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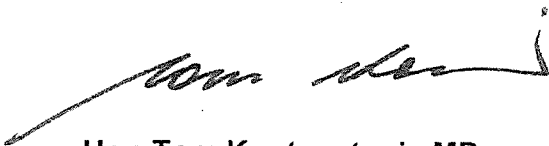
Making of National Gas Rules

National Gas (South Australia) Law – Section 294H

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 (East Coast Gas System) Rule 2023 under section 294H(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 (East Coast Gas System) Rule 2023 and unless specified below, commences operation on 4 May 2023.

Division 2 of Part 27 of this Rule commences two months after the commencement date.



Hon Tom Koutsantonis MP

Minister for Energy and Mining

28th April 2023

1 Title of Rules

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

2 Commencement

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

3 Amendment of National Gas Rules

The National Gas Rules are amended as set out in Schedule 1.

Schedule 1 Amendment to the National Gas Rules

(Clause 3)

[1] Rule 135C Definitions

Insert in alphabetical order:

east coast gas system reliability costs means the costs of AEMO exercising or performing its east coast gas system reliability and supply adequacy functions, and includes the costs borne by AEMO under rules 706(5) and 709.

Registered participant has the same meaning as in section 91H(4) of the *NGL*.

[2] Rule 135CA Development of participant fee structure

Insert after rule 135CA(4)(b)(ii):

- (iia) a Registered participant who is not required to be registered under the *NGL* or these rules, other than under rule 713, should only be liable to pay participant fees for the purpose of recovering east coast gas system reliability costs and funding the trading fund under Part 27;

[3] Rule 135CA(4A)

Insert “or east coast gas system reliability costs” after “auction costs”.

[4] Rule 135CB Major gas project

Insert after rule 135CB(1)(c):

- (d) the exercise or performance of an east coast gas system reliability and supply adequacy function.

[5] Rule 135CB(2)

Insert “, other than a determination under subrule (1)(d),” after “this rule”.

[6] Rule 135CB(2A)

Insert after rule 135CB(2):

- (2A) AEMO may consult on a determination under subrule (1)(d) in accordance with the *expedited consultative procedure*.

[7] Rule 135CC Components of participant fees

Insert after rule 135CC(1)(bc):

- (bd) fees to recover east coast gas system reliability costs;

[8] Rule 135CF Budgeted revenue requirements

Insert after rule 135CF(2)(ca):

- (cb) the recovery of east coast gas system reliability costs; and
(cc) the funding requirements of the trading fund under Part 27; and

[9] Rule 135EA Matters about which Procedures may be made

Insert after rule 135EA(6):

- (7) The East Coast Gas System Procedures may deal with the following matters:

- (a) the manner, form and timing of a notice required to be given under Part 27;
- (b) the criteria referred to in rule 695(1)(b);
- (c) the way and circumstances in which information required to be provided to AEMO under Division 2 of Part 27 (**Part 27 information**) must be provided, including the following:
 - (i) when updated information is required to be provided and any materiality threshold that applies;
 - (ii) when maintenance is taken to materially constrain the normal operation of gas-related infrastructure;
 - (iii) how the values in rules 687(2) and 688(2) are to be calculated;
 - (iv) how demand zones, supply zones, linepack zones and pipeline segments must be determined;
 - (v) how linepack or types of linepack must be measured;
 - (vi) how daily capacity must be reported under rule 689(2);
 - (vii) the circumstances in which information must be reported under rule 689(4);
- (d) the manner, form and timing of providing Part 27 information;
- (e) the nomination or appointment of a reporting entity or agent for a relevant entity for the purposes of providing Part 27 information;
- (f) the circumstances in which further Part 27 information or updated Part 27 information is required, including when the information is required;
- (g) the establishment of a register of relevant entities, for the purposes of Part 27 (**Part 27 register**), to register the details of each relevant entity who is not required to be registered under the *NGL* or these rules, including, but not limited to, contact and billing details;
- (h) the classes of relevant entities who must, within the period specified in the Procedures, provide contact details to be included in the Part 27 register;
- (i) the information that must be recorded in the Part 27 register;
- (j) the manner and form in which the Part 27 register must be kept and maintained;
- (k) any other subject relevant to the east coast gas system reliability and supply adequacy functions on which the *NGL* or these rules contemplate the making of Procedures;
- (l) any matter consequential or related to any of the above.

[10] Rule 141 Interpretation

Insert “or medium term capacity outlook” after “short term capacity outlook” wherever occurring in paragraph (c) of the definition of **material change**.

[11] Rule 141(1), definition of “medium term capacity outlook”

Omit “12 months”. Insert instead “24 months”.

[12] Rule 141(1), definition of “storage cushion gas”

Omit the definition. Insert instead:

storage cushion gas means:

- (a) for a BB storage facility, other than an LNG storage facility—the quantity of natural gas that must be kept in the facility to maintain the required pressure and deliverability rates, or
- (b) for an LNG storage facility—the minimum level of LNG required to ensure the safe operation of the facility.

