



Australian Energy Market Commission

RULE DETERMINATION

National Gas Amendment (National Gas Bulletin Board Capacity Outlooks) Rule 2014

Rule Proponent(s)

Australian Energy Market Operator

1 May 2014

**RULE
CHANGE**

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About the AEMC

The Council of Australian Governments (COAG), through its then Ministerial Council on Energy (MCE), established the Australian Energy Market Commission (AEMC) in July 2005. In June 2011, COAG established the Standing Council on Energy and Resources (SCER) to replace the MCE. The AEMC has two main functions. We make and amend the national electricity, gas and energy retail rules, and we conduct independent reviews of the energy markets for the SCER.

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Summary

The Australian Energy Market Commission (AEMC, or Commission) has determined to make a rule (a more preferable rule) that improves short- and medium-term information in gas markets. It relates to the level of public information that is currently required to be published on the National Gas Bulletin Board (Bulletin Board) by gas pipeline operators, production facility operators and storage providers (collectively termed, "facility operators").

The rule as made:

- increases the existing short-term capacity outlook from three days to seven days;
- implements a new medium-term capacity outlook, utilising existing maintenance reports that are created and provided by facility operators to their shippers; and
- allows market participants to better manage any confidentiality or commercial-in-confidence concerns that may be associated with increased information provision to the Bulletin Board.

The rule as made will commence on 8 January 2015, with the additional information being provided from that time.

In its rule change request, the Australian Energy Market Operator (AEMO or rule proponent) considered that since public information on short-term future capacities of Bulletin Board facilities is currently limited to a three-day capacity outlook, gas wholesale market participants have limited information on which to base their market bids and offers. Further, AEMO noted that this situation is exacerbated since there is no public information on capacity reductions in the medium-term, despite this information being routinely provided to contracted shippers by individual facility operators.

The rule as made provides for a clear principle relating to the provision of confidential information by facility operators to the Bulletin Board. This better achieves the National Gas Objective than the rule proposed by AEMO, since:

- the increased information has the potential to assist energy market participants in making more efficient operational and investment decisions that maximise the value of trade across their gas and electricity portfolios; while
- by elevating the clause relating to the confidentiality of data from proposed Bulletin Board Procedures (as intended by AEMO) to the National Gas Rules, this will provide market participants with a degree of certainty that commercially sensitive information will not be disclosed to the wider market. This has the potential to improve the efficiency of market participants' operational and investment decisions, since they will have confidence that information made public on the Bulletin Board will not inappropriately affect their competitive position.

By way of background, the Bulletin Board was first introduced in 2008, and provided all the participants in the market with a variety of information, which was considered adequate at that time. However, recent gas market developments, including further integration of the east coast market and the introduction of short-term trading markets, have strengthened the case for greater information provision. This rule change is a practical, low cost way of increasing information in the gas market.

Contents

1	AEMO's rule change request	1
1.1	The rule change request	1
1.2	Rationale for the rule change request.....	1
1.3	Solution proposed in the rule change request.....	1
1.4	Relevant strategic priority	2
1.5	Relevant background.....	2
1.6	Commencement of rule making process	2
2	Final Rule Determination.....	4
2.1	Commission's determination	4
2.2	Commission's considerations.....	4
2.3	Commission's power to make the rule	5
2.4	Rule making test.....	5
2.5	More preferable rule	6
3	Commission's assessment and decision	8
3.1	AEMO's rule change request	8
3.2	Reasons for the Commission's decision	8
3.3	Stakeholders' views	10
3.4	Commission's analysis of the issues	12
3.5	Commission's analysis of the proposed rule and conclusion	16
	Abbreviations.....	18
A	Summary of issues raised in submissions	19
B	Background to the Bulletin Board	27

1 AEMO's rule change request

1.1 The rule change request

On 18 November 2013, the Australian Energy Market Operator (AEMO, or the proponent) made a request to the Australian Energy Market Commission (AEMC, or Commission) to make a rule in relation to information disclosure on the National Gas Bulletin Board (rule change request).

Specifically, AEMO requested an amendment to the National Gas Rules (NGR) in relation to the level of short- and medium-term capacity outlook information that is required to be published on the National Gas Bulletin Board (Bulletin Board) by gas pipeline operators, production facility operators and storage providers (collectively termed, "facility operators").

