



Our Ref: D26/92342  
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Ms Anna Collyer  
Chair  
Australian Energy Market Commission  
Level 15, 60 Castlereagh Street  
SYDNEY NSW 2000

By online submission

Dear Ms Collyer

**SUBMISSION TO AUSTRALIAN ENERGY MARKET COMMISSION (AEMC) –  
MINOR RULE CHANGE 1 2026 (GRC0092)**

The Department of Energy and Economic Diversification (DEED) welcomes the opportunity to respond to the AEMC's draft *National Gas Amendment (Minor Changes 1) Rule 2026* (Minor Changes 1 Rule).

Western Australia is intending to consult on the instruments to adopt two National Gas Law reforms already in place elsewhere in Australia: the Gas Pipelines Package and the Other Gases Package. This work includes collaborating with the AEMC to ensure that the amending rules drafted for both reform packages can operate effectively in WA when the reforms are adopted in Western Australia.

DEED supports most of the proposed amendments to the WA National Gas Rules (NGR(WA)). Without them, minor inconsistencies, cross-referencing issues and drafting anomalies could prevent the *National Gas Amendment (Gas Pipelines) Rule 2023* (Gas Pipelines Rule) and *National Gas Amendment (Other Gases) Rule 2024* (Other Gases Rule) from operating as intended in WA.

DEED would like to propose alternative drafting and additional items to further strengthen the NGR(WA), including the application of the Gas Pipelines Rule and Other Gases Rule. In the attached document, DEED makes five recommendations and sets out the rationale for these proposed changes.

Yours sincerely

Angela Kelly  
A/DIRECTOR GENERAL

19 June 2026

Att. DEED submission on draft *National Gas Amendment (Minor Changes 1) Rule 2026* – Proposed changes



## Attachment: DEED submission on draft *National Gas Amendment (Minor Changes 1) Rule 2026* – Proposed changes

### Schedule 3, item 1

Schedule 3, item 1 of the draft *National Gas Amendment (Minor Changes 1) Rule 2026* (Minor Changes 1 Rule) reads:

In rule 3, insert the following new definition in alphabetical order:

*existing access control* 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.

Schedule 3, item 1 seeks to replicate item 4(7) of the *National Gas Amendment (Gas Pipelines) Rule 2023* (Gas Pipelines Rule) which, because of the wording of its instructions, cannot be applied to the Western Australian National Gas Rules (NGR(WA)).

The Department of Energy and Economic Diversification (DEED) notes that the use of “control” in Schedule 3, item 1 of the Minor Changes 1 Rule is incorrect. Based on the Gas Pipelines Rule, item 4(7), “contract” should be used instead of “control”, and the defined term should be “existing access contract”.

**Recommendation 1: That the defined term in Schedule 3, item 1 of the *National Gas Amendment (Minor Changes 1) Rule 2026* be corrected from “existing access control” to “existing access contract”.**

### Schedule 3, item 2

Schedule 3, item 2 of the Minor Changes 1 Rule reads:

In the heading of rule 3A, omit “(Section 2(1) of NGL)”, and substitute “(Section 2 of the NGL)”.

Rule 3A and its heading will be inserted into the NGR(WA) when item 5 of the Gas Pipelines Rule commences in Western Australia. Schedule 3, item 2 of the Minor Changes 1 Rule reflects the fact that the Western Australian National Gas Law (NGL(WA)) does not have a section 2(1) and will continue to not have a section 2(1) after Western Australia’s adoption of the Gas Pipelines Package.

While DEED supports Schedule 3, item 2 in principle, it notes that a subsequent amendment may be required once the *National Gas Amendment (Other Gases) Rule 2024* (Other Gases Rule) commences in Western Australia. It is likely that the adoption instruments that Western Australia will use to apply the Other Gases Package will introduce subsections into section 2 of the NGL(WA). At this point, “(Section 2(1) of the NGL)” will become the correct reference for the heading of Rule 3A.

Given that Western Australia intends to adopt the Gas Pipelines and Other Gases reforms as close together as possible, the amendment proposed in Schedule 3, item 2 may only be accurate for a very short period.



**Recommendation 2: That the AEMC consider the need for Schedule 3, item 2 of the *National Gas Amendment (Minor Changes 1) Rule 2026*, given that the commencement of the Other Gases Package in Western Australia will likely introduce section 2(1) to the Western Australian National Gas Law.**

## Schedule 4, item 2

Schedule 4, item 2 of the Minor Changes 1 Rule reads:

In Schedule 7, Part 2, rule 1, omit the definition of “commencement date” and substitute:

*commencement date* means the date on which Schedule 1 of the *National Gas Amendment (Other Gases) Rule 2024* commences operation in Western Australia.