[13] Rule 181

Omit “for” from the heading. Insert instead “**for BB facilities**”.

[14] Rule 181(2)

Omit “on each day that the information is provided to BB shippers by a facility operator for the BB facility or at the times required under the BB Procedures”.

Insert instead “at the start of each week, starting on the day specified in the BB Procedures”.

[15] Rule 181(4)

Insert after rule 181(3):

- (4) A BB reporting entity must, as soon as practicable in accordance with rule 165(3), update information provided under this rule if there is a material change in the information.

[16] Part 27

Insert after Part 26:

Part 27 East coast gas system reliability and supply adequacy

Division 1 Interpretation and application

679 Application of Part

This Part prevails to the extent of any inconsistency with another rule.

680 Interpretation

In this Part:

BB facility, **BB large user facility**, **BB pipeline**, **BB reporting entity**, **exempt NT facility**, **exempt NT facility operator**, **LNG processing facility** and **remote BB facility** have the same meanings as in Part 18.

direction or trading function means a function specified in section 91AD(1)(e) or (f) of the *NGL*.

direction or trading notice—see rule 697(1).

ECGS information standard—see rule 684(2).

gas means natural gas, unless otherwise defined in this Part.

identified risk or threat—see rule 695(1)(a).

information includes data.

jurisdictional representative—see rule 712(1).

linepack, **linepack zone** and **pipeline segment** have the meanings given by the Procedures.

LNG export project has the same meaning as in Part 15D.

maintenance work means work that materially constrains, as specified by the Procedures, the normal operation of the equipment being maintained.

Procedures means the East Coast Gas System Procedures.

responsible reporting entity, for an LNG export project, means the owner, operator or controller of the LNG export project who is registered under rule 715 as the responsible reporting entity for the LNG export project.

risk or threat notice—see rule 695(1).

trading function means a function specified in section 91AD(1)(f) of the *NGL*.

681 Time and dates

- (1) References in this Part to a time of day are to Australian eastern standard time (and are not adjusted for daylight saving time in any jurisdiction).
- (2) In this Part, unless otherwise specified:
 - (a) a period of time expressed to commence before or after a given day, or before or after the day of an act or event, is to be calculated exclusive of that day; and
 - (b) a period of time expressed to commence on a given day, or on the day of an act or event, is to be calculated inclusive of that day.

Division 2 Disclosure obligations

682 Application of Division

- (1) This Division does not apply to the following:
 - (a) the operator of a remote BB facility in relation to the remote BB facility;
 - (b) an exempt NT facility operator in relation to the exempt NT facility.
- (2) AEMO may, by written notice to a relevant entity, do 1 or more of the following:
 - (a) exempt the relevant entity from the obligation to provide an item of information under this Division in respect of a facility in specified circumstances;
 - (b) require the use of a default or standing value in place of the relevant item of information;
 - (c) require the relevant entity, who has previously been exempted from a disclosure obligation under this Division, to make a disclosure under this Division.

683 General

- (1) AEMO may disclose information obtained under this Division on the Natural Gas Services Bulletin Board or in the gas statement of opportunities.

Note: Information obtained under this Part is protected from unauthorised use or disclosure. See Division 7 of Part 6 of Chapter 2 of the *NGL*.
- (2) Unless otherwise specified in this Division or the Procedures, all quantities must be expressed in gigajoules in information provided under this Division.
- (3) AEMO must make Procedures for the purpose of this Division.
- (4) In this Division, a reference to a retailer includes a non-NGL retailer within the meaning of the Procedures.

684 Standard for information given under this Division or the Procedures

- (1) A relevant entity required by this Division or the Procedures to give information to AEMO must, in accordance with the ECGS information standard:
 - (a) prepare and submit the information; and
 - (b) if applicable, maintain any equipment from which that information is derived.

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 **ECGS information standard** means the following:
 - (a) for information relating to a facility—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 facility in Australia of that type;
 - (b) for information relating to a retailer—the practices, methods and acts that would reasonably be expected from an experienced and competent person engaged in the business of retailing natural gas;
 - (c) for information relating to LNG export projects—the practices, methods and acts that would reasonably be expected from an experienced and competent person engaged in the ownership, operation or control of an LNG export project in Australia.
- (3) In subrule (2), an **experienced and competent person** means a person acting with all due skill, diligence, prudence and foresight and in compliance with all applicable legislation (including these rules), authorisations and industry codes of practice.
- (4) If this Division or the Procedures require a relevant entity to update information provided to AEMO, the relevant entity must:
 - (a) do so each time facts or circumstances arise that require the information to be updated; and
 - (b) notify the updated information to AEMO as soon as practicable after the relevant entity becomes aware of the facts or circumstances that require the information to be updated and within any applicable timeframe specified in the Procedures.
- (5) A relevant entity required by this Division or the Procedures to update information provided to AEMO must, in accordance with the ECGS information standard:
 - (a) prepare and submit that updated information; and
 - (b) if applicable, maintain any equipment from which the updated information is derived.