1.2 Rationale for the rule change request

In this rule change request, AEMO sought to address the following concerns:

- Short-term information adequacy - As the current short-term capacity outlook in the Bulletin Board only comprises three days, gas wholesale market participants have limited information on which to base their market bids and offers for gas; and
- Medium-term information asymmetry and adequacy - Currently, there is no public information on capacity reductions in the medium term. Under bilateral contracts, parties (e.g. pipeline operators) may provide maintenance notices to contracted parties (e.g. shippers). However, this information is not provided to all market participants, meaning that some parties may be more informed than others.

AEMO considered that there is a need to make additional short-term information available to market participants in order to better inform their bids and offers for gas. It also considered that the additional medium-term information would mean that all affected market participants would have access to the same publically available information, in a similar time frame.

1.3 Solution proposed in the rule change request

The proponent sought to have the information concerns referred to above resolved by requesting a rule change to Part 18 of the NGR (which relates to the Bulletin Board) to:

- increase the existing short-term capacity outlook from three days to seven days; and
- implement a new medium-term capacity outlook, utilising existing maintenance reports that are created and provided by facility operators to their shippers.

1.4 Relevant strategic priority

This rule determination relates to the second of the AEMC's current strategic priorities; promoting the development of efficient gas markets ("the gas priority"). This rule change would increase the level of information that is publically available in the market that is likely to be relevant to, and would inform, market participants in making operational and investment decisions. This is likely to help promote the efficient development of gas markets.

1.5 Relevant background

Throughout 2011 and 2012, AEMO carried out a review into gas market information that should be made available through the Bulletin Board.¹

The final report for this review identified the information adequacy and asymmetry issues in gas markets that were discussed above in section 1.2. The final report also included recommendations to address these concerns, which form the basis of AEMO's rule change request, as set out above.

1.6 Commencement of rule making process

On 6 March 2014, the Commission published a notice under sections 303, 304 and 317 of the National Gas Law (NGL) advising of its intention to commence the rule making process, to expedite the proposed rule as a non-controversial rule (subject to any written requests not to do so), and to extend the period of time for making a final rule determination and rule by two weeks, respectively.

At the same time that the rule change request was published, an AEMC consultation paper was published, identifying specific issues and questions for public consultation. Submissions closed on 3 April 2014.

One objection to the rule change request being treated as a non-controversial rule under the expedited rule making process was received. In accordance with section 304(4) of the NGL, the Commission considered this objection and determined it to be lacking in substance. Accordingly, the rule change request continued to be assessed as a non-controversial rule under the expedited rule making process.

The Commission received eight submissions from stakeholders on the rule change request, all of which are available on the AEMC website.² A summary of the issues raised in submissions, and the Commission's response to each of those issues, is contained in Appendix A.

¹ See: AEMO, Gas Market Information - Gas Bulletin Board - Final Report, 30 March 2012. (See: http://www.aemo.com.au/Gas/Market-Operations/Short-Term-Trading-Market/Review-of-Short-Term-Trading-Market#final_reports).

² See: www.aemc.gov.au.

AEMO also provided a letter to the Commission, in response to an AEMC request for clarification from AEMO in relation to three topics that had been raised in submissions by stakeholders. This letter is also available on the AEMC website.

2 Final Rule Determination

2.1 Commission's determination

In accordance with section 311 of the NGL, the Commission has made this final rule determination in relation to the rule proposed by AEMO.

In accordance with section 312 of the NGL, the Commission has determined not to make the rule proposed by the proponent, and to make a more preferable rule.³

The Commission's reasons for making this final rule determination are set out in chapter 3.

The *National Gas Amendment (National Gas Bulletin Board Capacity Outlooks) Rule 2014 No 3* (rule as made) is published with this final rule determination. The rule as made commences on 8 January 2015.

The key features of the rule as made are described in section 3.5.

2.2 Commission's considerations

In assessing the rule change request, the Commission considered:

- the Commission's powers under the NGL to make the rule;
- the rule change request;
- the final report of AEMO's Gas Market Information - Gas Bulletin Board review;⁴
- stakeholder submissions received during consultation; and
- the Commission's analysis as to the ways in which the proposed rule will, or is likely to, contribute to the achievement of the National Gas Objective (NGO).

There is no relevant Ministerial Council on Energy (MCE) Statement of Policy Principles relating to this rule change request.⁵

³ See section 2.5 of this final rule determination for the meaning of a more preferable rule.

