.

further investigations means investigations to determine the terms and conditions for provision of a pipeline service sought by a user or prospective user in a manner that is technically feasible and consistent with the safe and reliable operation of the pipeline.

service term, in relation to a pipeline service provided to a user under an *access contract*, means the period during which the pipeline service is available to the user under that *access contract*.

terms and conditions includes prices and non-price terms and conditions.

- (2) For the purposes of this Part, a pipeline service is to be treated as distinct from another pipeline service having regard to matters including service type (for example, forward haul, park and loan) and the priority of the service relative to other pipeline services of the same type.
- (3) For the purposes of this Part, in relation to a user or prospective user, a pipeline service is also to be treated as distinct from another pipeline service having regard to the service term and the capacity sought by the user or prospective user.

105B—Compliance with access information standard

- (1) All information provided or published by a service provider under this Part must comply with the *access information standard*.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

Note—

This subrule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

- (2) If a service provider becomes aware that information required to be provided or published by it under this Part does not comply with the *access information standard* or any other provision of this Part, or is no longer accurate, the service provider must provide or publish information that does comply, or is accurate, as soon as practicable after the service provider becomes aware of the non-compliance or inaccuracy.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

Note—

This subrule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

105C—User access guide

- (1) A service provider must develop and maintain a user access guide that:
- (a) contains the information in subrule (6) for each of its pipelines; and
 - (b) without limiting paragraph (a), provides other information that is reasonably required for the purposes of this Part; and
 - (c) is published in accordance with the pipeline information disclosure guidelines published by the AER under Part 10.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

- (2) Each user access guide:
- (a) must not contain anything inconsistent with these rules; and
 - (b) must not operate or be applied by a service provider in a manner that prevents or delays a user or prospective user from notifying an access dispute.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

- (3) The same user access guide may apply to one or more of the service provider's pipelines.
- (4) The service provider for a pipeline must publish the user access guide for the pipeline no later than 20 business days after the application date for the pipeline.
- (5) The service provider for a pipeline must publish a revised version of the user access guide for the pipeline as soon as practicable after facts or circumstances arise that require the guide to be updated.
- (6) Each user access guide must:
- (a) identify the service provider for the pipeline and, where there is more than one service provider for the pipeline, identify the service provider responsible for dealing with preliminary enquiries and access requests; and

- (b) set out the *contact details* for an officer of the service provider to whom preliminary enquiries and access requests can be sent; and
 - (c) describe the process for making an access request, the information to be included with the access request (subject to subrule (7)) and response times; and
 - (d) describe the arrangements for undertaking further investigations; and
 - (e) explain how the service provider will deal with and use any confidential information exchanged between the service provider and the user or prospective user; and
 - (f) describe the process for preparing an access offer and for requesting negotiations under these rules in relation to an access offer; and
 - (g) include a statement of the obligation to negotiate in good faith under section 148D of the *NGL* and the right to refer an access dispute to arbitration under Chapter 5 of the *NGL*; and
 - (h) describe the arrangements in rule 105G for the exchange of information during negotiations under this Part; and
 - (i) include a specific part that sets out the service provider's interconnection policy under Part 6.
- (7) The information that a user access guide specifies as information required to be included in an access request must be no more than is reasonably required to enable the service provider to make an access offer, which may include:
- (a) the time or times when each pipeline service will be required and the capacity that is to be utilised; and
 - (b) the *receipt or delivery points* where the user or prospective user is seeking access; and
 - (c) relevant technical details for any new interconnection to the pipeline.
- (8) A service provider is not required to publish a user access guide for a pipeline for which an exemption has been granted under Category 1 in Part 10 Division 2 Subdivision 2.

105D—Access requests

- (1) A user or prospective user may request a service provider to provide access to a pipeline service requested by the user or prospective user and provided or to be provided by means of the pipeline.

OFFICIAL

National Gas Rules (Gas Pipelines) Amendment Rules 2023

- (2) A user or prospective user may make a preliminary enquiry about the matters referred to in subrule (1) before making an access request and a service provider must:
 - (a) not require a user or prospective user to make a preliminary enquiry before making an access request; and
 - (b) respond to the preliminary enquiry within 10 business days of receiving the enquiry stating:
 - (i) whether it can provide access to the pipeline services referred to in the enquiry or whether it needs to carry out further investigations; and
 - (ii) when it will provide an offer; and
 - (c) if requested by the user or prospective user, carry out further investigations on the basis of the preliminary enquiry and before the user or prospective user makes an access request.
- (3) If an offer is made in response to a preliminary enquiry, the user or prospective user does not need to submit an access request, and the parties may proceed straight to the negotiation phase under rule 105F.
- (4) An access request must:
 - (a) be in writing; and
 - (b) include the information reasonably required to be provided by the user or prospective user for the service provider to prepare an access offer in relation to the access sought or to determine whether the service provider needs to undertake further investigations in relation to the access request.
- (5) The service provider must acknowledge receipt of the access request within 5 business days after the access request is received.
- (6) If the access request is incomplete, the acknowledgment under subrule (5) must specify the information required to complete the access request.
- (7) The service provider must notify the user or prospective user if the service provider needs to undertake further investigations in relation to the user's or prospective user's access request.
- (8) A notice under subrule (7) must be given within 10 business days after receipt of the access request or, if applicable, after receipt of the further information requested under subrule (6).
- (9) A service provider must:
 - (a) only undertake further investigations in relation to an access request when and to the extent reasonably necessary; and
 - (b) carry out further investigations expeditiously.

- (10) A service provider and a user or prospective user must negotiate in good faith about the terms and conditions on which further investigations will be carried out, including the basis for determining reasonable costs of the further investigations to be paid by the user or prospective user and any reasonable extension to the time period in rule 105E(2) to enable the further investigations to be completed.
- (11) A user or prospective user may amend the details of the access sought in an access request with the consent of the service provider.
- (12) The service provider must not unreasonably withhold its consent under subrule (11) and may give its consent subject to reaching agreement on a reasonable extension to the period for making an access offer under rule 105E.

105E—Access offer

- (1) The service provider for a pipeline in receipt of an access request must prepare and make an access offer that complies with subrule (3) within the period determined under subrule (2).

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

Note—

This subrule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

- (2) The period for making an access offer under subrule (1) ends at the time agreed by the user or prospective user and the service provider or if no time is agreed between them:
 - (a) unless paragraph (b) applies, 20 business days after receiving the access request or if applicable, the further information requested under subrule 105D(6); and
 - (b) if the service provider is required to carry out further investigations in relation to the access request, 60 business days after receiving the access request or if applicable, after receiving the further information requested under subrule 105D(6).
- (3) An access offer must:
 - (a) set out the terms and conditions on which the service provider offers to make the pipeline service or pipeline services requested in the access request available to the user or prospective user;
 - (b) contain the details of any works to be undertaken by the service provider and user or prospective user and any applicable technical and performance specifications; and

- (c) be in a form capable of acceptance by the user or prospective user so as to constitute a new *access contract* or form part of an *existing access contract*.
- (4) A service provider is not required to make an access offer under subrule (1) in relation to a pipeline service if:
 - (a) the access request has been withdrawn;
 - (b) the service provider has concluded that it is not technically feasible or consistent with the safe and reliable operation of the pipeline to provide the pipeline service requested by the user or prospective user, having used all reasonable efforts to accommodate the reasonable requirements of the user or prospective user; or
 - (c) the provision of the pipeline service requested by the user or prospective user would require the extension of the service provider's pipeline.
- (5) If a service provider does not make an access offer for the reason specified in subrule (4)(b), the service provider must give the user or prospective user:
 - (a) written reasons explaining why the requested pipeline service cannot be provided; and
 - (b) if there is some prospect that it will become possible to provide the requested pipeline service at some time in the future – details (which must be as specific as the circumstances reasonably allow) of when the requested pipeline service is likely to become available.

105F—Negotiations

- (1) Subject to subrule (2), a user or prospective user who has made an access request for a pipeline service or who has received an offer as a result of a preliminary enquiry may, by notice to the service provider for the pipeline, request negotiations under this Part in relation to any aspect of access to a pipeline service including:
 - (a) whether access can be granted; and
 - (b) the price and other terms and conditions of an access offer.

Note—

Section 148C of the *NGL* applies to negotiations referred to in subrule (1).

- (2) A notice under subrule (1) requesting negotiations about a matter excluded from the operation of Chapter 5 of the *NGL* under rule 113B is of no effect.
- (3) If a notice is given under subrule (1), the parties to the negotiations under this Part are the user or prospective user and the service provider and any other person that the user or prospective user and the service provider agree to include as a party to the negotiations.

- (4) The parties to the negotiations under this Part must take all reasonable steps to agree to a timetable for the negotiations and, in doing so, a party must seek to accommodate all reasonable requirements of the other party or parties to the negotiations.
- (5) The parties to negotiations under this Part must use reasonable endeavours to identify any other person who may become a party to an access dispute relating to the pipeline service the subject of the negotiations.
- (6) If an access request is for more than one pipeline service, the user or prospective user may by notice to the service provider require negotiations under this Part in relation to those pipeline services take place as part of the same negotiation process.
- (7) A user or prospective user may at any time by notice to the service provider bring negotiations requested under this Part to an end, whether or not the user or prospective user also notifies an access dispute.
- (8) A party to negotiations under this Part must only use or reproduce confidential information of another party for the purpose for which it was disclosed and must not disclose the confidential information except:
 - (a) in the case of a scheme pipeline – to the dispute resolution body; or
 - (b) in the case of a non-scheme pipeline – to the AER or to an arbitrator in the course of an arbitration; or
 - (c) if the dispute is mediated – to the mediator; or
 - (d) with the consent of the other party; or
 - (e) to a professional or other adviser of the party who agrees with the party to maintain the confidentiality of the confidential information; or
 - (f) if it is required by, or necessary for the purposes of, these rules or the *NGL*; or
 - (g) if the disclosure is in accordance with an order made or a subpoena issued by a court of competent jurisdiction; or
 - (h) if the disclosure is authorised or required by a law of a participating jurisdiction or required by a competent regulatory body, and the person making the disclosure gives written details of the disclosure (including an explanation of the reasons for the disclosure) to the other party.
- (9) In subrule (8), confidential information of a party means all information of that party provided to another party to the negotiations other than information in the public domain at the time it was provided or information that subsequently comes into the public domain (either in a manner permitted by subrule (8) or in any other way).

105G—Access negotiation information

- (1) In negotiations under this Part, each party to the negotiations must, in requesting or providing access negotiation information, do so in a manner and at a time consistent with the duty of the party to negotiate in good faith.
- (2) A user or prospective user who is party to negotiations under this Part may from time to time by notice request a service provider who is party to the negotiations to provide *access offer information* in relation to any aspect of the matters being negotiated.
- (3) Subject to subrules (8) and (9), a service provider given a notice under subrule (2) must comply with the request within 15 business days of the notice or any longer period agreed by the user or prospective user.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

Note—

This subrule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

- (4) *Access offer information* provided in response to a request under subrule (2) must:
 - (a) be relevant to the subject matter of the request; and
 - (b) be provided in a readily readable form including where requested in electronic file format with all underlying data files and inputs.
- (5) A party to negotiations under this Part:
 - (a) may from time to time by notice request another party to the negotiations to provide access negotiation information of the other party that the other party is seeking to rely on in relation to a specific matter arising in the negotiations; and
 - (b) subject to subrule (6), may during the course of the negotiations by notice request another party to the negotiations to provide all access negotiation information of the other party.
- (6) A party to negotiations under this Part:
 - (a) must give a notice under subrule (5)(b) before the party issues an *access dispute notice* in relation to the subject matter of the negotiations; and
 - (b) must not issue an *access dispute notice* earlier than 15 business days after the notice under subrule (5)(b) is given.

- (7) Subject to subrules (8) and (9), a party to negotiations under this Part must provide access negotiation information requested by another party to the negotiations under subrule (5) within 15 business days of the request or any longer period agreed by the party making the request.
- (8) A party to negotiations under this Part is not required to provide an item of information requested by another party under this rule where:
 - (a) to do so would breach a confidentiality obligation owed in respect of that information to an unrelated third party; and
 - (b) the third party has not given consent to the disclosure despite reasonable efforts having been made to obtain that consent.
- (9) A party to negotiations under this Part is not required to disclose:
 - (a) information that is the subject of legal professional privilege; or
 - (b) documents that would disclose information subject to legal professional privilege.

105H—Existence of access dispute

Without limitation, an access dispute is taken to exist for the purposes of these rules if:

- (a) a user or prospective user disagrees with any of the responses provided by the service provider in response to an access request; or
- (b) a timetable for negotiations is not agreed within a reasonable time under rule 105F(4); or
- (c) an agreement is not reached in accordance with the timetable for negotiations referred to in rule 105F(4).