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*.)
- (6) AEMO is not required to verify the accuracy of information provided to AEMO under this Division.

685 Information to be provided in accordance with the Procedures

- (1) If this Division requires a relevant entity to provide information to AEMO, the information must be provided by the relevant entity:

- (a) by the time specified in this Division, or as specified or varied in the Procedures; and
 - (b) in the manner and form specified in, and otherwise in accordance with, the Procedures.
- (2) The Procedures may require information about a gas day referred to in this Division to be provided in advance of that gas day.

686 Use of default and standing values

- (1) AEMO may make Procedures to provide for:
 - (a) a relevant entity to be exempt from the obligation to provide an item of information under this Division in specified circumstances; and
 - (b) the default or standing value that will be used in place of the relevant item of information.
- (2) The obligations under this Division to update information apply to default or standing values determined under the Procedures as if the relevant entity had provided the information to AEMO.

687 Retailers that sell gas

- (1) Each retailer that sells gas must (no later than the start of the gas day) provide a forecast of the following to AEMO:
 - (a) the expected daily gas demand of the retailer for that gas day in each demand zone in which the retailer operates;
 - (b) the expected daily gas demand of the retailer for each of the next 6 consecutive gas days in each demand zone in which the retailer operates.
- (2) Each retailer that sells gas to retail customers must (no later than the start of the gas day) provide the following information to AEMO:
 - (a) the proportion of the expected daily gas demand to be purchased for that gas day:
 - (i) from a market or gas trading exchange administered by AEMO; and
 - (ii) under a gas supply agreement;
 - (b) the proportion of the expected daily gas demand to be purchased for each of the next 6 consecutive gas days:
 - (i) from a market or gas trading exchange administered by AEMO; and
 - (ii) under a gas supply agreement.
- (3) Any demand for which gas is supplied to the retailer by another retailer must not be included in the information provided to AEMO by the retailer.

688 BB large user facilities and LNG export projects

- (1) A BB reporting entity for a BB large user facility and the responsible reporting entity for an LNG export project must (no later than the start of the gas day) provide a forecast of the following information to AEMO in relation to the BB large user facility or the operation and associated activities of the LNG export project:
 - (a) the expected daily gas demand for that gas day;
 - (b) the expected daily gas demand for each of the next 6 consecutive gas days.

- (2) A BB reporting entity for a BB large user facility and the responsible reporting entity for an LNG export project must (no later than the start of the gas day) provide the following information to AEMO:
 - (a) the proportion of the expected daily gas demand to be purchased for that gas day:
 - (i) from a market or gas trading exchange administered by AEMO; and
 - (ii) under a gas supply agreement;
 - (b) the proportion of the expected daily gas demand to be purchased for each of the next 6 consecutive gas days:
 - (i) from a market or gas trading exchange administered by AEMO; and
 - (ii) under a gas supply agreement.
- (3) A BB reporting entity for a BB large user facility and the responsible reporting entity for an LNG export project must (no later than the first day of each calendar month) provide to AEMO details of maintenance work expected to be carried out on the BB large user facility or LNG processing facility over a period of 24 months, including:
 - (a) the dates on which the maintenance is expected to start and finish; and
 - (b) the anticipated impact of the maintenance on the expected daily gas demand.
- (4) Any demand for which gas is supplied by a retailer must not be included in the information provided to AEMO.

689 BB facilities excluding BB large user facilities and LNG processing facilities

- (1) This rule does not apply in relation to:
 - (a) a BB large user facility; or
 - (b) an LNG processing facility.
- (2) A BB reporting entity for a BB facility must (no later than the first day of each calendar month) provide a daily capacity forecast to AEMO for:
 - (a) that calendar month; and
 - (b) each of the next 5 consecutive calendar months.
- (3) A BB reporting entity for a BB facility must (no later than the first day of each calendar month) provide to AEMO details of maintenance work expected to be carried out in relation to the BB facility over a period of 24 months, including:
 - (a) the dates on which the maintenance is expected to start and finish; and
 - (b) whether, and over what period of time, the facility is capable of being recalled to service if AEMO were to direct that the facility be recalled to service, and the expected capacity of the facility during that period.
- (4) A BB reporting entity for a BB facility must, as soon as reasonably practicable, notify AEMO of an event or circumstances relating to the BB facility of which the BB reporting entity becomes aware that affects, will affect or may affect the reliability of gas supply, including equipment failure.

690 BB pipelines

A BB reporting entity for a BB pipeline must (no later than the start of each gas day) provide a forecast of the following to AEMO:

- (a) the amount of linepack in a linepack zone for that gas day and each of the next 6 consecutive gas days;
- (b) the expected daily capacity for each pipeline segment for that gas day and each of the next 6 consecutive gas days.