⁴ See: AEMO, Gas Market Information - Gas Bulletin Board - Final Report, 30 March 2012. (See: http://www.aemo.com.au/Gas/Market-Operations/Short-Term-Trading-Market/Review-of-Short-Term-Trading-Market#final_reports).

⁵ Under section 73 of the NGL, the AEMC must have regard to any relevant MCE Statement of Policy Principles in making a rule.

2.3 Commission's power to make the rule

The Commission is satisfied that the rule as made falls within the subject matter about which the Commission may make rules. The rule as made falls within the matters set out in section 74 of the NGL. More specifically, it relates to:

- regulating the collection, use, disclosure, copying, recording, management and publication of information in relation to natural gas services (section 74(1)(a)(iii)); and
- regulating the activities of registered participants, users, end users and other persons in a regulated gas market (section 74(1)(a)(vi)).

Further, the rule as made falls within the matters set out in Schedule 1 of the NGL, as it relates to the Natural Gas Services Bulletin Board. Specifically, it relates to the:

- kinds of information that may or must be given to AEMO, the circumstances in which the information may or must be given, and the procedure for giving the information (Schedule 1, clause 58); and
- kinds of information that may or must be included on the Natural Gas Services Bulletin Board and the manner in which information is to be dealt with before being put on the Natural Gas Services Bulletin Board, including, but not limited to, the removal of information that would identify the person who gave the information (Schedule 1, clause 59).

2.4 Rule making test

Under section 291(1) of the NGL, the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the NGO. This is the decision making framework that the Commission must apply.

The NGO is set out in section 23 of the NGL as follows:

“The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.”

The Commission considers that the relevant aspects of the NGO for this rule change request are the efficient use of natural gas services, and efficient investment, in natural gas services.⁶ Increased transparency and having more relevant market information available is generally consistent with the NGO, provided the costs of information provision are less than the potential benefits of information released.

⁶ Under section 291(2) of the NGL, for the purposes of section 291(1), the AEMC may give such weight to any aspect of the NGO as it considers appropriate in all the circumstances, having regard to any relevant MCE Statement of Policy Principles.

Therefore, the Commission is satisfied that the rule as made will, or is likely to, contribute to the achievement of the NGO by:

- Increasing information provision in the markets for natural gas.
 - This is achieved by increasing the level of relevant information about natural gas markets and pipeline capacity that is publicly available, such as a medium-term capacity outlook. Based on AEMO's proposed Procedure changes that would give effect to this rule, this information is likely to be provided at a low cost by obligated parties. Such information may assist energy market participants in making efficient use and investment decisions that maximise the value of trade across their gas and electricity portfolios.
- Increasing information transparency in the markets for natural gas.
 - This is achieved by publically disclosing, to all interested parties at the same time, relevant information that is, or has the potential to be, market-sensitive. This may help energy market participants to make more efficient decisions. This also helps to address information asymmetry concerns.⁷

Under section 295(4) of the NGL, the Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of AEMO's declared network functions. The rule as made is compatible with AEMO's declared network functions since it has no impact on them.

2.5 More preferable rule

Under section 296 of the NGL, the AEMC may make a rule that is different (including materially different) from a market initiated proposed rule (a more preferable rule) if the AEMC is satisfied that, having regard to the issues or issues that were raised by the market initiated proposed rule (to which the more preferable rule relates), the more preferable rule will, or is likely to, better contribute to the achievement of the NGO.

The Commission considers that the rule proposed by AEMO addressed the issues that were raised in their rule change request (i.e. information adequacy and asymmetry concerns). However, an additional clause should be included in the rule, which relates to confidentiality of data provided. This will allow participants to better manage any confidentiality, or commercial-in-confidence concerns, that may be associated with increased information provision to the Bulletin Board. AEMO had recognised this issue, but had intended to include the clause in the Bulletin Board Procedures instead.

Having regard to the issues raised by the proposed rule, the Commission is satisfied that the rule as made will, or is likely to, better contribute to the NGO. Elevating the clause relating to the confidentiality of data will provide market participants with a

⁷ See: APA Group, Consultation Paper submission, p. 2.

greater degree of certainty that commercially sensitive information will not be disclosed to the wider market. This will improve the efficiency of market participants' operational and investment decisions, as they will have confidence that information made public on the Bulletin Board will not inappropriately affect their competitive position.