106—[Intentionally left blank]

107—[Intentionally left blank]

108—[Intentionally left blank]

109—[Intentionally left blank]

110—[Intentionally left blank]

111—[Intentionally left blank]

112—[Intentionally left blank]

Part 12—Access disputes

Division 1—Preliminary

113—Definitions and interpretation

(1) In this Part:

access determination includes an interim access determination and a final access determination.

arbitrator, in relation to an access dispute involving a non-scheme pipeline, means the pool arbitrator to whom the dispute has been referred for determination.

confidential information, in relation to a mediation or arbitration under this Part, means information that relates to the access dispute, the mediation or arbitration, or to an access determination made in an arbitration, and includes the following:

- (a) statements under rule 113P (in relation to an arbitration) and other statements in the nature of pleadings or submissions, and other information supplied to the mediator or arbitrator by a party to the access dispute; and
- (b) any information supplied by a party to another party on account of a request or direction of the mediator or arbitrator; and
- (c) any evidence (whether documentary or otherwise) supplied to the mediator or arbitrator; and
- (d) any notes made by the mediator or arbitrator of oral evidence or submissions given before the mediator or arbitrator; and
- (e) any transcript of oral evidence or submissions given before the mediator or arbitrator; and
- (f) any rulings of the mediator or arbitrator; and
- (g) in the case of an arbitration – any access determination of the arbitrator.

disclose, in relation to confidential information, includes publishing or communicating or otherwise supplying the confidential information.

final access determination means a determination made under rule 113X.

interim access determination means a determination referred to in rule 113W.

mediation and arbitration guide means the guide published by the AER under rule 113ZO.

mediator, in relation to an access dispute, means the pool mediator to whom the dispute has been referred for mediation.

pool arbitrator means a member of the pool of arbitrators established under rule 113U.

pool mediator means a member of the pool of mediators established under rule 113L.

pricing principles means the principles in rule 113Z(4).

service term means:

- (a) in relation to a pipeline service provided to a user under an *access contract* – the period during which the pipeline service is available to the user under that *access contract*; and
 - (b) in relation to a pipeline service provided to a user under an access determination – the period over which the pipeline service will be available to the user or a prospective user.
- (2) For the purposes of this Part, a pipeline service is to be treated as distinct from another pipeline service having regard to matters including service type (for example, forward haul, backhaul, park and loan) and the priority of the service relative to other pipeline services of the same type.
- (3) For the purposes of this Part, in relation to a user or prospective user, a pipeline service is also to be treated as distinct from another pipeline service having regard to the service term and the capacity sought by the user or prospective user.

Division 2—Notice of access dispute

113A—Notice of access dispute

- (1) Without limiting any other provision, an *access dispute notice* may be given in relation to:
- (a) a request for access to a pipeline service under a new *access contract*; and
 - (b) a request to add a new pipeline service to an *existing access contract*; and

- (c) a request for a new *access contract* to take effect on the expiry of an *existing access contract*; and
 - (d) a request for a pipeline service commencing after the expiry of the service term for the same service under an *existing access contract*.
- (2) For section 152(3)(a)(iii) of the *NGL*, the following matters are specified:
 - (a) the pipeline service to which the *access dispute notice* relates and, where applicable, the access request and the access offer made in response to the request; and
 - (b) the name and address of the person giving the notice; and
 - (c) the name and address of each other party to the access dispute; and
 - (d) whether a party involved in the access dispute is a small shipper (if known to the person giving the notice).
- (3) In the case of a scheme pipeline access dispute, the dispute resolution body must, within 5 business days after receiving an *access dispute notice*, publish on its website:
 - (a) a copy of the notice; and
 - (b) information about how a person may apply to be made a party to the access dispute under the *NGL*.

113B—Exclusion of matters from dispute resolution provisions

For section 152(4) of the *NGL*, the following matters are excluded from the operation of Chapter 5 of the *NGL*:

- (a) a dispute about a pipeline service provided under an *existing access contract*; and
- (b) a request to vary the terms and conditions of access applicable to a pipeline service provided under an *existing access contract* for any part of the current service term for that pipeline service; and
- (c) an access request that would require the extension of a pipeline; and
- (d) a dispute about standard terms and conditions for secondary trading of capacity excluded from the operation of this Part by the *NGL*.

Division 3—Withdrawal of access dispute notice**113C—Withdrawal of access dispute notice (Section 153 of NGL)**

For section 153 of the *NGL*, a notice may be withdrawn by written notice given to:

- (a) the dispute resolution body or the AER (as the case requires); and
- (b) if the access dispute has been referred to a mediator or arbitrator – the mediator or arbitrator (as the case requires); and
- (c) the other parties to the access dispute.

Division 4—Additional parties to an access dispute**113D—Becoming a party to an access dispute (Section 154 of NGL)**

- (1) For section 154(1)(c) of the *NGL*:
 - (a) if the *access dispute notice* has been given by a small shipper, the small shipper may include an election in the notice that a user association be made a party to the access dispute; and
 - (b) if the *access dispute notice* has been given by the service provider, the small shipper may elect to have a user association made a party to the access dispute by notice in writing given to the dispute resolution body or the AER (as the case requires) within 5 business days after a copy of the *access dispute notice* is given to the small shipper in accordance with these rules.
- (2) An application under section 154(1)(d) of the *NGL* to be joined as a party to an access dispute must be made within 5 business days of the *access dispute notice* being published under rule 113A.
- (3) The application must identify the dispute the applicant wishes to be a party to and state the reasons why the applicant wishes to be a party.
- (4) The dispute resolution body must, within 5 business days of receiving the application, notify the applicant of its decision on the application including, if it does not consider that the applicant has a sufficient interest in the matter, its reasons for rejecting the application.

Division 5—Mediation of access disputes involving small shippers**Subdivision 1—Initiation of mediation****113E—Small shipper may elect to have access dispute mediated (Section 156 of NGL)**

- (1) For section 156 of the *NGL*:
 - (a) if the *access dispute notice* has been given by a small shipper, the small shipper may elect for the dispute to be resolved by mediation by including an election in the notice; or
 - (b) if the *access dispute notice* has been given by the service provider, the small shipper may elect for the dispute to be resolved by mediation by notice in writing given to the AER within 5 business days after a copy of the *access dispute notice* is given to the small shipper in accordance with these rules.
- (2) If an election is made, the AER must, within 5 business days of receipt of the election, confirm with, or notify, the other parties to the access dispute that the election has been made.
- (3) The AER must, as part of a notice under subrule (2) and by notice to the small shipper:
 - (a) invite the parties to the access dispute to give the AER, within 5 business days of the notice being given, the name of a mediator selected by the parties from the pool of mediators to act in the mediation; and
 - (b) set out the steps to be taken with a view to obtaining agreement on the appointment of a mediator; and
 - (c) inform the parties that in default of agreement being reached and notified to the AER within the period referred to in paragraph (a), the AER will appoint the mediator from the pool of mediators.
- (4) Each party to an access dispute who receives a notice under subrule (3) must:
 - (a) as soon as practicable after the notice is given, notify the other parties to the dispute of at least two pool mediators the party will agree to be appointed as the mediator to resolve the dispute; and
 - (b) negotiate in good faith to agree to a pool mediator to be the mediator; and
 - (c) notify the AER if agreement has been reached, including confirmation that the pool mediator is available to undertake the mediation.

- (5) If the parties to the access dispute do not notify the identity of the pool mediator agreed by the parties to undertake the mediation to the AER within 5 business days of the notice being given under subrule (3), the AER may proceed to appoint a pool mediator under section 157(3)(b) of the *NGL* (after consulting with the parties to the dispute about the appointment of the mediator).
- (6) The AER must take reasonable steps to refer the access dispute (with the *access dispute notice*) to the pool mediator notified by the parties under subrule (4)(c) or appointed under subrule (5) within 20 business days after the receipt of the *access dispute notice* and notify the parties to the access dispute of the referral.
- (7) The AER's appointment of a pool mediator to undertake a mediation is final and binding on the parties to the access dispute.
- (8) A mediator is not liable for anything done or omitted to be done in good faith in his or her capacity as mediator.
- (9) A mediator may, before acting in relation to the access dispute, require each party to the access dispute (or any one of them) to execute a release and indemnity in favour of the mediator in relation to any loss, damage or liability that party may suffer or incur as a consequence of anything done or omitted to be done in good faith in his or her capacity as mediator.

Subdivision 2—Mediation processes

113F—Conduct of mediation

- (1) A mediator must, as soon as practicable after the mediator's appointment, fix a day and time for conducting the mediation and give notice of these details to the parties to the dispute.
- (2) The mediator may, by further notice to the parties, vary the day and time fixed for conducting the mediation.
- (3) The mediator will determine the procedures and timetable to apply to the mediation.
- (4) The mediator must inform the AER about the initiation of steps to conduct the mediation.
- (5) If the dispute is resolved by mediation, the mediator must issue a certificate stating:
 - (a) the parties to the mediation; and
 - (b) the outcomes achieved in the resolution of the dispute.
- (6) The mediator must give a copy of the certificate to:
 - (a) each of the parties to the dispute; and
 - (b) the AER.

113G—Conduct of parties

- (1) The parties to the dispute must attend the mediation and do all things necessary for the proper and expeditious conduct of the mediation.
- (2) For the purposes of subrule (1), a party will be taken to attend if the party is represented at the mediation by a person who has the authority to enter into an agreement to settle the dispute on behalf of the party.
- (3) A party must take reasonable steps to resolve the dispute by mediation.
- (4) Without limiting a preceding subrule, a party must make the party's intention clear, at the beginning of the mediation, as to what the party is trying to achieve through the mediation process.

113H—Confidentiality

- (1) A party must not disclose confidential information in relation to the course of a mediation unless the disclosure is allowed under this rule.
- (2) The mediator must not disclose confidential information in relation to the course of the mediation unless the disclosure is allowed under this rule.
- (3) Confidential information in relation to the course of the mediation may be disclosed by a party or the mediator:
 - (a) with the consent of all the parties to the access dispute; or
 - (b) in the case of a party, to a professional or other adviser of the party who agrees to maintain the confidentiality of the confidential information; or
 - (c) in the case of the mediator, to an independent expert appointed by the mediator who agrees to maintain the confidentiality of the confidential information; or
 - (d) if it is necessary to ensure that a party has a reasonable opportunity to present the party's case and the disclosure is no more than reasonable for that purpose; or
 - (e) if it is necessary for the establishment or protection of a party's legal rights in relation to a third party and the disclosure is no more than reasonable for that purpose; or
 - (f) if the disclosure is to the AER; or
 - (g) if it is required by, or necessary for the purposes of, these rules or the *NGL*; or
 - (h) if the disclosure is in accordance with an order made or a subpoena issued by a court of competent jurisdiction; or

- (i) if the disclosure is authorised or required by a law of a participating jurisdiction or required by a competent regulatory body, and the person making the disclosure gives written details of the disclosure (including an explanation of the reasons for the disclosure) to:
 - (i) if the person is a party – the other parties and the mediator; and
 - (ii) if the mediator is making the disclosure – all the parties.

113I—Conflict of interest

- (1) A mediator must:
 - (a) disclose to the parties any actual or potential conflict of interest:
 - (i) before the mediation begins if the conflict is known to the mediator at that time; or
 - (ii) during the mediation if the conflict arises after the mediation has commenced; and
 - (b) at all times be transparent about the mediator's relations with the parties.
- (2) If a conflict of interest is disclosed:
 - (a) the mediator must discuss with the parties any circumstances that may, or may be seen to, affect the mediator's impartiality or independence; and
 - (b) the mediator must not proceed, or continue to proceed, with the mediation unless:
 - (i) the mediator is satisfied that the conflict or perception of conflict will not affect the mediator's impartiality and independence and the proper discharge of the mediator's duties; and
 - (ii) the parties agree that the mediator may act, or continue to act, in the mediation.

113J—Termination of mediation

- (1) This rule applies if:
 - (a) at least 30 days have elapsed since a mediation began; and
 - (b) the dispute has not been resolved.
- (2) The mediator may bring the mediation to an end if the mediator considers that there is no reasonable prospect that the dispute will be resolved by the mediation.
- (3) The mediator must bring the mediation to an end if a party requests that the mediation be brought to an end.

- (4) If the mediation is brought to an end without resolution of the dispute, the mediator must issue a certificate stating:
 - (a) that the dispute is unresolved; and
 - (b) that the mediation has been brought to an end.
- (5) The mediator must give a copy of the certificate to:
 - (a) each of the parties to the dispute; and
 - (b) the AER.