691 LNG export projects

- (1) The responsible reporting entity for an LNG export project must (no later than the first day of each calendar month) provide a forecast of the following to AEMO:
 - (a) the quantity of natural gas that the project expects to supply to the domestic market for consumption in an east coast jurisdiction for:
 - (i) that calendar month; and
 - (ii) each of the next 5 consecutive calendar months;
 - (b) the quantity of natural gas that the project expects to export, including the quantity of natural gas required for feed gas, for:
 - (i) that calendar month; and
 - (ii) each of the next 5 consecutive calendar months.
- (2) In this rule, supply to the domestic market excludes supply to any other LNG export project.

Division 3 Gas supply adequacy and reliability conferences

692 AEMO may convene conferences in certain circumstances

- (1) AEMO may convene a conference of relevant entities for 1 or more of the following purposes in relation to the reliability or adequacy of the supply of natural gas within the east coast gas system:
 - (a) to assess whether there is or is not an actual or potential threat, including the likelihood of the threat occurring;
 - (b) to signal the need for an industry response to an actual or potential threat;
 - (c) to obtain information on the nature and extent of an actual or potential threat.
- (2) If AEMO decides to convene a conference under subrule (1), AEMO:
 - (a) may publish a notice to that effect (a **conference notice**) in accordance with the Procedures; and
 - (b) must give a conference notice to each relevant entity who is required to attend the conference; and
 - (c) must give a conference notice to each other person or body AEMO considers appropriate, including jurisdictional representatives and the ACCC.
- (3) The notice must specify the following:
 - (a) the date and time of the conference;
 - (b) details of the purpose of the conference;
 - (c) the relevant entities or class of relevant entities invited to attend the conference;
 - (d) the relevant entities or class of relevant entities required to attend the conference;

- (e) other information required to be included by the Procedures.
- (4) Jurisdictional representatives and employees or officers of the ACCC may attend conferences convened under this rule.
- (5) AEMO may make Procedures in relation to the following:
 - (a) the information to be included in conference notices;
 - (b) requirements for giving notice of conferences;
 - (c) requirements particular to conferences convened for specified purposes, for example, to address specific types of threats.
- (6) AEMO may prepare guidelines, not inconsistent with this Division, about conferences convened under this Division.
- (7) In addition to the consultation otherwise required by these rules or the Procedures, AEMO must consult the following on the making of Procedures and the preparation of guidelines under this rule:
 - (a) the ACCC;
 - (b) the AER.

693 Attendance

A relevant entity required, or belonging to a class of relevant entities required, to attend a conference, as specified in the conference notice published by AEMO, must attend the conference in accordance with the notice.

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*.)

694 Disclosure of information obtained at conferences

- (1) AEMO must make Procedures in relation to the following:
 - (a) information that AEMO may provide to persons attending conferences;
 - (b) requirements relating to the disclosure of information provided or obtained at conferences.
- (2) AEMO must, in accordance with the Procedures:
 - (a) make a record of the conference, including information obtained at the conference; and
 - (b) publicly disclose the information.

Division 4 Exercise of east coast gas system reliability and supply adequacy functions

695 Publication of risk or threat notices

- (1) AEMO must, as soon as reasonably practicable, publish a notice (a **risk or threat notice**) in accordance with the Procedures if AEMO:
 - (a) identifies an actual or potential risk or threat to the reliability or adequacy of the supply of natural gas within the east coast gas system (an **identified risk or threat**); and
 - (b) considers that the identified risk or threat meets or exceeds the criteria specified in the Procedures.
- (2) A risk or threat notice must contain information AEMO considers necessary or convenient, including, but not limited to, the following:

- (a) the identified risk or threat;
 - (b) the nature and magnitude of the identified risk or threat;
 - (c) the likely duration of the identified risk or threat;
 - (d) the location of the identified risk or threat;
 - (e) the industry response, if any, that AEMO considers necessary to prevent or mitigate the identified risk or threat, including the duration of the response.
- (3) AEMO is not required to publish a risk or threat notice under this rule if AEMO considers that in the circumstances there is insufficient time to publish the notice before exercising a direction or trading function.

696 Variation or revocation of risk or threat notices

- (1) AEMO must, as soon as reasonably practicable, publish notice of a variation or revocation of a risk or threat notice in accordance with the Procedures if AEMO considers that:
- (a) there is a material change in the nature or circumstances of the identified risk or threat specified in the notice; or
 - (b) it is necessary to publish further information relating to the nature or circumstances of the identified risk or threat or the industry response specified in the notice; or
 - (c) the identified risk or threat specified in the notice is unlikely to be resolved or mitigated if AEMO does not exercise a direction or trading function within a further period specified in the variation; or
 - (d) the identified risk or threat specified in the notice no longer meets or exceeds the criteria specified in the Procedures.
- (2) AEMO may, at any time, publish notice of a variation or revocation of a risk or threat notice for another reason AEMO considers appropriate.
- (3) A notice published under this rule may:
- (a) revoke the risk or threat notice; or
 - (b) substitute the risk or threat notice; or
 - (c) vary the risk or threat notice; or
 - (d) add a further notice to the risk or threat notice.