3 Commission's assessment and decision

The Commission's analysis and assessment of this rule change request, and the rule proposed by the proponent, is set out below.

3.1 AEMO's rule change request

AEMO's rule change request sought amendments to the rules that relate to the level and type of information that must be provided to the Bulletin Board.

AEMO considered that, as public information of future capacities on Bulletin Board facilities is currently limited to a three day capacity outlook, gas wholesale market participants have limited information on which to base their market bids and offers. Further, AEMO noted that this situation is exacerbated by the absence of public information on capacity reductions in the medium term, despite this information being routinely provided to contracted shippers by individual facility operators. This leads to information asymmetry.

AEMO considered that by making this rule change, all affected parties would have access to the same information in a similar time frame, and that sufficient short-term information would be available to inform bids and offers in the gas wholesale markets. Therefore, the rule change would address both short-term information adequacy concerns, and medium-term information asymmetry and adequacy concerns.⁸

The rule change request sought to amend Part 18 of the NGR (which relates to the Bulletin Board) to:

- increase the existing short-term capacity outlook from three days to seven days; and
- implement a new medium-term capacity outlook, utilising existing maintenance reports that are created and provided by facility operators to their shippers.

To assist in the understanding of the rule, a number of definitional changes were also proposed.

3.2 Reasons for the Commission's decision

As set out above, the rule change request seeks to increase the level of information that is related to both short-term and medium-term capacity information that is publically available to market participants in gas markets.

The Bulletin Board was first introduced in 2008, and provided any interested party with information relating to pipeline capacity and flow data and production facility

⁸ For further detail, please see pages 2 to 5 of AEMO's rule change request.

capacity, including a three-day outlook. This level of information provision was considered adequate at that time.

Recent gas market developments, including further integration of the east coast market and the introduction of short-term trading markets and the Wallumbilla Gas Supply Hub, have strengthened the case for greater information provision. This is consistent with conclusions reached by the Victorian Government Gas Market Taskforce ("Reith Report"), which identified that better supply and demand information is needed. In its final report, the taskforce noted that the lack of adequate publicly available information has led to information asymmetry between producers, retailers, consumers and regulators.⁹

Further, the Standing Council on Energy and Resources (SCER) also identified increased information provision on the Bulletin Board as a preferred option in order to improve gas transmission pipeline capacity trading.¹⁰

Given the recent developments in the gas market, the Commission considers that improvements could be made with respect to the level of information provision that is available to the market. The integration of gas markets means it is more important that participants are informed of all relevant information when making operational and investment decisions.

Making general market information widely available is typically beneficial. However, the provision of additional information needs to be for a purpose. Increasing the level of information in the market in and of itself, does not necessarily better assist market participants in making decisions.

Information related to capacity of gas facilities, such as that which would be sought under this rule change, would be useful to market participants. This capacity information could be used by market participants in making decisions as to when to operate facilities, buy and trade gas, better coordinate maintenance outages, and make future investment decisions. This is because participants would have a better understanding of when a facility's capacity may be affected.

Further, based on AEMO's proposed Procedure changes that would give effect to this rule, the costs associated with providing this information are expected to be low. In its rule change request, AEMO provided the Commission with estimated compliance costs for facility operators, who would be required to provide more information under the rule (if made). These costs were relatively small in magnitude.

The Commission also recognises, however, that elements of such information may be commercially sensitive. Facility operators may have individual contractual relationships with large customers, with these relationships substantially driving their scheduled capacity outages. To disclose such data may allow competing customers to decipher commercially-sensitive information, such as contracted volumes. Therefore,

⁹ See: Gas Market Taskforce, Final Report and Recommendations, October 2013, p. 31.

¹⁰ See:
<http://www.scer.gov.au/workstreams/energy-market-reform/gas-market-development/gtpct>.

there should be some means to mitigate against the risk that confidential, or commercially-sensitive information may be exposed to third parties.

3.3 Stakeholders' views

The Commission received eight submissions from stakeholders on the rule change request. These submissions are summarised below.

3.3.1 Information provision and transparency

Improved information provision and transparency

Most stakeholders that made submissions on the AEMC's consultation paper were supportive of the proposed rule change.¹¹ These stakeholders considered that the rule change request addresses information adequacy and asymmetry concerns that exist in the gas market, but at a minimal cost to market participants.