113K—Alternative mediator

- (1) For section 157(5) of the *NGL*, a party seeking the appointment of an alternative mediator may, by written notice to the other party or parties to the dispute, request agreement to the appointment of such a mediator.
- (2) A notice under subrule (1) may specify a pool mediator proposed by the party to be the alternative mediator (subject to agreement between the parties).
- (3) The party giving a notice under subrule (1) must also give a copy of the notice to the AER at the same time as it gives the notice to the other parties.
- (4) A party to the dispute that receives a notice under subrule (1) may also propose a pool mediator to be the alternative mediator.
- (5) If the parties reach an agreement, they must notify the AER of the agreement (and the dispute resolution body or the AER will then refer the access dispute to the alternative mediator).
- (6) For section 157(6) of the *NGL*, the period within which an agreement must be reached on the appointment of an alternative mediator is specified as being 20 business days from the date of the termination of the earlier mediation.

Subdivision 3—Pool of mediators

113L—Pool of mediators

- (1) The AER must establish and maintain a pool of suitably qualified and experienced mediators who may be appointed to act as mediators under Chapter 5 of the *NGL*.
- (2) The AER may at any time change the composition of the pool of mediators and may include mediators in the pool on a temporary basis.
- (3) The AER must publish on its website and keep up to date the name, *contact details* and a professional profile of each person in the pool of mediators.
- (4) The AER may determine from time to time the process for identifying candidates for the pool of mediators.

- (5) In identifying candidates for the pool of mediators, the AER may consult with any person it considers appropriate.
- (6) The AER must establish and maintain for each pool mediator an indicative schedule of fees for the conduct of mediations under this Part by the pool mediator which may include fixed or capped rates for specified categories of access dispute.
- (7) The AER must, at the request of a small shipper, a service provider or any party to an access dispute provide the indicative schedule of fees of one or more pool mediators.
- (8) Each indicative schedule of fees is confidential information and may only be disclosed by the person to whom it is provided to another person where disclosure is reasonable in the circumstances.

Division 6—Arbitration of non-scheme pipeline access disputes

Subdivision 1—General scheme

113M—Notice to parties about steps to appoint arbitrator

- (1) The AER must, after determining the parties to the access dispute under the *NGL*, give a notice to each party to the access dispute in which the AER:
 - (a) identifies the parties to the access dispute; and
 - (b) invites the parties to the access dispute to give the AER, within 10 business days of the *access dispute notice* being given, the name of an arbitrator selected by the parties from the pool of arbitrators to act in the arbitration; and
 - (c) sets out the steps to be taken with a view to obtaining agreement on the appointment of an arbitrator; and
 - (d) informs the parties that in default of agreement being reached and notified to the AER within the period referred to in paragraph (b), the AER will appoint the arbitrator from the pool of arbitrators.
- (2) This rule applies subject to any steps taken to have the dispute resolved by mediation under Chapter 5 Part 3 Division 2 of the *NGL* (and any period applying under this rule does not include any period that applies in relation to a mediation)

113N—Appointment of arbitrator (Section 160 of NGL)

- (1) For the purpose of appointing an arbitrator under section 160 of the *NGL*, each party to an access dispute must:
 - (a) as soon as practicable after an *access dispute notice* is given notify the other parties to the dispute of at least two pool arbitrators the party will agree to be appointed as the arbitrator to resolve the dispute; and

- (b) negotiate in good faith to agree to the identity of a pool arbitrator to be the arbitrator; and
 - (c) notify the AER if agreement has been reached, including confirmation that the pool arbitrator is available to undertake the arbitration.
- (2) If the parties to the access dispute do not notify the identity of the pool arbitrator agreed by the parties to determine the access dispute to the AER within 10 business days of the *access dispute notice* being given, the AER may proceed to appoint a pool arbitrator under section 160(3)(b) of the *NGL* (after consulting with the parties to the dispute about the appointment of the arbitrator).
- (3) The AER must take reasonable steps to refer the access dispute (with the *access dispute notice*) to the pool arbitrator notified by the parties under subrule (1)(c) or appointed by the AER under subrule (2) within 15 business days after the receipt of the *access dispute notice* and notify the parties to the access dispute of the referral.
- (4) The AER's appointment of a pool arbitrator to determine an access dispute under subrule (3) is final and binding on the parties to the access dispute.
- (5) An arbitrator is not liable for anything done or omitted to be done in good faith in his or her capacity as arbitrator.
- (6) An arbitrator may, before acting in relation to the access dispute, require each party to the access dispute (or any one of them) to execute a release and indemnity in favour of the arbitrator in relation to any loss, damage or liability that party may suffer or incur as a consequence of anything done or omitted to be done in good faith in his or her capacity as arbitrator.
- (7) This rule applies subject to any steps taken to have the dispute resolved by mediation under Chapter 5 Part 3 Division 2 of the *NGL* (and any period applying under this rule does not include any period that applies in relation to a mediation).

1130—Conduct of parties

- (1) The parties must do all things necessary for the proper and expeditious conduct of the arbitration.
- (2) Without limitation to subrule (1), the parties must comply without undue delay with any order or direction of the arbitrator with respect to any procedural, evidentiary or other matter.
- (3) A party must not wilfully do or cause to be done any act to delay or prevent an access determination being made.

113P—Statements to be provided to arbitrator on appointment

- (1) Within 10 business days of the access dispute being referred to the arbitrator, each party must give to the arbitrator, and to the other parties to the access dispute, a statement:
 - (a) listing the *access negotiation information* of the party that the party provided to the other parties to the negotiations before the *access dispute notice* was given; and
 - (b) identifying with reasonable particularity any other *access negotiation information*:
 - (i) not provided by the party to the other parties to the negotiations before the *access dispute notice* was given and that the party seeks leave under rule 113Q(1) to submit and rely on in the arbitration; and
 - (ii) that the party requested from another party to the negotiations and that has not been provided by that other party.
- (2) Within 15 business days of the access dispute being referred to the arbitrator, each party to the dispute must give to the arbitrator and to the other parties a statement of the access determination the party claims should be made and the matters supporting the party's claim.
- (3) Within the time determined by the arbitrator, each party must give to the arbitrator and to the other parties to the access dispute:
 - (a) its statement in response to the statement provided under subrule (1), which must:
 - (i) identify with reasonable particularity any areas of disagreement; and
 - (ii) state whether it consents to the provision of any of the information identified under subrule (1)(b)(i); and
 - (b) its statement in reply to the statement provided under subrule (2).
- (4) With the leave of the arbitrator, a party may amend or supplement any statement made by the party under this rule during the course of the arbitration.
- (5) A statement under subrule (1) must, if the arbitrator so requires, be verified by statutory declaration of an appropriate officer of the party.

113Q—Arbitrator to support full disclosure in negotiations

- (1) A party must seek leave of the arbitrator to submit and rely on in the arbitration *access negotiation information* of that party that it did not provide to the other parties to the negotiations before the *access dispute notice* was given.

- (2) In determining whether to grant leave under subrule (1), the arbitrator must:
 - (a) seek to give effect to rule 105G insofar as doing so is consistent with the proper consideration of the access dispute; and
 - (b) have regard to whether the party seeking leave was given a reasonable opportunity to provide the *access negotiation information* to the other parties to the dispute before the *access dispute notice* was given.
- (3) The arbitrator may direct a party to provide *access negotiation information* that it did not provide to the other parties to the negotiations before the *access dispute notice* was given and a party given a direction under this subrule must comply with the direction without undue delay.
- (4) If the arbitrator is satisfied that there has been inordinate and inexcusable failure by a party to comply with the obligation of the party to provide *access negotiation information* in accordance with rule 105G or subrule (3), or if a party fails to do any other thing necessary for the proper and expeditious conduct of the arbitration, the arbitrator may do any one or more of the following:
 - (a) direct that the party is not entitled to rely on any specified information or materials;
 - (b) draw such adverse inferences from the failure to comply as the circumstances justify;
 - (c) proceed to an access determination solely on the basis of information relied on by that party that has been provided by that party in negotiations under this Part in accordance with rule 105G.

113R—Confidentiality

- (1) A party must not disclose confidential information in relation to the course of the arbitration unless the disclosure is allowed under this rule.
- (2) The arbitrator must not disclose confidential information in relation to the course of the arbitration unless the disclosure is allowed under this rule.
- (3) Subject to an order under section 179 of the *NGL*, confidential information in relation to the course of the arbitration may be disclosed by a party or the arbitrator:
 - (a) with the consent of all the parties to the access dispute; or
 - (b) in the case of a party, to a professional or other adviser of the party who agrees to maintain the confidentiality of the confidential information; or

- (c) in the case of the arbitrator, to an independent expert appointed by the arbitrator who agrees to maintain the confidentiality of the confidential information; or
- (d) if it is necessary to ensure that a party has a reasonable opportunity to present the party's case and the disclosure is no more than reasonable for that purpose; or
- (e) if it is necessary for the establishment or protection of a party's legal rights in relation to a third party and the disclosure is no more than reasonable for that purpose; or
- (f) if it is necessary for the purpose of enforcing an access determination and the disclosure is no more than reasonable for that purpose; or
- (g) if it is required by, or necessary for the purposes of, these rules or the *NGL*; or
- (h) if the disclosure is in accordance with an order made or a subpoena issued by a court of competent jurisdiction; or
- (i) if the disclosure is authorised or required by a law of a participating jurisdiction or required by a competent regulatory body, and the person making the disclosure gives written details of the disclosure (including an explanation of the reasons for the disclosure) to:
 - (i) if the person is a party – the other parties and the arbitrator; and
 - (ii) if the arbitrator is making the disclosure – all the parties.

113S—Conflict of interest

- (1) In this rule, there are justifiable doubts as to the impartiality or independence of a pool arbitrator or arbitrator to whom an access dispute has been referred only if there is a real danger of bias on the part of the person in conducting the arbitration.
- (2) A pool arbitrator approached in connection with the pool arbitrator's possible appointment to determine an access dispute must disclose any circumstances likely to give rise to justifiable doubts as to the pool arbitrator's impartiality or independence.
- (3) An arbitrator, from the time of the arbitrator's appointment and throughout the course of the arbitration, must without delay disclose any circumstances of the kind referred to in subrule (2) to the parties unless they have already been informed of them by the arbitrator.
- (4) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence.
- (5) A party may challenge an arbitrator agreed by the party only for reasons of which the party becomes aware after the appointment has been made.

- (6) A party who intends to challenge an arbitrator must, within 15 days after becoming aware of any circumstance which gives rise to a justifiable doubt as to the impartiality or independence of the arbitrator, send a written statement of the reasons for the challenge to the arbitrator and the other parties to the dispute.
- (7) Unless the arbitrator withdraws from office or the other parties to the access dispute agree to the challenge, the arbitrator must decide on a challenge under subrule (6).
- (8) If a challenge under subrule (6) is not successful, the challenging party may request, within 30 days after having received notice of the decision rejecting the challenge, the Court to decide on the challenge.
- (9) A decision of the Court on a request under subrule (8) which is within the limits of the authority of the Court is final.
- (10) While a request under subrule (8) is pending, the arbitrator may continue the course of the arbitration and make an access determination.

113T—Alternative arbitrator

- (1) For section 160(5) of the *NGL*, a party seeking the appointment of an alternative arbitrator may, by written notice to the other party or parties to the dispute, request agreement to the appointment of such an arbitrator.
- (2) A notice under subrule (1) may specify a pool arbitrator proposed by the party to be the alternative arbitrator (subject to agreement between the parties).
- (3) The party giving a notice under subrule (1) must also give a copy of the notice to the AER at the same time as it gives the notice to the other parties.
- (4) A party to the dispute that receives a notice under subrule (1) may also propose a pool arbitrator to be the alternative arbitrator.
- (5) If the parties reach an agreement, they must notify the AER of the agreement (and the AER will then refer the access dispute to the alternative arbitrator).
- (6) For section 160(6) of the *NGL*, the period within which an agreement must be reached on the appointment of an alternative arbitrator is specified as being 20 business days from the date of the termination of the earlier arbitration.

Subdivision 2—Pool of arbitrators

113U—Pool of arbitrators

- (1) The AER must establish and maintain a pool of suitably qualified and experienced commercial arbitrators who may be appointed to determine access disputes referred to arbitration under Chapter 5 of the *NGL*.

- (2) The AER may at any time change the composition of the pool of arbitrators and may include commercial arbitrators in the pool on a temporary basis.
- (3) The AER must publish on its website and keep up to date the name, *contact details* and a professional profile of each person in the pool of arbitrators.
- (4) The AER may determine from time to time the process for identifying candidates for the pool of arbitrators.
- (5) In identifying candidates for the pool of arbitrators, the AER may consult with any person it considers appropriate.
- (6) The AER must establish and maintain for each pool arbitrator an indicative schedule of fees for the conduct of arbitrations under this Part by the pool arbitrator which may include fixed or capped rates for specified categories of access dispute.
- (7) The AER must, at the request of a user or prospective user, a service provider or any party to an access dispute provide the indicative schedule of fees of one or more pool arbitrators.
- (8) Each indicative schedule of fees is confidential information and may only be disclosed by the person to whom it is provided to another person where disclosure is reasonable in the circumstances.