697 Publication of direction or trading notices

- (1) AEMO must, as soon as reasonably practicable after the exercise of a direction or trading function, publish a notice (a **direction or trading notice**) in accordance with the Procedures.
- (2) A direction or trading notice must contain the following information:
- (a) if a risk or threat notice has been published by AEMO in relation to the exercise of the function:
 - (i) details of the risk or threat notice, including where the notice is available; and
 - (ii) a statement that the function has been exercised in relation to the identified risk or threat specified in the risk or threat notice;
 - (b) if a risk or threat notice has not been published by AEMO in relation to the exercise of the function:
 - (i) details of the identified risk or threat; and

- (ii) the nature and magnitude of the identified risk or threat; and
 - (iii) the likely duration of the identified risk or threat; and
 - (iv) the location of the identified risk or threat; and
 - (v) the industry response, if any, that AEMO considers necessary to prevent or mitigate the identified risk or threat, including the duration of the response;
- (c) details of the way in which AEMO has exercised the function, including the period during which the function was or is likely to be exercised;
- (d) other information AEMO considers necessary.
- (3) AEMO must, as soon as reasonably practicable, publish notice of a variation or revocation of a direction or trading notice, including the reasons for the variation or revocation, if:
 - (a) AEMO considers there is a material change in the exercise of the function described in the notice; or
 - (b) the period during which the function will be exercised has changed; or
 - (c) an east coast gas system direction relating to the notice is revoked.
- (4) AEMO is not required to include commercially sensitive information, including details about relevant entities, in a notice published under this rule.

698 Publication of post-intervention reports

- (1) AEMO must publish, in accordance with the Procedures, a report on the exercise of direction or trading functions (a **post-intervention report**) within 4 months of:
 - (a) the end of the exercise of a single direction or trading function; or
 - (b) the end of the exercise of all direction or trading functions AEMO considers relate to the same identified risk or threat.
- (2) A post-intervention report must contain the following information in relation to the exercise of the single function or all functions:
 - (a) a description of the exercise of the function or functions;
 - (b) details of the events occurring before the exercise of the function or functions;
 - (c) the reasons for the exercise of the function or functions, including the matters AEMO considered in deciding whether to exercise the function or functions;
 - (d) if the report relates to the exercise of a trading function or functions, AEMO's estimated expenditure in the exercise of the function or functions;
 - (e) AEMO's assessment of the extent to which the exercise of the function or functions mitigated the identified risk or threat;
 - (f) any other matter AEMO considers appropriate.

699 Matters AEMO must consider in determining whether to exercise direction or trading functions

In determining whether to exercise a direction or trading function, AEMO must, to the extent AEMO considers appropriate given the nature, timing or circumstances of the identified risk or threat, have regard to the following principles:

- (a) the industry should be given a reasonable period of time to take action to mitigate the identified risk or threat;
- (b) engagement with affected jurisdictions should commence in a timely manner;
- (c) distortionary impacts on the east coast gas system and industry and consumer costs on which AEMO has available information should be, to the extent reasonably practicable, minimised;
- (d) safety should not be compromised.

Division 5 East coast gas system directions

700 East coast gas system directions

- (1) Before giving an east coast gas system direction to a relevant entity, AEMO must, to the extent AEMO considers appropriate given the nature, timing or circumstances of giving the proposed direction, consult with the relevant entity on:
 - (a) the proposed direction; and
 - (b) the ability of the relevant entity to reasonably comply with the direction; and
 - (c) safety or technical issues relevant to compliance with the direction; and
 - (d) the need for related directions to be given in conjunction with, or as an alternative to, the proposed direction; and

Example: A direction to a shipper may need to be given with, or as an alternative to, a direction to a transportation service provider.

 - (e) any other matter AEMO considers appropriate.
- (2) An east coast gas system direction is not invalid if AEMO fails to consult with the relevant entity or give the direction in accordance with this rule.
- (3) An east coast gas system direction must contain the following information:
 - (a) details of the relevant entity who is required to comply with the direction;
 - (b) the direction with which the relevant entity is required to comply, including the law under which the direction is given;
 - (c) the date and time by which the relevant entity must comply with the direction;
 - (d) if the direction applies for a particular period, the period during which the direction applies;
 - (e) the contact details of an AEMO representative.
- (4) An east coast gas system direction may, by written notice to the relevant entity specified in the direction, be revoked or varied.
- (5) AEMO must revoke an east coast gas system direction as soon as reasonably practicable after AEMO determines that the direction is not required to mitigate the relevant identified risk or threat.
- (6) A notice to revoke or vary an east coast gas system direction must contain the following information:
 - (a) details of the direction being revoked or varied;
 - (b) details of the revocation or variation, including the date and time from which the revocation or variation applies;

(c) other information AEMO considers appropriate.