A number of submissions, including APA Group (APA) and Australian Pipeline Industry Association (APIA), noted that the proposed increased information reporting requirements would address information asymmetry concerns, and would provide more information to the market to assist in making commercial decisions.¹² For example, information in relation to scheduled maintenance and other activities or events that can impact pipeline capacity.

However, both APA and APIA commented that they did not consider there would be any benefits for pipeline operators from the rule change with respect to better coordination of scheduled maintenance activities.¹³ For example, APA submitted that it already coordinated its maintenance program with other market participants to the greatest extent possible, and did not consider that a lack of public information on maintenance programs impeded this coordination.¹⁴ Similarly, APIA noted that Bulletin Board facility operators had not raised maintenance coordination as an issue that needed addressing.¹⁵

In contrast, AEMO considered that such medium-term information would help stakeholders to better manage maintenance outages. AEMO commented that over the past 12 months, AEMO had issued one direction to reschedule maintenance, and in

¹¹ See: AGL, Consultation Paper submission, p. 1; APA Group, Consultation Paper submission, p. 1; Stanwell, Consultation Paper submission, p. 1; APIA, Consultation Paper submission, p. 1; Alinta, Consultation Paper submission, p. 1; Lumo Energy, Consultation Paper submission, p. 2; GDFSAE, Consultation Paper submission, p. 1.

¹² See: APA Group, Consultation Paper submission, p. 2; APIA, Consultation Paper submission, p. 3; Alinta, Consultation Paper submission, p. 2; and Lumo Energy, Consultation Paper submission, p. 2.

¹³ See: APA Group, Consultation Paper submission, p. 2; and APIA, Consultation Paper submission, p. 1.

¹⁴ See: APA Group, Consultation Paper submission, p. 2.

¹⁵ See: APIA, Consultation Paper submission, p. 1.

another instance requested operators adjust maintenance scheduling since it may otherwise have been necessary to direct changes in maintenance schedules. AEMO considers that this provides evidence that maintenance coordination issues are occurring.¹⁶

Accuracy of information

APA noted that information provided for a longer time horizon would be more uncertain, and subject to change, compared to information that is provided closer to the time period to which it relates. Therefore, care must be taken by market participants before relying on medium-term capacity information.¹⁷ Santos expressed a similar sentiment - that is, if market participants use Bulletin Board information to inform their gas purchase opportunities, they must exercise care since the information could change.¹⁸

3.3.2 Efficient allocation of costs

APA noted that the final cost impact on participants of this rule change proposal would be dependent on both AEMO's supporting Bulletin Board Procedures and system changes. Depending on the form of these, APA considered that there is the potential for the costs associated with this rule change to materially impact participants.¹⁹ Santos also considered that the proposed rule change would have cost impacts on participants.²⁰

Both APA and APIA did not accept AEMO's view in the rule change request that businesses should assimilate the costs of the proposed new obligations, or that these costs are offset by benefits.²¹ As discussed above, this is since they consider that they already adequately coordinate maintenance outages to minimise adverse effects on the market, and so no additional benefits are available to the market from being more informed about maintenance outages.

Further, APIA generally cautioned against imposing greater regulatory information requirements without appropriate cost allocation consideration, since this can lead to increased market distortions.²² With prudent cost allocation, market participants could weigh up the cost versus the benefit of any additional regulation. However, without

16 See: AEMO, Response to request for information, p. 1.

17 See: APA Group, Consultation Paper submission, p. 1.

18 See: Santos, Consultation Paper submission, p. 1.

19 See: APA Group, Consultation Paper submission, p. 2.

20 Santos' submission stated that the rule change would require changes to IT systems. Further, there would be increased resourcing due to both the need for assessment of what are appropriate "external" numbers to be released, and the need to respond to an increased number of queries relating to information published on the Bulletin Board. The Commission recognises that these costs may be incurred, but considers these to be relatively low given the current specification of the rule change.

21 See: APA Group, Consultation Paper submission, p. 2.

22 See: APIA, Consultation Paper submission, p. 2.

appropriate cost allocation, the incentive for the recipients of the benefit to be efficient diminishes. This may result in inefficiencies and increased costs to gas customers in the long run.