Division 7—Access determinations

Subdivision 1—Determination of access disputes generally

113V—Matters that may be included in a determination

- (1) For section 161(3) of the *NGL*, but subject to any relevant provision of the *NGL* and this rule, an access determination may contain provisions for or with respect to any matter the subject of the access dispute.
- (2) Without limiting subrule (1), an access determination may:
 - (a) require the service provider for a pipeline to provide access to a pipeline service; and
 - (b) specify the price and other terms and conditions on which the user or prospective user must be given access to the pipeline service; and
 - (c) require the service provider to permit another facility to be connected to the pipeline; and
 - (d) subject to subrules (5) and (6), require the service provider to carry out, either alone or in combination:
 - (i) an expansion of the capacity of a pipeline;
 - (ii) a conversion of a pipeline to a bi-directional pipeline;

- (iii) the development of a new *receipt or delivery point*;
 - (iv) an expansion of an existing *receipt or delivery point*; or
 - (v) an interconnection with another pipeline or other facility; and
 - (e) specify conditions to be satisfied before access to a pipeline service commences.
- (3) An access determination may require access to be provided for a service term different to that sought by the user or prospective user but must otherwise be made in relation to the pipeline service or services sought by the user or prospective user.
- (4) An access determination does not have to require the service provider to provide access to the pipeline service or services sought by the user or prospective user or any other pipeline service.
- (5) An access determination must not require the service provider to provide a pipeline service or carry out any of the activities referred to in subrule (2)(c) or (d) unless the provision of the pipeline service or activity is:
- (a) technically feasible; and
 - (b) consistent with the safe and reliable operation of the pipeline.
- (6) An access determination must not, unless the service provider agrees, require the service provider to:
- (a) extend the geographical range of a pipeline; or
 - (b) carry out any of the activities referred to in subrule (2)(c) or (d) unless the user or prospective user funds the activity in its entirety; or
 - (c) fund (in whole or in part) any of the activities referred to in subrule (2)(c) or (d).
- (7) In the case of a scheme pipeline, subrule (6)(c) applies subject to any provision made in the applicable access arrangement for the provision of funding for an extension, or expansion of capacity, of the pipeline.
- (8) An access determination must not provide for a user or prospective user to acquire an interest in a pipeline by funding an expansion of the capacity of the pipeline unless the service provider agrees.

113W—Interim access determinations

- (1) An interim access determination that provides for access to a pipeline service before the final access determination is made must specify the terms and conditions on which the user or prospective user must be given access to the pipeline service including reasonable payment terms.

- (2) If the relevant adjudicator makes an interim access determination that provides for access to a pipeline service, the final access determination must provide for adjustments to reflect any differences between the interim access determination and the final access determination in respect of the period:
 - (a) prior to the user or prospective user gaining access on the terms of the final access determination; or
 - (b) if the user or prospective user does not elect to seek access on the terms of the final access determination – prior to access on the terms of the interim access determination ceasing under rule 113ZE(5)(b).
- (3) An interim access determination must:
 - (a) be in writing and dated and signed by the relevant adjudicator; and
 - (b) identify the parties to the interim access determination and the place the determination is made; and
 - (c) be communicated by email when it is made to the parties to the access dispute and, in the case of a dispute involving a non-scheme pipeline, the AER; and
 - (d) be sent by post to the parties and, in the case of a dispute involving a non-scheme pipeline, the AER within 5 business days of being made.
- (4) An interim access determination takes effect from the later of the time specified in the access determination and the time it is communicated to the parties to the access dispute.

113X—Final access determinations

- (1) Unless it terminates the proceedings under the *NGL* and subject to subrule (2), the relevant adjudicator must determine the access dispute as quickly as possible and, in any case:
 - (a) in the case of a dispute involving a scheme pipeline – the dispute resolution body must make a final access determination within 8 months of receiving the *access dispute notice* (unless the access dispute has been dealt with under the fast track resolution process);
 - (b) in the case of a dispute involving a non-scheme pipeline – the arbitrator must make a final access determination within:
 - (i) 50 business days after the date the access dispute was referred to the relevant adjudicator; or
 - (ii) if agreed by the parties to the access dispute, any greater number of business days, up to a maximum of 90 business days, after the date the access dispute was referred to the arbitrator.

- (2) In determining the number of business days elapsed since the date the access dispute was referred to a relevant adjudicator for the purposes of subclause (1)(b), the following must be disregarded:
- (a) if the relevant adjudicator referred a matter to an independent expert under section 177(1)(e) of the *NGL* – any day within a period allowed by the relevant adjudicator for the independent expert to report and that the relevant adjudicator directs must be disregarded; and
 - (b) any day within a period allowed by the relevant adjudicator for a party to prepare *access negotiation information* not provided in negotiations and that the relevant adjudicator directs must be disregarded.
- (3) A final access determination must:
- (a) be in writing and dated and signed by the relevant adjudicator; and
 - (b) identify the parties to the determination and the place the determination is made; and
 - (c) set out the matters agreed by the parties and the matters in dispute; and
 - (d) set out the relevant adjudicator's determination of the access dispute; and
 - (e) be communicated by email when it is made to the parties to the access dispute and, in the case of a dispute involving a non-scheme pipeline, the AER; and
 - (f) be sent by post to the parties and, in the case of a dispute involving a non-scheme pipeline, the AER within 5 business days of being made.
- (4) The relevant adjudicator must give the parties and, in the case of a dispute involving a non-scheme pipeline, the AER, a statement of reasons for the relevant adjudicator's final access determination, which must include specific information about how the relevant adjudicator took into account the matters specified in rule 113Y or rule 113Z (as appropriate).
- (5) The statement of reasons must be given to the parties and, in the case of a dispute involving a non-scheme pipeline, the AER with the final access determination or within 20 business days after the final access determination is made.

Subdivision 2—Matters to be taken into account for access disputes

113Y—Scheme pipelines

- (1) This rule specifies matters that relate to scheme pipelines for the purposes of section 162 of the *NGL*.

- (2) The following matters are specified:
 - (a) the national gas objective; and
 - (b) the revenue and pricing principles; and
 - (c) the relevant applicable access arrangement for the pipeline; and
 - (d) any previous access arrangements or access determinations for the pipeline (insofar as may be relevant); and
 - (e) the operational and technical requirements necessary for the safe and reliable operation of the pipeline; and
 - (f) the prohibition that applies under section 136A(2) of the *NGL* (if that provision applies in the particular case).

113Z—Non-scheme pipelines

- (1) This rule specifies matters that relate to non-scheme pipelines for the purposes of section 162 of the *NGL*.
- (2) The following matters are specified:
 - (a) the principle that access to pipeline services provided by means of a pipeline must be at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market; and
 - (b) the pricing principles; and
 - (c) the operational and technical requirements necessary for the safe and reliable operation of the pipeline; and
 - (d) the prohibition that applies under section 136A(2) of the *NGL* (if that provision applies in the particular case).
- (3) Without derogating from subrule (2), the arbitrator may also take into account the following matters:
 - (a) the legitimate business interests of the service provider; and
 - (b) the interests of all persons who have rights to use the pipeline; and
 - (c) the value to the service provider of any extension or expansion of the pipeline the cost of which is borne by another person; and
 - (d) the value to the service provider of interconnections to the pipeline the cost of which is borne by another person.
- (4) The pricing principles are:
 - (a) the price for access to a pipeline service on a non-scheme pipeline should reflect the cost of providing that service, including a commercial rate of return that is commensurate with the prevailing conditions in the market for funds and reflects the risks the service provider faces in providing the pipeline service; and

- (b) when applying the principle in paragraph (a) to a pipeline service that when used affects the capacity of the non-scheme pipeline available for other pipeline services and is priced at a premium or a discount to the price for a firm haulage service on the relevant non-scheme pipeline – the premium or discount must:
 - (i) take into account any opportunity cost or benefit to the service provider of providing the pipeline service, having regard to any effect on the cost of providing firm haulage services or the capacity of the non-scheme pipeline; and
 - (ii) be consistent with the price for the pipeline service providing a reasonable contribution to joint and common costs.
- (5) For the purposes of subrule (4)(a):
 - (a) the value of any assets used in the provision of the pipeline service must be determined using asset valuation techniques consistent with the objective of facilitating access to pipeline services provided by means of non-scheme pipelines on reasonable terms, which is taken to mean at prices and on other terms and conditions that, so far as practicable, reflect the outcomes of a workably competitive market; and
 - (b) unless inconsistent with paragraph (a), the value of any assets used in the provision of the pipeline service is to be calculated as:
 - (i) the cost of construction of the pipeline and pipeline assets incurred before commissioning of the pipeline (including the cost of acquiring easements and other interests in land necessary for the establishment and operation of the pipeline);
plus:
 - (ii) the amount of capital expenditure since the commissioning of the pipeline;
less:
 - (iii) the return of capital recovered since the commissioning of the pipeline; and
 - (iv) the value of pipeline assets disposed of since the commissioning of the pipeline.

- (6) Subrule (2) (other than subrule (2)(c)) applies subject to any greenfields price protection determination that applies in the relevant case.

Note—

See rule 29C relating to an access determination made by an arbitrator in relation to a pipeline the subject of a greenfields incentive determination where a greenfields price protection determination applies.

- (7) In the case of a pipeline the subject of a greenfields incentive determination where a greenfields price protection determination does not apply in the relevant case, the arbitrator may also take into account the following matters:
- (a) the risks that the service provider faced when it decided to make the investment (including as a result of building any excess capacity, where it was efficient to do so); and
 - (b) the way in which the service provider expected to recover capital over the economic life of the pipeline, which could involve:
 - (i) the acceleration of depreciation if the economic life of the pipeline is expected to be relatively short; or
 - (ii) the deferral of depreciation in the early stages if:
 - (A) the present market for pipeline services is relatively immature; and
 - (B) the prices have been calculated on the assumption of significant market growth; and
 - (C) the pipeline has been designed and constructed so as to accommodate future growth in demand.

Subdivision 3—Related considerations and matters

113ZA—Past capital contributions (Section 164 of NGL)

In making an access determination, the relevant adjudicator must (where relevant) take into account:

- (a) the value of any past capital contribution made by a party to the dispute in respect of the pipeline; and
- (b) the extent the party has recouped any such past capital contribution.

113ZB—Variation of applicable access arrangement to accommodate installation of a new facility

- (1) This rule applies in the circumstances described in section 166 of the *NGL*.

- (2) For section 166(2) of the *NGL*, the dispute resolution body may vary the applicable access arrangement to provide for one or more of the following:
 - (a) a mechanism to roll some or all the capital costs of the expansion into the capital base;
 - (b) consequential adjustments to reference tariffs;
 - (c) a surcharge to be levied on users of incremental services;
 - (d) the establishment of a speculative capital expenditure account and regulation of its operation.
- (3) The access determination (and the consequential variations to the access arrangement) must set out the terms and conditions of access for a user or prospective user of incremental capacity who is to contribute some or all the cost of the capacity expansion.
- (4) The terms and conditions of access must reflect the value to the service provider of the capital contribution made by the user or prospective user.

113ZC—Information to be published about access determinations – scheme pipelines

- (1) Within a reasonable time of a final access determination being made in relation to a scheme pipeline, the dispute resolution body must publish the following information on its website:
 - (a) the access determination; and
 - (b) the statement of reasons for the dispute resolution body's final access determination; and
 - (c) the financial calculations applied in connection with the access determination; and
 - (d) subject to Chapter 10 Part 2 of the *NGL*, any information provided to the dispute resolution body:
 - (i) by the parties to the access dispute; and
 - (ii) by any independent expert appointed by the dispute resolution body for the purposes of the access dispute.
- (2) For the purposes of subrule (1)(d), a reference in Chapter 10 Part 2 of the *NGL* to the AER is to be treated as a reference to the dispute resolution body.

113ZD—Information to be published about access determinations – non-scheme pipelines

Within a reasonable time of a final access determination being made in relation to a non-scheme pipeline, the AER must publish the following information on its website:

- (a) details of the pipeline that has been the subject of the arbitration; and
- (b) with the consent of the user or prospective user, the parties to the access dispute; and
- (c) the name of the arbitrator who made the final access determination; and
- (d) the time elapsed between the access dispute being referred to the arbitrator and the making of the final access determination; and
- (e) which of the pipeline services offered on the pipeline was the subject of the access dispute; and
- (f) whether the user or prospective user has given notice that it wishes to enter into an *access contract* in accordance with the final access determination; and
- (g) if the final access determination includes a determination with respect to asset valuation – the valuation method adopted, the assets to which the valuation applied, and the determination of the asset value.