701 Kinds of directions AEMO may or may not give

- (1) For the purposes of section 91AD(5)(b) of the *NGL*, this rule sets out the kinds of east coast gas system directions AEMO may or may not give.
- (2) AEMO must not give an east coast gas system direction in relation to natural gas owned or controlled by a relevant entity that exports natural gas as LNG unless the natural gas is not long-term contract gas within the meaning of guidelines made under regulation 13GF of the *Customs (Prohibited Exports) Regulations 1958* of the Commonwealth.

702 Notice of noncompliance with directions

- (1) A relevant entity must immediately notify AEMO of its inability to comply or its intention not to comply with an east coast gas system direction given to the relevant entity.

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*.)

- (2) If a relevant entity does not comply with an east coast gas system direction given to the relevant entity, it must, within 2 business days of receiving the direction and in accordance with the Procedures, provide AEMO and the AER with a report detailing the reasons for the noncompliance together with all relevant facts.

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*.)

Division 6 Compensation claims relating to east coast gas system directions

703 Definitions

In this Division:

Adviser means a dispute resolution adviser appointed under rule 135G.

market transaction means a sale or purchase of natural gas through a market or gas trading exchange administered by AEMO.

704 Entitlement to compensation

- (1) A relevant entity may, by written notice to AEMO, make a claim for compensation under this rule for the following financial detriment exceeding \$5,000 suffered by the relevant entity as a direct result of AEMO issuing an east coast gas system direction:
 - (a) for a relevant entity subject to a direction that requires the relevant entity to provide a natural gas service—the direct costs associated with the supply of the natural gas service;
 - (b) for a relevant entity deprived of a natural gas service in relation to which the relevant entity had a contractual or other legal right—the direct costs associated with the deprivation of that service, but only if the relevant entity remains liable for the payment of the direct costs under the relevant contract or otherwise by law.
- (2) The notice must:

- (a) be given, in accordance with the Procedures, to AEMO within 20 business days after the last day on which the relevant entity suffers the detriment; and
 - (b) contain the information specified in the Procedures.
- (3) The claimant may, at any time, withdraw the claim.
- (4) No amount is claimable under this rule for:
 - (a) loss of profit or opportunity; or
 - (b) indirect or consequential loss.
- (5) In subrule (1), direct costs, in relation to the claimant during the period in which the direction relating to the claim was in effect, must be determined by reference to the following:
 - (a) prices in a market transaction for natural gas services to which the claimant was a party;
 - (b) prices in a contractual agreement for natural gas services to which the claimant was a party;
 - (c) if paragraph (a) or (b) does not apply, standing prices or benchmark rates as set out in the Procedures.

705 Application of Part 15C

- (1) For the purposes of Part 15C, a compensation claim notified under rule 704 is taken to be a relevant dispute to which the parties are AEMO and the relevant entity who gave AEMO notice of the claim, but the dispute resolution processes apply only to the extent specified in this Division.
- (2) Part 15C applies to a compensation claim notified under rule 704 to the extent to which the Part is not inconsistent with this Division.
- (3) Rules 135H, 135HA, 135HB, 135HC, 135HG(4), 135HI(1), 135JA and 135JB do not apply to a compensation claim notified under rule 704.

706 Process for determining compensation claims

- (1) On receiving a notice under rule 704, AEMO must:
 - (a) within 10 business days of the relevant date, request the Adviser to establish a dispute resolution panel; and
 - (b) refer the claim to the Adviser for determination by the dispute resolution panel; and
 - (c) provide details of the nature of the claim to the Adviser.
- (2) The Adviser must, within 5 business days of receiving a request from AEMO:
 - (a) establish a dispute resolution panel in accordance with rule 135HD; and
 - (b) provide the dispute resolution panel with the information provided to the Adviser by AEMO under subrule (1)(c).
- (3) On the referral of a claim to it, the dispute resolution panel must:
 - (a) make a determination in accordance with rule 707 and the applicable requirements of the dispute resolution process; and
 - (b) notify the claimant and AEMO of the determination as soon as practicable, but no later than 30 business days after the information is provided to the panel under subrule (2)(b).

- (4) The Adviser may, on the request of the dispute resolution panel, extend the period specified in subrule (3)(b).
- (5) The costs of the Adviser and the dispute resolution panel on a compensation claim must be borne by AEMO unless the dispute resolution panel re-allocates the costs, or part of the costs, to a party on the ground that:
 - (a) the party has unreasonably prolonged the proceedings; or
 - (b) there is another good reason to alter the allocation of the costs.