The term “commencement date” is used as the anchor date for the ring-fencing transitional arrangements that the Other Gases Rule will introduce to the NGR(WA) for designated trial projects. For each designated trial project, the transitional arrangements end on 30 November 2026 or, if earlier, the date on which the trial ends.

If the Other Gases Rule does not commence in Western Australia until after 30 November 2026, amending the definition of “commencement date” in Schedule 7, Part 2, rule 1 could result in the transitional period ending before it commences. At this stage, the Other Gases Rule is expected to take effect in late 2026 or early 2027.

**Recommendation 3: That the AEMC removes Schedule 4, item 2 from the *National Gas Amendment (Minor Changes 1) Rule 2026*.**

## Other minor amendments in the WA National Gas Rules

### *Continued reference to Rule 3(1A)(b)(ii)*

As part of its adoption of the Other Gases Package, Western Australia is proposing to use its modification powers under the *National Gas Access (WA) Act 2009* to exclude Schedule 1, item 7 from its adoption of the Other Gases Rule to the extent that it inserts Rule 3(1A)(b)(ii).

Rule 3(1A)(b)(ii) provides that a regulatory obligation or requirement is, amongst other things “an obligation or requirement under... the **NERL** or the **NERR**” (emphasis added).

As Western Australia is not a party to the National Energy Retail Law (NERL) or National Energy Retail Rules (NERR), pipeline providers in Western Australia should not be subject to obligations or requirements under these forms of law.

The effect of Western Australia’s proposed exclusion is that the NGR(WA) will not have a Rule 3(1A)(b)(ii). However, the way that the Other Gases Rule is drafted means that two rules will continue to refer to Rule 3(1A)(b)(ii) (emphasis added):

- Rule 3(1A)(b)(vi) will read: “an Act of a participating jurisdiction, or any instrument made or issued under or for the purposes of that Act (other than national gas legislation or an Act of a participating jurisdiction or an Act or



instrument referred to in subparagraphs (ii) to (v)), that materially affects the provision, by a service provider, of pipeline services,”; and

- Rule 3(1A)(d) will read: “... an Act or an instrument referred to in subrule (b)(ii) to (vi).”

Both Rule 3(1A)(b)(vi) and Rule 3(1A)(d) will be applied to the NGR(WA) once Schedule 1, item 7 of the Other Gases Rule commences in Western Australia.

The modification powers in the *National Gas Access (WA) Act 2009*, which applies the National Gas Law to Western Australia, cannot be used to amend Rule 3(1A)(b)(vi) and Rule 3(1A)(d) so that no reference is made to Rule 3(1A)(b)(ii).

**Recommendation 4: That the AEMC add an item to Schedule 4 of the *National Gas Amendment (Minor Changes 1) Rule 2026* to remove the references to Rule 3(1A)(b)(ii) in Rule 3(1A)(b)(vi) and Rule 3(1A)(d).**

*Definition of “Amending rule” in Schedule 7*

DEED has also identified a potential issue with the definition of “amending rule” in proposed Schedule 7, Parts 1, 3 and 6. Schedule 7 is to be inserted into the NGR(WA) on commencement of Schedule 9, item 1 of the Other Gases Rule. In Schedule 7, “amending rule” is defined as “the *National Gas Amendment (Other Gases) Rule 2024* made under section 294FD of the NGL.”

In Western Australia, the Other Gases Rule is applied through its incorporation into the NGL(WA) definition of “initial National Gas Rules”, rather than being made under section 294FD of the NGL(WA). As such, adopting the definition of “amending rule” as it is drafted in the Other Gases Rule could cause uncertainty about the source of the Other Gases Rule within the Western Australian framework.

While the drafting intent is reasonably clear, there is merit in reducing any potential ambiguity. DEED notes that existing definitions of “amending rule” in Schedule 1 of the NGR(WA) adopt more neutral wording and do not refer to their enabling provisions. For example:

- Schedule 1, Part 12, Rule 60 defines “Amending Rule” as “the National Gas Amendment (Regulation of covered pipelines) Rule 2019”; and
- Schedule 1, Part 20, Division 1, Rule 100 defines “Amending Rule” as “the *National Gas Amendment (Harmonising the national energy rules with the updated national energy objectives) Rule 2024*.”

**Recommendation 5: That the AEMC add an item to Schedule 4 of the *National Gas Amendment (Minor Changes 1) Rule 2026* that amends the definition of “amending rule” in Schedule 7, Parts 1, 3 and 6 of the NGR(WA) to remove reference to section 294FD of the National Gas Law.**