113ZE—Effect of final access determination

- (1) A final access determination takes effect from the later of the time specified in the access determination and the time it is communicated to the parties to the access dispute.
- (2) A user or prospective user wishing to enter into an *access contract* that gives effect to a final access determination must notify that decision:
 - (a) to the other parties to the access dispute; and
 - (b) to:
 - (i) in the case of a dispute involving a scheme pipeline – the dispute resolution body; or
 - (ii) in the case of a dispute involving a non-scheme pipeline – the AER.
- (3) A notification under subrule (2) must be made within 10 business days after the access determination is made.
- (4) If a user or prospective user gives a notice under subrule (2), the parties to the access dispute must enter into an *access contract* for the provision of access in accordance with the final access determination (subject to any correction under rule 113ZN).

- (5) If a user or prospective user does not give a notice under subrule (2) within the period specified in subrule (3):
 - (a) the user or prospective user, and any associate of the user or prospective user, must not give an *access dispute notice* about the same or a substantially similar pipeline service on the pipeline the subject of the final access determination for a period of one year from the date of the final access determination; and
 - (b) if the user or prospective user had access under the terms of an interim access determination, that access ends at the end of that period.
- (6) The parties to an access dispute must comply with a final access determination to the extent it provides for adjustments under rule 113W(2), even if the user or prospective user does not give a notice under subrule (2).

Division 8—Access dispute hearing procedure

113ZF—Fast track resolution process for scheme pipeline access disputes

- (1) For section 173 of the *NGL*, but subject to this rule, a dispute may be dealt with under a fast track resolution process in the following circumstances:
 - (a) in a case where the *access dispute notice* has been given by a user or prospective user, if the user or prospective user elects to have the access dispute dealt with under a fast track resolution process by including an election in the notice;
 - (b) in a case where the *access dispute notice* has been given by the service provider, if the user or prospective user elects to have the access dispute dealt with under a fast track resolution process by notice in writing given to the dispute resolution body and the service provider within 10 business days after a copy of the *access dispute notice* is given to the user or prospective user in accordance with these rules.
- (2) If an election is made, the dispute resolution body must:
 - (a) make a decision about whether to allow the use of the fast track resolution process within 10 business days after the election is made; and
 - (b) notify the parties of its decision within 10 business days of making its decision.

- (3) In deciding whether it is appropriate to use the fast track resolution process under this rule, the dispute resolution body must take into account:
 - (a) whether the pipeline service to which the access dispute relates is the same, or similar to, a reference service under the access arrangements for the relevant pipeline; and
 - (b) whether the requested access can be provided without any extension to the pipeline; and
 - (c) whether another party objects to the use of the fast track resolution process and, if so, the reason for their objection; and
 - (d) any other factor that will, in the opinion of the dispute resolution body, affect the appropriate and effective use of the fast track resolution process.
- (4) If the dispute resolution body decides to allow the use of a fast track resolution process, each party must, within 10 business days of receiving notice of the decision under this rule, give the dispute resolution body and the other parties to the access dispute:
 - (a) its proposed access determination; and
 - (b) a list of the supporting *access negotiation information* that was exchanged between the parties before the *access dispute notice* was given under these rules; and
 - (c) any other information considered relevant by the party in support of its proposed access determination.
- (5) The dispute resolution body may, by further notice to the party, request a party to provide further information.
- (6) A party must comply with a request under subrule (5) within 10 business days of receiving the notice.
- (7) The dispute resolution body may refer a matter to an independent expert within 5 business days after it has received all required or requested information from the parties.
- (8) The dispute resolution body must make an access determination in relation to the dispute within 30 business days after it has received all required and requested information from the parties (subject to any decision of the dispute resolution body during the course of the fast track resolution process to require the parties to engage in an alternative dispute resolution process in accordance with section 155 of the *NGL*).
- (9) If the parties are required to engage in an alternative dispute resolution process and the dispute is not resolved by that process, then the fast track resolution process will restart from the stage at which it was halted.

- (10) If a matter is referred to an independent expert under subrule (7), the period between the date of the referral and the receipt of a report from the independent expert will be disregarded for the purposes of subrule (8).

113ZG—Arbitrations

- (1) This rule applies in relation to an arbitration of a non-scheme pipeline dispute.
- (2) Subject to Part 9 of Chapter 5 of the *NGL* and this Part, the arbitrator may determine the procedures to be adopted and conduct the relevant proceedings in such manner as the arbitrator considers appropriate.
- (3) The arbitrator must as soon as practicable after the arbitrator's appointment, and after consultation with the parties to the access dispute, notify the parties of the procedures and timetable to apply in the proceedings.
- (4) However, the arbitrator may in the arbitrator's discretion amend the procedures that have been previously specified by the arbitrator.
- (5) If documents are produced to the arbitrator, the arbitrator may take possession of, make copies of, and take extracts from, the documents and may keep the documents for as long as is necessary for the purposes of the proceedings.
- (6) Subject to section 184 of the *NGL*, all statements, documents or other information supplied to the arbitrator by a party must be communicated to the other parties.
- (7) Subject to section 184 of the *NGL*, any expert report or evidentiary document on which the arbitrator may rely in making its decision must be communicated to the parties.

113ZH—Independent experts

- (1) Unless otherwise agreed by the parties, if the relevant adjudicator refers a matter to an independent expert, the relevant adjudicator may require a party to give the independent expert any relevant information or to produce, or to provide access to, any relevant documents or places for the independent expert's inspection.
- (2) Unless otherwise agreed by the parties, if a party so requests or if the relevant adjudicator considers it necessary, the independent expert must, after delivery of the expert's written or oral report, participate in a hearing where the parties have the opportunity to put questions to the expert and present expert witnesses in order to testify on the points at issue.

- (3) Before referring a matter to an independent expert, the relevant adjudicator must:
 - (a) notify the parties to the access dispute of the relevant adjudicator's intention to refer a matter to an independent expert, the proposed independent expert, and the amount the independent expert will charge or the manner in which that amount will be determined; and
 - (b) obtain the consent of the parties to the maximum amount that may be charged by the independent expert in connection with the reference.
- (4) A party to an access dispute must not unreasonably withhold its consent under subrule (3)(b).

Division 9—Specific safety information

113ZI—Interpretation

In this Division:

expert safety report means a report by an independent expert on whether the provision of a requested pipeline service would be unsafe.

safety of operation notification means a notification by a service provider to a user or prospective user that the service provider believes the provision of a pipeline service requested by the user or prospective user would be unsafe.

submissions lodgement date means a date fixed by the relevant adjudicator and notified to the parties to an access dispute, as the date by which initial submissions in the access dispute must be lodged.

unsafe – the provision of a pipeline service is unsafe if it is not reasonably possible for the service provider to provide it consistently with:

- (a) the safe operation of the relevant pipeline; or
- (b) prudent pipeline practices in the gas industry; or
- (c) an applicable law; or
- (d) the requirements of a lease, easement or other right of access to land that applies in relation to the relevant pipeline.

113ZJ—Safety of operation notification

- (1) If a service provider refuses to provide a requested pipeline service and an access dispute arises in consequence of the refusal, the service provider may, on or before the submissions lodgement date, give a safety of operation notification.

- (2) A safety of operation notification is given (and may be withdrawn) by notice to the relevant adjudicator and the other parties to the dispute.
- (3) A safety of operation notification must set out the grounds on which the notification is based, including a statement of any facts and assumptions relevant to those grounds.

113ZK—Expert safety report

- (1) When a service provider gives a safety of operation notification, it must submit the name of an independent expert who might be engaged to provide an expert safety report.
- (2) The relevant adjudicator may approve the person nominated by the service provider or some other person as the independent expert to provide an expert safety report.
- (3) The service provider must, on receiving notice of the approval, immediately engage the independent expert approved by the relevant adjudicator to provide an expert safety report on the requested pipeline service to which the access dispute relates.

Note—

This subrule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

- (4) In carrying out the investigations necessary for the expert safety report, the approved independent expert must have regard to all relevant statutory or regulatory requirements or restrictions (including those imposed under the conditions of a licence).
- (5) When the independent expert provides the service provider with the expert safety report, the service provider must immediately give copies of the report to the relevant adjudicator and the other parties to the dispute.
- (6) In proceedings for the resolution of the access dispute, the relevant adjudicator is bound by the findings of an approved independent expert in an expert safety report provided under this Division.

Division 10—Miscellaneous**113ZL—Termination of dispute resolution process**

- (1) An access dispute is terminated by:
 - (a) the making of a final access determination; or
 - (b) the resolution of the access dispute by mediation; or
 - (c) a decision of the relevant adjudicator under Chapter 5 Part 7 of the *NGL* made in accordance with subrule (3).
- (2) For section 169(4) of the *NGL*, a specified dispute resolution circumstance occurs if the parties to the access dispute agree on the termination of the dispute resolution process.

- (3) A decision of the relevant adjudicator to terminate an access dispute under section 169 of the *NGL* must:
 - (a) be in writing and dated and signed by the relevant adjudicator; and
 - (b) include a statement of reasons for the termination of the relevant proceedings; and
 - (c) be communicated by email to the parties to the access dispute and, in the case of a dispute involving a non-scheme pipeline, the AER; and
 - (d) be sent by post to the parties to the access dispute and, in the case of a dispute involving a non-scheme pipeline, the AER within 5 business days after it is made.
- (4) A decision of the relevant adjudicator to terminate an access dispute takes effect from the later of the time specified in the decision and the time it is communicated to the parties to the access dispute.
- (5) The AER must publish on its website information about the number of access disputes terminated before a final access determination is made.

113ZM—Costs of arbitration for non-scheme pipeline disputes

- (1) This rule provides for a different approach to allocating costs under section 188(4) of the *NGL* in the circumstances specified under subrule (2).
- (2) The specified circumstances are where the arbitrator determines that it would be fairer to allocate costs between the parties to the arbitration other than in equal shares after taking into account:
 - (a) in relation to a party to the access dispute other than the service provider or user or prospective user – the role of the party in the access dispute and the arbitration; and
 - (b) whether a user or prospective user elects not to enter into an *access contract* in accordance with the access determination; and
 - (c) whether a party has conducted itself in the arbitration in a way that unnecessarily disadvantaged another party by conduct such as:
 - (i) failing to comply with an order or direction of the arbitrator without reasonable excuse; or
 - (ii) failing to comply with the *NGL*, the Regulations or these rules; or
 - (iii) asking for an adjournment as a result of subparagraph (i) or (ii); or
 - (iv) causing an adjournment; or

- (v) attempting to deceive another party or the arbitrator; or
 - (vi) vexatiously conducting an access dispute; and
- (d) whether a party has been responsible for unreasonably prolonging the time taken to complete the arbitration; and
- (e) any other matter the arbitrator considers relevant.
- (3) The arbitrator must make a determination under subrule (2) as part of a final access determination or within 30 business days after the final access determination is made.
- (4) A determination under subrule (2) will have effect according to its terms.
- (5) A determination under subrule (2) cannot apply so as to require a small shipper to pay extra costs.

113ZN—Correction of errors

- (1) A party to an access dispute may request the relevant adjudicator to correct an access determination under section 195 of the *NGL* within 30 days of receipt of the relevant adjudicator's statement of reasons under these rules.
- (2) A request under subrule (1) must be made by notice in writing to the relevant adjudicator.
- (3) The party making the request must provide a copy of the notice to:
 - (a) the other parties to the access dispute; and
 - (b) in the case of a non-scheme pipeline – the AER.
- (4) If the relevant adjudicator, after consulting the parties to the access dispute and, in the case of a dispute involving a non-scheme pipeline, the AER, considers a request under subrule (1) is justified, the relevant adjudicator may make the correction.
- (5) The relevant adjudicator may also correct any error under section 195 of the *NGL* on the relevant adjudicator's own initiative within 30 days of giving the relevant statement of reasons under these rules.
- (6) A correction of an access determination must:
 - (a) be in writing and dated and signed by the person making the correction; and
 - (b) identify the final access determination; and
 - (c) set out the corrections; and
 - (d) when it is made, be communicated by email to the parties to the access dispute and, in the case of a dispute involving a non-scheme pipeline, the AER; and

- (e) be sent by post to the parties to the access dispute and, in the case of a dispute involving a non-scheme pipeline, the AER within 5 business days after it is made.

113ZO—Mediation and arbitration guide

- (1) The AER must publish and maintain a mediation and arbitration guide containing guidance for pool mediators and pool arbitrators and any person who may become a party to an access dispute about the process for the determination of access disputes under the *NGL* and these rules.
- (2) The guide may include:
 - (a) timelines and information requirements associated with a mediation or arbitration; and
 - (b) model terms and conditions for mediations or arbitrations conducted under this Part; and
 - (c) model procedures for arbitrations conducted under this Part.
- (3) The guide is not binding on a mediator or an arbitrator, or on the parties to an access dispute.
- (4) The AER may in its discretion develop and publish, and may from time to time amend, other non-binding guides relating to this Part.