707 Determination and payment of compensation claims

- (1) The dispute resolution panel must, in accordance with the Procedures, make a determination on:
 - (a) whether it is appropriate in all the circumstances for compensation to be paid to a claimant; and
 - (b) if the panel determines it is appropriate for compensation to be paid, the amounts of compensation to be paid by AEMO to the claimant.
- (2) For the purposes of subrule (1)(b), the dispute resolution panel must determine to fully compensate the claimant for the direct costs specified in rule 704(1) unless:
 - (a) the claimant failed to take reasonable action to mitigate the loss for which compensation is being claimed; or
 - (b) the actions of the claimant (both before and after the direction was issued) contributed to or exacerbated the amount of compensation being claimed; or
 - (c) the claimant received funds, payments, compensation or another financial benefit for undertaking the activity required by the direction.
- (3) If subrule (2)(a) or (b) applies, the dispute resolution panel may reduce the amount of compensation by the amount the panel considers reasonable in the circumstances.
- (4) If subrule (2)(c) applies, the dispute resolution panel must reduce the amount of compensation by the total amount of any funds, payments, compensation or other financial benefits received by the claimant.
- (5) If the dispute resolution panel makes a determination that an amount of compensation must be paid to the claimant, AEMO must:
 - (a) request payment of that amount from relevant entities in accordance with the Procedures; and
 - (b) advise, as soon as practicable, the claimant of:
 - (i) the determination; and
 - (ii) the estimated date of payment; and
 - (c) after receiving all payments of that amount from the relevant entities, pay the amount to the claimant.
- (6) The sum of the amounts determined by the dispute resolution panel under subrule (1)(b) equals the sum of the amounts required to be sought by AEMO from relevant entities.
- (7) A relevant entity (other than the claimant) is required to pay to AEMO, in accordance with the Procedures, the amounts to fund compensation paid under this rule.

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*.)

- (8) AEMO must make Procedures on the following:
 - (a) the manner, form and methodology of payments made by relevant entities to AEMO under subrule (5);
 - (b) standing prices or benchmark rates for certain natural gas services.
- (9) AEMO must have regard to the following in making Procedures under subrule (8):
 - (a) for Procedures made under subrule (8)(a)—minimising inequitable distributional cost impacts to the extent reasonably possible;
 - (b) for Procedures made under subrule (8)(b):
 - (i) for pipeline services—the standing prices published by pipeline service providers in accordance with Part 10; and
 - (ii) for storage and compression services—the standing prices published in accordance with Part 18A; and
 - (iii) for natural gas—the price for the sale of natural gas in gas markets or gas trading exchanges administered by AEMO.
- (10) In addition to the consultation otherwise required by these rules or the Procedures, AEMO must consult the following on the making of Procedures under this rule:
 - (a) the AEMC;
 - (b) the AER.

Division 7 Exercise of trading functions

708 Establishment of trading fund

- (1) AEMO must establish and maintain a rule fund, to be called a trading fund, to exercise a trading function.
- (2) The trading fund may be used for the following purposes, to the extent AEMO considers necessary or desirable:
 - (a) to trade in natural gas;
 - (b) to purchase pipeline services or services provided by a compression service provider or a storage provider.

709 Funding the trading fund

- (1) The total funding capacity for the trading fund each financial year is \$35,000,000, as adjusted under rule 710 (the **adjusted trading amount**).
- (2) No later than the commencement of each financial year, AEMO must publish the adjusted trading amount and the contribution rate for the trading fund for that financial year.
- (3) A contribution rate for a financial year must be specified by AEMO in a notice published by AEMO.
- (4) Each relevant entity identified by AEMO in the notice must, in accordance with the Procedures, pay to AEMO the amount specified in the notice.

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*.)

- (5) The Procedures may specify the manner and timing of payments required to be made by relevant entities under subrule (4).
- (6) AEMO may pay the following into the trading fund:
 - (a) fees received under rule 135CF(2)(cc);
 - (b) amounts received under subrule (4);
 - (c) funds paid to AEMO from other sources, including a debt facility.
- (7) A relevant entity is not entitled to a refund of any contributions made to the trading fund. However, AEMO may, in accordance with a methodology set out in the Procedures, refund to a relevant entity a contribution made to the trading fund, but only if money held in the trading fund exceeds the adjusted total funding capacity amount for that financial year.
- (8) The following accrues to and forms part of the trading fund:
 - (a) any interest on money held in the fund;
 - (b) any money earned from trading in natural gas for the purposes of the exercise of a trading function.
- (9) AEMO must pay from the trading fund:
 - (a) all income tax on interest earned by the trading fund; and
 - (b) any fees, taxes or charges payable in relation to the trading fund; and
 - (c) any costs associated with the exercise or performance of a trading function; and
 - (d) refunds determined to be made under subrule (7).
- (10) Nothing in this rule requires AEMO to hold an amount of money equal to the adjusted trading amount in the trading fund if AEMO is able to access, for the purposes of this rule, the adjusted trading amount or an amount equal to the difference between the adjusted trading amount and the money held in the trading fund.

Example: By way of a debt facility, line of credit or otherwise.