113ZP—Legal professional privilege

A person cannot be required under this Part to disclose:

- (a) information that is the subject of legal professional privilege; or
- (b) documents that would disclose information subject to legal professional privilege.

114—[Intentionally left blank]

115—[Intentionally left blank]

116—[Intentionally left blank]

117—[Intentionally left blank]

118—[Intentionally left blank]

119—[Intentionally left blank]

60—Amendment of rule 119A—Definitions

- (1) Rule 119A, definition of **distribution pipeline**, (a)—delete paragraph (a) and substitute:
 - (a) a scheme pipeline that is a distribution pipeline; or

- (2) Rule 119A, definition of **distribution pipeline**, (b)—delete "an uncovered pipeline" and substitute:

a non-scheme pipeline

- (3) Rule 119A, definition of **distributor**, (a)—delete "covered pipeline" and substitute:
scheme pipeline

- (4) Rule 119A, definition of **distributor**, (b)—delete "an uncovered pipeline" and substitute:

a non-scheme pipeline

61—Amendment of rule 119O—Payment of connection charges

Rule 119O(3), Note—delete "*National Energy Retail Rules*" and substitute:

National Energy Retail Rules

62—Amendment of rule 119Y—Relevant disputes

Rule 119Y(2)—delete "Chapter 6" and substitute:

Chapter 5

63—Amendment of rule 119ZA—Termination of proceedings

- (1) Rule 119ZA(2)—delete "section 186(3)" and substitute:

section 169(4)

- (2) Rule 119ZA(2), Note—delete "section 186(1)(d)" and substitute:

section 169(1)(b)(v)

64—Repeal of Parts 13 and 14

Parts 13 and 14—delete the Parts

65—Amendment of rule 133—Establishment and maintenance of register

- (1) Rule 133(2)—delete "old scheme" and substitute:

old access law and Gas Code

- (2) Rule 133(3) and (4)—delete subrules (3) and (4) and substitute:

- (3) The pipeline register is to include for each pipeline:

- (a) a description of the pipeline; and
- (b) in the case of a scheme pipeline – historical information about extensions and capacity expansions occurring while the pipeline has been a scheme pipeline; and
- (c) the pipeline's classification and regulatory history; and
- (d) the name of the service provider; and
- (e) a link to a website at which:
 - (i) a description of the pipeline; and

- (ii) information required to be published by the service provider in relation to the pipeline under Part 10 of these rules; and
 - (iii) the relevant user access guide (unless not required for the pipeline),

may be found.
- (4) The pipeline register is to include the text of current and former:
 - (a) greenfields incentive determinations and greenfields price protection determinations; and
 - (b) scheme pipeline determinations; and
 - (c) scheme pipeline elections; and
 - (d) scheme pipeline revocation determinations; and
 - (e) applicable access arrangements; and
 - (f) in the case of a scheme pipeline – access determinations; and
 - (g) exemption decisions made under Part 10 Division 2 Subdivision 2 of these rules; and
 - (h) the following information (being information that relates to matters existing before the designated day):
 - (i) greenfields pipeline incentives; and
 - (ii) tender approval decisions; and
 - (iii) coverage determinations; and
 - (iv) coverage revocation determinations; and
 - (v) light regulation determinations; and
 - (vi) applicable access arrangements; and
 - (vii) access determinations; and
 - (viii) exemption decisions made under Division 6 of Part 23 of these rules (as in force before the designated day).
- (5) In this rule:

designated day means the day on which Part 19 of Schedule 3 of the *NGL* (inserted into the *NGL* by the *National Energy Laws Amendment (Gas Pipelines) Act 2022*) came into operation.

66—Amendment of rule 134—Notification of extension or capacity expansion or new pipeline

Rule 134(1)—delete "scheme pipeline or non-scheme"

67—Amendment of rule 134A—Provision of information

Rule 134A—after subrule (2) insert:

Note—

This subrule is classified as a tier 2 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

68—Amendment of rule 135AB—Retail market participation

- (1) Rule 135AB(1)(b)—delete "or non-scheme pipeline user"
- (2) Rule 135AB(1)(c)—delete "or non-scheme pipeline user"
- (3) Rule 135AB(2)(b)—delete "or non-scheme pipeline user"
- (4) Rule 135AB(2)(c)—delete "or non-scheme pipeline user"
- (5) Rule 135AB(3)(c)—delete "or non-scheme pipeline user"
- (6) Rule 135AB(3)(d)—delete "or non-scheme pipeline user"
- (7) Rule 135AB(4)(c)(ii)—delete "or non-scheme pipeline user"
- (8) Rule 135AB(4)(d)(ii)—delete "or non-scheme pipeline user"

69—Amendment of rule 135ABA—Short term trading market participation

Rule 135ABA(1)(a)(i)—delete "or non-scheme pipeline user"

70—Amendment of rule 135D—Consumer advocacy funding obligation

Rule 135D(2)—delete "and non-scheme pipeline users"

71—Amendment of rule 136—Interpretation

Rule 136, definition of *distribution pipeline*—delete the definition

72—Amendment of rule 137—Maintenance of confidentiality

- (1) Rule 137(1)—delete "*scheme pipeline service provider*" and substitute:
service provider
- (2) Rule 137(2)—delete "*scheme pipeline service provider*" and substitute:
service provider

73—Amendment of rule 138A—General confidentiality obligation of Registered participant

- (1) Rule 138A(4)—delete "*related body corporate*" wherever occurring and substitute in each case:
related body corporate
- (2) Rule 138A(5)(b)—delete "*related body corporate*" and substitute:
related body corporate

74—Insertion of rule 138B

Before rule 139 insert:

138B—Review of Chapter 4 of NGL

In undertaking a review at the request of the MCE into whether Chapter 4 of the *NGL* should be extended to another person, the AER must proceed in accordance with the *standard consultative procedure*.

75—Insertion of rule 139A

After rule 139 insert:

139A—AER Compliance Procedures and Guidelines (Section 64F of NGL)

In making or amending the AER Compliance Procedures and Guidelines, the AER must proceed in accordance with the *standard consultative procedure*.

76—Amendment of rule 141—Interpretation

- (1) Rule 141(1), definition of **BB transmission pipeline**—delete the definition and substitute:

BB transmission pipeline means a pipeline that is a transmission pipeline;

- (2) Rule 141(1), definition of **facility operator**, (a)—delete paragraph (a) and substitute:
- (a) a BB production facility: each producer or user who owns, operates or controls the BB production facility;

77—Amendment of rule 161—Provision of contact details

- (1) Rule 161(1)—delete "and non-scheme pipeline user"
- (2) Rule 161(3)—delete "or non-scheme pipeline user"

78—Insertion of Part 18A

After Part 18 insert:

Part 18A—Compression and storage terms and prices**Division 1—Preliminary****198A—Definitions and interpretation**

- (1) In this Part:

application date means:

- (a) for a Part 18A facility on the commencement date, the date falling 6 months after the commencement date; or

OFFICIAL

National Gas Rules (Gas Pipelines) Amendment Rules 2023

- (b) for a new Part 18A facility, including a natural gas industry facility that becomes a Part 18A facility following an extension or expansion, 20 business days after the facility or the relevant expansion or extension to the facility is commissioned.

commencement date means the date this Part commences.

gas storage facility has the same meaning as in Part 18.

Part 18A facility means:

- (a) a designated compression service facility; or
- (b) a stand-alone compression service facility; or
- (c) a gas storage facility.

Part 18A information standard means the Part 18A information standard under rule 198D(2).

price reporting guidelines means the guidelines published by the AER under rule 198H as amended from time to time.

service provider means a person who owns, controls or operates a Part 18A facility.

stand-alone compression service facility has the same meaning as in Part 24.

standing terms means the information required to be published under rule 198F.

terms and conditions includes price and non-price terms and conditions.

user means a person who is a party to a contract with a service provider under which the service provider provides, or intends to provide, a compression or storage service to that person by means of a Part 18A facility.

- (2) In this Part, a reference to a facility service on a Part 18A facility includes a service provided by means of the facility and a service ancillary to the provision of a service provided by means of the facility.
- (3) For the purposes of this Part, the circumstances in which a service provider for a Part 18A facility provides a facility service to a user indirectly include where:
 - (a) an associate of the service provider provides the facility service to the user; and
 - (b) the facility service is bundled with the supply of a natural gas service.

Note—

Section 2 of the *NGL* defines associate, supply and natural gas service.

198B—Person cannot rely on duty of confidence to avoid compliance with Part

- (1) A person must not refuse to comply with this Part on the ground of any duty of confidence.
- (2) A person incurs, by complying with this Part, no liability for breach of contract, breach of confidence, or any other civil wrong.

198C—Application of this Part

This Part does not apply to a facility located in Western Australia until the day fixed in an order under section 20A of the National Gas Access (Western Australia) Law within the meaning of the *National Gas Access (WA) Act 2009* of Western Australia.

Division 2—Information**198D—Part 18A information standard**

- (1) A service provider required by this Division to prepare, publish and maintain information must do so in accordance with the Part 18A information standard.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

- (2) The **Part 18A information standard** is a requirement that the information:
 - (a) is not false or misleading in a material particular; and
 - (b) in relation to information of a technical nature, is prepared, published and maintained in accordance with the practices, methods and acts that would reasonably be expected from an experienced and competent person engaged in the ownership, operation or control of a Part 18A facility of the relevant type acting with all due skill, diligence, prudence and foresight; and
 - (c) in relation to a forecast or estimate:
 - (i) is supported by a statement of the basis of the forecast or estimate; and
 - (ii) is arrived at on a reasonable basis; and
 - (iii) represents the best forecast or estimate possible in the circumstances.

- (3) If a service provider becomes aware that information required to be published by it under this Division does not comply with the Part 18A information standard or any other provision of this Division, or is no longer accurate, the service provider must publish information that does comply, or is accurate, as soon as practicable after the service provider becomes aware of the non-compliance or inaccuracy.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

- (4) Information published under this Division must include the date of publication, the date to which the information is current and, if the information replaces an earlier version as provided for by subrule (3), notice of that fact.

198E—Obligation to publish information

- (1) Subject to subrule (5), a service provider for a Part 18A facility must prepare, publish and maintain:

- (a) standing terms in accordance with rule 198F; and
- (b) the actual prices payable information in accordance with rule 198G,

in accordance with the *NGL*, this Division and the price reporting guidelines.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

- (2) The information referred to in subrule (1) must be published at the following times.

| | |
|-----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| standing terms | No later than 20 business days after the application date for the Part 18A facility. Updated standing terms must be published within 20 business days after a new facility service is added or an existing facility service changes or is withdrawn. |
| actual prices payable information | No later than 20 business days after a contract is entered into or varied to provide for the particular prices (as the case may be), subject to the qualification that the information does not need to be provided before the application date for the Part 18A facility. |

- (3) A service provider for a Part 18A facility must publish the information referred to in subrule (1) by making the information publicly available on the service provider's website.

- (4) When the service provider for a Part 18A facility publishes actual prices payable information, it must immediately notify the AER that the information has been published and give a copy of the published information to the AER in accordance with any requirements specified in the price reporting guidelines.
- (5) A service provider for a Part 18A facility is not required to comply with subrule (1) in relation to a Part 18A facility to the extent that an exemption from the obligation to publish the information has been granted in relation to the Part 18A facility under Division 3 and that exemption remains in effect.
- (6) A service provider for a Part 18A facility must ensure that historical actual prices payable information for its Part 18A facility continues to be publicly available for a period of 5 years:
 - (a) from the date on which the prices cease to apply under the relevant *access contract*; or
 - (b) from the date on which the relevant *access contract* terminates,whichever first occurs.

198F—Standing terms

- (1) The service provider for a Part 18A facility must publish:
 - (a) standing terms for each facility service on the facility in accordance with subrule (2); and
 - (b) the methodology used to calculate the standing price referred to in subrule (2)(b), the inputs used in the calculation of the standing price and any other information specified in the price reporting guidelines.
- (2) The standing terms must in each case include:
 - (a) the service provider's standard terms and conditions applicable to the facility service;
 - (b) the standing price, being the price applicable to the facility service under the terms and conditions referred to in paragraph (a); and
 - (c) other information about prices and charges applicable to the facility service including the charging structure for the facility service, any minimum charge and any additional charges that may be payable.

198G—Actual prices payable information

- (1) A service provider for a Part 18A facility must publish the following information for each service that a user has procured under a contract with the service provider:
 - (a) the Part 18A facility by means of which the service is provided; and

- (b) the date the contract was entered into or varied (as the case requires); and
 - (c) the service term (start and end dates); and
 - (d) the type of service provided (for example, a storage service or compression service); and
 - (e) the priority given to the service (such as firm, as available or interruptible); and
 - (f) the contracted quantity, which for:
 - (i) a compression service facility should be the maximum daily quantity (in GJ/day); and
 - (ii) a storage facility should be:
 - (A) the storage capacity the subject of the transaction (in GJ); and
 - (B) where relevant, the injection and withdrawal capacity, expressed as a maximum daily quantity or MDQ (in GJ/day);
 - (g) whether the service is provided on the same or substantially the same non-price terms as those set out in the standing terms published by the service provider under rule 198F(1)(a); and
 - (h) the price paid for the service as set out in the contract (excluding any amount on account of GST); and
 - (i) if the price provided under paragraph (h) is not expressed as \$/GJ/day or, if relevant, \$/GJ, the price under that paragraph converted into \$/GJ/day or \$/GJ, together with an explanation about how the conversion was made; and
 - (j) the price structure applicable to the service (for example whether it is a fixed price or a variable price or a combination of the two); and
 - (k) any price escalation mechanism applicable to the price paid for the service.
- (2) A service provider must update the information published under subrule (1) if the information is no longer accurate due to a variation to the terms of the contract between the service provider and the user.
- (3) A service provider for a Part 18A facility is not required to comply with subrule (1) where a user's total Part 18A facility capacity right under one or more contracts with the service provider by means of the same facility is less than 10 TJ of natural gas per annum.
- (4) For the purposes of subrule (3), a capacity right means a right to be provided with a service by means of a Part 18A facility for a given quantity of natural gas over a given period of time.

198H—Price reporting guidelines

- (1) The AER must publish and maintain price reporting guidelines under this Part and may do so with the pipeline information disclosure guidelines published by the AER under Part 10.
- (2) The price reporting guidelines must:
 - (a) specify the information that a service provider for a Part 18A facility should report on as to the methodology used to calculate standing prices, the inputs used in the calculation of standing prices, and any related information as determined by the AER; and
 - (b) specify the level of detail of information required to be published under this Part, which must be the level of detail reasonably required to enable a user or prospective user to negotiate on an informed basis with a service provider of a Part 18A facility for the provision of a facility service; and
 - (c) specify where and how information that a service provider is required to publish under rule 198E is to be published on a service provider's website,and may provide for such other matters as the AER considers appropriate.
- (3) The AER may from time to time amend the price reporting guidelines in accordance with the *standard consultative procedure* in rule 8.

Division 3—Exemptions**198I—Exemption categories**

- (1) The AER must on the application of the service provider for a Part 18A facility, grant an exemption under this Division in respect of the service provider's Part 18A facility, if:
 - (a) the exemption sought is provided for in subrule (3);
 - (b) the service provider has demonstrated to the reasonable satisfaction of the AER that the Part 18A facility satisfies the exemption criteria in subrule (3); and
 - (c) the AER is otherwise satisfied that the exemption should be granted.
- (2) Subject to this Division, the AER may grant an exemption in respect of a class or group of Part 18A facilities on the application of a service provider for one or more of the Part 18A facilities or on its own initiative.

OFFICIAL

National Gas Rules (Gas Pipelines) Amendment Rules 2023

- (3) The exemption available under this Part and the exemption criteria are as follows:

| Exemption | Exemption criteria |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| The service provider for the Part 18A facility is exempt from the obligation to publish information under Division 2 in relation to the Part 18A facility. | The Part 18A facility is not a third party access facility. |

- (4) For the purposes of the table in subrule (3), a Part 18A facility is a **third party access facility** if any facility services on the Part 18A facility are offered or provided, directly or indirectly, to any person other than:
- (a) the service provider for the Part 18A facility; or
 - (b) a related body corporate of the service provider for the Part 18A facility; or
 - (c) a joint venture in which the service provider for the Part 18A facility or a related body corporate of the service provider is a joint venture participant.
- (5) An exemption granted by the AER:
- (a) takes effect on the date specified by the AER in the exemption; and
 - (b) ends on the expiry date specified in the exemption or, if earlier, the date a revocation of the exemption comes into effect.
- (6) The AER must establish, publish and maintain a register of exemptions and exemption revocations made under this Division.
- (7) The service provider for a Part 18A facility for which an exemption has been granted must notify the AER without delay if circumstances change such that the Part 18A facility no longer qualifies for the exemption.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

198J—Exemption conditions

- (1) An exemption may be granted subject to any conditions determined by the AER.
- (2) The service provider for a Part 18A facility for which an exemption has been granted must comply with any conditions of the exemption.

Note—

This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

- (3) The AER may on the application of the service provider for the Part 18A facility concerned or on its own initiative vary the conditions of an exemption.
- (4) A variation to the conditions of an exemption takes effect on the date specified by the AER in its decision to grant the variation.

198K—Revocation

- (1) The AER must revoke an exemption where, in the AER's reasonable opinion, the relevant exemption criteria in subrule 198I(3) is no longer satisfied.
- (2) The AER may revoke an exemption on its own initiative or following an application made by any person.
- (3) A revocation of an exemption takes effect on the date specified by the AER in its decision to revoke the exemption.
- (4) If an exemption is revoked for a Part 18A facility, for the purpose of rule 198E(2) the application date for the Part 18A facility is taken to be the date on which the revocation takes effect.

198L—Making and form of application

- (1) A service provider for a Part 18A facility may apply to the AER for:
 - (a) the grant of an exemption for its Part 18A facility; or
 - (b) a variation to any condition of an exemption for its Part 18A facility.
- (2) Any person may apply to the AER for the revocation of an exemption.
- (3) An application under this Division must be in the form, and contain the information, specified in any guidelines issued by the AER for the purposes of this rule.
- (4) The AER may, within the period for making a decision on the application under rule 198M, ask the applicant to provide further information or clarification in support of the application if the AER considers that the application is incomplete or requires clarification.
- (5) If the AER asks for further information or clarification under subrule (4), the application is taken to have been made when the further information or clarification is provided to the AER's satisfaction.

198M—Decision on application

- (1) The AER must decide whether to grant or refuse to grant an application made under rule 198L within 40 business days after the application is made.
- (2) The AER may extend the time period in subrule (1) by a further period of 20 business days by giving the applicant written notice of the extension not later than 30 business days after the application is made.

(3) The AER must:

- (a) give the applicant written notice of its decision to grant or refuse to grant an application made under rule 198L, including any conditions imposed in accordance with rule 198J; and
- (b) if the AER imposes conditions on the grant of an exemption or a variation of an exemption in accordance with rule 198J, or refuses to grant an application made under rule 198L, it must give the applicant written reasons for its decision.

198N—Decision to vary or revoke an exemption

- (1) If the AER proposes to vary or revoke an exemption other than on the application of the service provider for the Part 18A facility concerned, it must notify the service provider for the facility (including the reasons for the proposed variation or revocation) and invite the service provider to make submissions about the proposed variation or revocation within 20 business days of the notice.
- (2) If a service provider given a notice under subrule (1) provides written submissions to the AER within the period required by the notice, the AER must have regard to those submissions in deciding to vary or revoke the exemption.
- (3) If the AER varies or revokes an exemption, it must give the service provider for the Part 18A facility written reasons for its decision.

79—Amendment of rule 502—Definitions

Rule 502, definition of *distributor*—delete "covered pipeline" and substitute:
scheme pipeline

80—Repeal of note

Part 21, Division 4, Note before rule 513—delete the note

81—Amendment of rule 514—Distributor may require credit support in limited circumstances

Rule 514—after subrule (3) insert:

Note—

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

82—Amendment of rule 515—Retailer to provide credit support

Rule 515—after subrule (3) insert:

Note—

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

83—Amendment of rule 516—Acceptable form of credit

Rule 516—after subrule (2) insert:

Note—

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

84—Amendment of rule 517—Application for credit support

Rule 517—after its present contents insert:

Note—

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

85—Amendment of rule 518—Amendment of rule 518—Return of credit support

Rule 518—after its present contents insert:

Note—

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

86—Amendment of rule 519—Other retail obligations

Rule 519—after subrule (2) insert:

Note—

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

87—Amendment of rule 520—pass through of unpaid distribution service charges

Rule 520—after subrule (5) insert:

Note—

This rule is classified as a conduct provision under the National Gas (South Australia) Regulations. See clause 7 and Schedule 4 of the National Gas (South Australia) Regulations.

88—Repeal of Part 23

Part 23—delete the Part

89—Amendment of rule 593—Definitions and interpretation

Rule 593(2) and (3)—delete subrules (2) and (3)

90—Substitution of heading to rule 594

Heading to rule 594—delete the heading and substitute:

594—Part 12 does not apply 91—**Amendment of rule 594—Part 12 does not apply**

Rule 594(1)—delete subrule (1) and substitute:

- (1) Subject to subrule (2), for the purposes of rule 113B(2)(d), an access dispute about the terms and conditions of a standard OTSA is excluded from the operation of Part 12.

92—Amendment of rule 610—Scope of exemptions

Rule 610(2)(a)—delete "a pipeline classified as"

93—Amendment of rule 611—Exemptions granted by the AER

Rule 611(4)(a)—delete "*related body corporate*" wherever occurring and substitute in each case:

related body corporate

94—Amendment of rule 642—Principles for terms to facilitate sale by operational transfer

Rule 642(5)—delete "rule 105" and substitute:

rule 68F

95—Amendment of rule 648—Pipeline and service classification

Rule 648(1)—delete subrule (1)

96—Amendment of rule 677—Definitions and interpretation

Rule 677(4)—delete subrule (4)

97—Amendment of Schedule 3

Schedule 3, Part 4, clause 2(1)(a)—delete "*National Energy Retail Law, the National Energy Retail Rules*" and substitute:

National Energy Retail Law, the National Energy Retail Rules

98—Amendment of Schedule 4

Schedule 4, Part 2—delete Part 2

99—Insertion of Schedule 6

After Schedule 5 insert:

Schedule 6—Transitional arrangements related to pipeline regulation amendments**1—Definitions**

In this Schedule:

commencement day means the day on which Part 19 of Schedule 3 of the *NGL* (inserted into the *NGL* by the *National Energy Laws Amendment (Gas Pipelines) Act 2022*) comes into operation.

2—Competitive tendering

- (1) This rule applies where:
 - (a) a proposed pipeline has been subject to an application to the AER under rule 21 (as in force immediately before the commencement day); and
 - (b) the AER has approved the relevant tender process as a competitive tender process before the commencement day.
- (2) The following rules (as in force immediately before the commencement day) continue to apply in relation to the relevant tender and pipeline:
 - (a) rule 23(2);
 - (b) rules 24 and 25;
 - (c) rule 26(1)(a);
 - (d) rules 27 and 28;
 - (e) rule 29 (insofar as this rule relates to Parts 8 and 9 of these rules).

3—Regulatory determinations and elections guide

The AER must publish the regulatory determinations and elections guide under rule 29H within 8 months after the commencement day.

4—Applications for exemptions from minimum ring fencing requirements

- (1) This rule applies in relation to an application for an exemption under rule 31 (as in force immediately before the commencement day) that has not been finally determined before the commencement day.
- (2) The application may continue to be dealt with under rule 34 (as in force after the commencement day).

5—Deemed exemptions from minimum ring fencing requirements

To avoid doubt, rule 35 (as in force after the commencement day) extends to a service provider who is taken to have been granted an exemption under Category 1 in Part 10 Division 2 Subdivision 2 of these rules (as in force after the commencement day) by virtue of the operation of rule 12(2) of this Schedule.

6—Interconnection policies

A service provider for a pipeline subject to the operation of section 136 of the *NGL* on the commencement day is not required to have an interconnection policy under rule 39 (as in force after the commencement day) until 2 months after the AER publishes the pipeline information disclosure guidelines in accordance with rule 13 of this Schedule.

7—Provision of information by light regulation pipelines

- (1) This rule applies in relation to a service provider who, immediately before the commencement day, is required to publish information under rule 36D (as in force immediately before the commencement day) in relation to a pipeline.
- (2) A service provider must continue to prepare, publish and maintain information in accordance with the following rules (as in force immediately before the commencement day) in respect of each financial year of the service provider that occurs before the designated financial year of the service provider under rule 10 of this Schedule:
 - (a) rule 36A;
 - (b) rule 36B(1)(c);
 - (c) rule 36B(2) to (5) (inclusive), insofar as this rule requires the publication of financial information specified in rule 36D;
 - (d) rule 36D.
- (3) Rule 36F (as in force immediately before the commencement day) will continue to apply in connection with the operation of subrule (2) until the service provider publishes financial information, historical demand information and a cost allocation methodology under rule 101D (as in force after the commencement day) in accordance with rule 10 of this Schedule.