710 Adjustment of amounts for CPI

The amount referred to in rule 709(1) must be adjusted by multiplying the amount by the number determined using the following formula:

$$\text{CPI}_n / \text{CPI}_0$$

where:

CPI_n is the Consumer Price Index number (All Groups, weighted average of eight capital cities) published by the Australian Bureau of Statistics for the quarter immediately preceding the quarter in which the amount is calculated; and

CPI₀ is the Consumer Price Index number (All Groups, weighted average of eight capital cities) published by the Australian Bureau of Statistics for the quarter ended 30 June 2022.

Division 8 Miscellaneous

711 AEMO must report to the MCE on certain functions

- (1) AEMO must, each calendar year, report to the MCE on the exercise of east coast gas system reliability and supply adequacy functions.

- (2) A report under this rule must be made in the manner and form, and contain the information, determined or approved by the MCE.

712 Register of jurisdictional representatives

- (1) AEMO must keep and maintain a register of the contact details of at least 1 representative for each participating jurisdiction (a **jurisdictional representative**):
 - (a) nominated by the participating jurisdiction of the representative; and
 - (b) who may be contacted for the purposes of assisting AEMO to exercise its east coast gas system reliability and supply adequacy functions in relation to the jurisdiction concerned.
- (2) AEMO must make the register available to each jurisdictional representative.

713 Part 27 register

- (1) AEMO may, in accordance with the Procedures:
 - (a) keep and maintain a register of relevant entities for the purposes of this Part; and
 - (b) publish the register.
- (2) AEMO must give written notice to a relevant entity as soon as practicable after including details of the relevant entity on the register.
- (3) A relevant entity must, for the purposes of the register, give information to AEMO, as and when required by the Procedures.

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*.)

714 Information obtained or provided under this Part

- (1) Information obtained by AEMO under this Part is classified as protected information.

Note: Information obtained under this Part is protected from unauthorised use or disclosure. See Division 7 of Part 6 of Chapter 2 of the *NGL*.
- (2) A person must not refuse to comply with a requirement to provide information to AEMO under this Part on the ground of a duty of confidence.
- (3) Despite any other provision of these rules, a person may disclose confidential information to AEMO for the purpose of the exercise of AEMO's east coast gas system reliability and supply adequacy functions under this Part.
- (4) A person must not provide information to AEMO under this Part that the person knows is false or misleading in a material particular.

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*.)

715 Responsible reporting entity for LNG export project

- (1) Subject to subrule (3)(b), the owner, operator or controller of an LNG export project must, for the purposes of Division 2, apply to AEMO to register as the responsible reporting entity for the LNG export project.

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 application must be made within the period specified in the Procedures.

- (3) If there is more than 1 owner, operator or controller of the LNG export project:
 - (a) all owners, operators and controllers of the LNG export project must appoint 1 owner, operator or controller as the responsible reporting entity for the LNG export project; and
 - (b) only the appointed owner, operator or controller must register as the responsible reporting entity for the LNG export project in accordance with this rule; and
 - (c) during the period in which the registration has effect, each other owner, operator or controller of the LNG export project is exempt from the requirement to register under subrule (1).

[17] Schedule 1 Transitional Provisions

Insert in Schedule 1, with appropriate Part and rule numbering:

Transitional arrangements consequent on east coast gas system reliability and supply adequacy amendments

Definitions

In this Part:

amending Act means the *National Gas (South Australia) (East Coast Gas System) Amendment Act 2022*.

Funding and recovery of costs of commencement of amending Act

- (1) The commencement of the amending Act is taken to be a major gas project determined under rule 135CB(1).
- (2) AEMO is entitled to fund and recover, through participant fees, the costs incurred, or expected to be incurred, by AEMO in the exercise or performance of its east coast gas system reliability and supply adequacy functions in connection with the project.
- (3) The period for funding and recovering the costs of the project must be determined by AEMO using the *expedited consultative procedure*.
- (4) The costs of the project may be funded and recovered before the next general determination of all participant fees only through additional participant fees determined by AEMO using the *expedited consultative procedure*.
- (5) In this clause:
participant fees has the same meaning as in rule 135C.

Consultation on preparation of guidelines before commencement of amending Act

- (1) AEMO must consult on the preparation of guidelines under section 91AD(3) of the *NGL*, as inserted by the amending Act.
- (2) Publication and consultation, carried out before the commencement day in relation to the making of the guidelines, are taken to satisfy the *standard consultative procedure* in rule 8, but only to the extent to which the *standard consultative procedure* would have been satisfied if the publication and consultation were carried out after the commencement day.
- (3) In this clause:

commencement day means the day on which section 91AD(3) of the *NGL* commences.

Consultation on making of Procedures before commencement of rules

- (1) For the purposes of Part 15B, publication and consultation, carried out before the commencement day in relation to the making of Procedures under a provision amended or inserted by the amending Act, are taken to satisfy the requirements for publication and consultation under rules 135EE and 135EF, but only to the extent to which the requirements would have been satisfied if the publication and consultation were carried out after the commencement day.
- (2) In this clause:
commencement day means the day on which rules are first made under section 294H of the *NGL*.