8—Voluntary submission of access arrangement proposal for full access arrangement

- (1) This rule applies in relation to the submission of a proposal to the AER under section 127 of the *NGL* (as in force immediately before the commencement day) that has not been finally determined by the AER before the commencement day.

- (2) Rules 47(1), (1A) and (2) (as in force immediately before the commencement day) continue to apply in relation to the submission.
- (3) If the AER decides to approve an *access arrangement proposal* after the commencement day, the arrangement will be approved, and will take effect, as an access arrangement (rather than as a full access arrangement).

9—Service and access information and standing terms

- (1) A service provider who is the holder of an exemption granted under Category 2 in Part 23 Division 6 of these rules (as in force immediately before the commencement day) on account of the pipeline being a single user pipeline is not required to publish service and access information under rule 101B (as in force after the commencement day), or standing terms under rule 101C (as in force after the commencement day), in relation to the pipeline until 6 months after the commencement day.
- (2) A service provider who is the holder of an exemption granted under Category 3 in Part 23 Division 6 of these rules (as in force immediately before the commencement day) in relation to a non-scheme pipeline is not required to publish service usage information under rule 101B(4) (as in force after the commencement day), service availability information under rule 101B(5) (as in force after the commencement day), or standing terms under rule 101C (as in force after the commencement day), in relation to the pipeline until 6 months after the commencement day.
- (3) A service provider for a full regulation distribution pipeline (as defined by rule 112A of these rules immediately before the commencement day) is not required to publish standing terms under rule 101C (as in force after the commencement day) in relation to the pipeline until 6 months after the commencement day.
- (4) A service provider for a transmission pipeline that is a scheme pipeline is not required to publish service and access information under rule 101B (as in force after the commencement day), or standing terms under rule 101C (as in force after the commencement day), in relation to the pipeline until 6 months after the commencement day.
- (5) This rule does not affect any obligation to publish information under an access arrangement, or *access arrangement information*, after the commencement day.
- (6) A reference in this rule to an exemption granted under Part 23 Division 6 of these rules (as in force immediately before the commencement day) is a reference to such an exemption that is:
 - (a) held immediately before the commencement day; or
 - (b) granted on or after the commencement day by virtue of the operation of rule 25 of this Schedule.

Note—

Rule 25 of this Schedule allows for various applications, including applications for exemptions, made before the commencement day to be determined under Part 23 Division 6.

10—Financial information, historical demand information and cost allocation methodology

- (1) In this rule:

designated financial year, in relation to a particular service provider, means the financial year of the service provider immediately following the year in which the AER publishes the pipeline information disclosure guidelines under Part 10 of these rules (as in force after the commencement day).

- (2) This rule applies in relation to the requirement to publish financial information, historical demand information and a cost allocation methodology under rule 101D (as in force after the commencement day).
- (3) A service provider is not required to publish the financial information, historical demand information or cost allocation methodology in respect of the designated financial year until 6 months after the end of the designated financial year.

11—Actual prices payable information – pipelines

- (1) This rule applies in relation to the requirement to publish information under rule 101E (as in force after the commencement day).
- (2) A service provider is not required to publish the information in relation to a pipeline in existence immediately before the commencement day until 6 months after the commencement day.
- (3) The requirement to publish information only applies in relation to an *access contract*:
- (a) that is in force immediately before the commencement day; or
 - (b) that is entered into on or after the commencement day.

12—Part 10 exemption categories

- (1) In this rule:

nameplate rating, in relation to a pipeline, means the maximum daily capacity of the pipeline under normal operating conditions.

- (2) The holder of an exemption granted under Category 2 in Part 23 Division 6 of these rules (as in force immediately before the commencement day) in relation to a pipeline that is not a third party access pipeline will be taken to have been granted an exemption under Category 1 in Part 10 Division 2 Subdivision 2 of these rules (as in force after the commencement day).

- (3) The holder of an exemption granted under Category 2 in Part 23 Division 6 of these rules (as in force immediately before the commencement day) in relation to a single user pipeline will be taken to have been granted an exemption under Category 2 in Part 10 Division 2 Subdivision 2 of these rules (as in force after the commencement day).
- (4) Subject to subrule (5), the holder of an exemption granted under Category 3 in Part 23 Division 6 of these rules (as in force immediately before the commencement day) in relation to a pipeline that satisfies the following criteria will be taken to have been granted an exemption under Category 2 in Part 10 Division 2 Subdivision 2 of these rules (as in force after the commencement day):
 - (a) in the case of a transmission pipeline – the nameplate rating of the pipeline is less than 10 TJ/day;
 - (b) in the case of a distribution pipeline – the maximum daily capacity of the pipeline under normal operating conditions is less than 10 TJ/day.
- (5) Subrule (4) will only apply if the AER is satisfied (on the basis of information provided by the service provider) that the pipeline has a nameplate rating that is less than 10 TJ/day, or a maximum daily capacity under normal operating conditions that is less than 10 TJ/day, as the case requires.
- (6) An exemption applying by virtue of the operation of this rule will be able to be varied or revoked by the AER after the commencement day (including as the result of a process commenced before the commencement day).
- (7) An exemption applying by virtue of the operation of this rule will be taken to have effect subject to any conditions applying in relation to the exemption under these rules as in force immediately before the commencement day.
- (8) A condition under subrule (7):
 - (a) will be taken to have been imposed by the AER under rule 102A (as in force after the commencement day); and
 - (b) will be able to be varied or revoked by the AER after the commencement day (including as the result of a process commenced before the commencement day).
- (9) A reference in this rule to an exemption granted under Part 23 Division 6 of these rules (as in force immediately before the commencement day) is a reference to such an exemption that is:
 - (a) held immediately before the commencement day; or
 - (b) granted on or after the commencement day by virtue of the operation of rule 25 of this Schedule.

Note—

Rule 25 of this Schedule allows for various applications, including applications for exemptions, made before the commencement day to be determined under Part 23 Division 6.

13—Pipeline information disclosure guidelines

The AER must publish the pipeline information disclosure guidelines under rule 103 (as in force after the commencement day) within 5 months after the commencement day.

14—Pricing template

The AER must publish a pricing template under rule 103A (as in force after the commencement day) within 5 months after the commencement day.

15—Availability of applicable access arrangement and other information

- (1) This rule applies in relation to a request made by a prospective user to the AER under rule 107(2) (as in force immediately before the commencement day) before the commencement day.
- (2) Rule 107 (as in force immediately before the commencement day) continues to apply in relation to the request.

16—Information about tariffs

- (1) This rule applies in relation to a request made by a prospective user to a service provider under rule 108(1) (as in force immediately before the commencement day) before the commencement day.
- (2) Rule 108 (as in force immediately before the commencement day) continues to apply in relation to the request.

17—Requests for access – scheme pipelines

- (1) This rule applies in relation to a request made by a prospective user to a service provider under rule 112(1) (as in force immediately before the commencement day) before the commencement day.
- (2) Rule 112 (as in force immediately before the commencement day) continues to apply in relation to the request.

18—User access guide

- (1) A service provider is not required to have a user access guide under rule 105C (as in force after the commencement day) for a pipeline commissioned before the commencement day until 2 months after the AER publishes the pipeline information disclosure guidelines in accordance with rule 13 of this Schedule.

- (2) In the case of a non-scheme pipeline, rule 558 (as in force immediately before the commencement day) will continue to apply until the service provider has developed and published a user access guide under rule 105C (as in force after the commencement day) in relation to the pipeline.
- (3) To avoid doubt, rule 105C(8) (as in force after the commencement day) extends to a service provider who is taken to have been granted an exemption under Category 1 in Part 10 Division 2 Subdivision 2 of these rules (as in force after the commencement day) by virtue of the operation of rule 12(2) of this Schedule.

19—Access disputes – scheme pipelines

- (1) This rule applies in relation to an access dispute notified under section 181 of the *NGL* (as in force immediately before the commencement day) before the commencement day.
- (2) Part 12 of these rules (as in force immediately before the commencement day) continues to apply in relation to the dispute.

20—15-year no-coverage determinations – greenfields incentives

- (1) This rule applies in relation to a pipeline that is subject to the operation of clause 120 of Schedule 3 of the *NGL*.
- (2) Part 13 Division 2 of these rules (as in force immediately before the commencement day) continues to apply in relation to an application for a 15-year no-coverage determination made before the commencement day.

21—Actual prices payable information – Part 18A facilities

- (1) This rule applies in relation to the requirement to publish information under rule 198G (as in force after the commencement day).
- (2) The requirement to publish information only applies in relation to a contract that was in force immediately before the application date for the Part 18A facility (within the meaning of Part 18A):
 - (a) that is in force immediately before the commencement day; or
 - (b) that is entered into on or after the commencement day.

22—Provision of information relating to non-scheme pipelines

- (1) This rule applies in relation to a service provider who, immediately before the commencement day, is required to publish information under rule 555 (as in force immediately before the commencement day) in relation to a pipeline.

- (2) A service provider must continue to prepare, publish and maintain information in accordance with the following rules (as in force immediately before the commencement day) in respect of each financial year of the service provider that occurs before the designated financial year of the service provider under rule 10 of this Schedule:
 - (a) rule 551;
 - (b) rule 552(1)(c);
 - (c) rule 552(2) to (6) (inclusive), insofar as this rule requires the publication of financial information specified in rule 555;
 - (d) rule 555.
- (3) Rule 557 (as in force immediately before the commencement day) will continue to apply in connection with the operation of subrule (2) until the service provider publishes financial information, historical demand information and a cost allocation methodology under rule 101D (as in force after the commencement day) in accordance with rule 10 of this Schedule.

23—Requests for access – non-scheme pipelines

- (1) This rule applies in relation to a request made by a prospective user to a service provider under rule 559(1) (as in force immediately before the commencement day) before the commencement day.
- (2) Part 23 Division 3 of these rules (as in force immediately before the commencement day) continues to apply in relation to the request.

24—Access disputes – non-scheme pipelines

- (1) This rule applies in relation to an access dispute notified under section 216H of the *NGL* (as in force immediately before the commencement day) before the commencement day.
- (2) Part 23 Division 4 of these rules (as in force immediately before the commencement day) continues to apply in relation to the dispute.

25—Applications related to exemptions from information and dispute provisions – non-scheme pipelines

- (1) This rule applies in relation to an application under rules 588(1) or (2) (as in force immediately before the commencement day) that has not been finally determined before the commencement day.
- (2) Part 23 Division 6 of these rules (as in force immediately before the commencement day) continues to apply in relation to the application.

26—Existing expansions not previously included in access arrangements to be included in next access arrangement revisions

- (1) This rule applies to the service provider for the Goldfields Gas Pipeline.

- (2) The service provider must, in its next *access arrangement proposal*, include all expansions of the capacity of the scheme pipeline that have not previously been included in the access arrangement (on the basis that those expansions of capacity of the scheme pipeline will be taken to be part of the scheme pipeline and the access arrangement will apply to pipeline services provided by means of the scheme pipeline as expanded).
- (3) The service provider must, as part of the *access arrangement proposal*, in relation to those parts of the pipeline that have not previously been included in the access arrangement:
 - (a) include *access arrangement information* that relates to those parts of the pipeline in accordance with rule 72;
 - (b) calculate a capital base for those parts of the pipeline in accordance with rule 77.
- (4) The AER must, when making its *decision* on the *access arrangement proposal* in accordance with Part 8 of these rules:
 - (a) assess the service provider's calculation of the capital base submitted under subrule (3)(b) taking into account the provisions of rule 77; and
 - (b) calculate the capital base for the pipeline which includes the capital value of the expansion that has not previously been included in relation to the access arrangement.
- (5) For the purposes of the later *access arrangement period* that then applies under rule 77, the capital base calculated under subrule (4)(b) will be taken to be the opening capital base that is rolled forward under rule 77(2).

27—Special provision relating to Jemena pipelines

- (1) In this rule:

designated entity means:

- (a) Jemena Darling Downs Pipeline (1) Pty Ltd; and
- (b) Jemena Darling Downs Pipeline (2) Pty Ltd; and
- (c) Jemena Darling Downs Pipeline (3) Pty Ltd.

prescribed requirement means a requirement under section 139, 140 or 141 of the *NGL*.

- (2) A designated entity will be taken to have been granted an exemption under rule 34 (as in force after the commencement day) from a prescribed requirement for the period of 3 years from the commencement day in relation to:
 - (a) the Atlas Gas Processing Facility; and
 - (b) the Darling Downs Pipeline.

- (3) Jemena Roma North Pipeline Pty Ltd will be taken to have been granted an exemption under rule 34 (as in force after the commencement day) from a prescribed requirement for the period of 3 years from the commencement day in relation to the Roma North Gas Processing Facility and the Roma North Gas Processing Facility Pipeline.