APIA stated that it considered that the "Commission should consider modifying the cost recovery provisions of the Bulletin Board to ensure that all parties providing the data on which the Bulletin Board relies are entitled to recover the efficient costs incurred in doing so".²³

3.3.3 Confidentiality issues

AGL did not consider there were any confidentiality issues created by the rule change request, or at least any more than is currently the case with information disclosed to the Bulletin Board.²⁴ Stanwell and APIA also made similar comments.²⁵ APIA also commented that they considered that facility operators are best placed to manage any confidentiality issues that may arise.

In contrast, Santos considered that certain information that would be required to be provided to the Bulletin Board under this rule change request may be commercially sensitive. Therefore, its disclosure may have an adverse commercial impact on market participants.

Alinta Energy (Alinta) considered that AEMO, in its role as Bulletin Board operator, should be able to distinguish between what information is vital to market operations from that which is sensitive to the market.²⁶ Therefore, if any confidentiality issues emerged, AEMO could address these. Alinta considered that this would not largely diverge from AEMO's existing practices in operating the Bulletin Board's short-term capacity outlooks.

3.4 Commission's analysis of the issues

3.4.1 Information provision and transparency

Improved information provision and transparency

Improved information provision and transparency was supported by stakeholder submissions, as outlined above, since it will help to address concerns around information adequacy and asymmetry. The Commission concurs with this view: publishing information to all interested stakeholders that may be relevant to market participants' operational and investment decisions (such as capacity information) is likely to improve efficiency in gas markets.

²³ See: APIA, Consultation Paper submission, p. 4.

²⁴ See: AGL, Consultation Paper submission, p. 1.

²⁵ See: Stanwell, Consultation Paper submission, p. 3; APIA, Consultation Paper submission, p. 4.

²⁶ See: Alinta Energy, Consultation Paper submission, p. x.

Santos noted that it generally has contractual mechanisms in place in its gas sales agreements that allow its customers to have access to all relevant and material information.²⁷ While Santos' contracted market customers may have access to this information, the broader market (including participants who may not be party to a gas sales agreement with Santos) does not. It is this information asymmetry that the rule change is seeking to address.

Given the current limitations in the level of relevant information that is publically available to the market, the Commission considers that an extension of the existing short-term capacity outlook, as well as the introduction of a new medium-term capacity outlook (such as that proposed), is a practical, low cost way of improving efficiency in the gas market. Such information has the potential to assist energy market participants in making more efficient operational and investment decisions that maximise the value of trade across their gas and electricity portfolios (through gas-fired electricity generation). In the future, if further developments in gas markets occur, additional improvements could potentially be made to the provision of relevant information to the general market.

Several submissions suggested that it would be helpful to standardise the level of medium-term information that is publically available,²⁸ or better align the information with the national Electricity Market Project Assessment of System Adequacy.²⁹ However, the Commission considers that such a level of detail is best addressed by AEMO, in its specification of the Bulletin Board Procedures. Further detail on how AEMO develops its Bulletin Board Procedures is provided below in section 3.4.2.

Accuracy of information

Several submissions commented that market information that is provided about scheduled future events may be considered to be uncertain, and subject to change.³⁰ The Commission acknowledges these concerns; however, considers that there are sufficient existing regulatory provisions in place to mitigate against such stakeholder concerns.

Section 226 of the NGL deals with the immunity of persons supplying Bulletin Board information to AEMO. Further, each and every time a person accesses the Bulletin Board, they agree to the Bulletin Board terms of use, and user agreement.³¹ Specifically, these arrangements provide for limitations on the use of material appearing on the Bulletin Board, and an indemnity against the consequences of any use made of that material. This should reassure participants that any information they

²⁷ See: Santos, Consultation Paper submission, p. 1.

²⁸ See: Alinta Energy, Consultation Paper submission, p. 2; Santos, Consultation Paper submission, p. 2; Stanwell, Consultation Paper submission, p. 2.

²⁹ See: GDFSUEZ, Consultation Paper submission, p. 1.

³⁰ See: APA Group, Consultation Paper submission, p. 1; Santos, Consultation Paper submission, p. 1.

³¹ Rule 185 of the NGR notes that each and every time a person accesses the Bulletin Board, that person is deemed to agree to the Bulletin Board terms of use.

supply to the Bulletin Board cannot be relied upon by persons accessing and using the Bulletin Board.³²

The Commission considers that the existing NGR provisions are sufficient, and so have not proposed modifications to the proposed rule in this regard.

3.4.2 Efficient allocation of costs

Division 10 of Part 18 of the NGR relates to cost recovery by pipeline operators. This provides a means by which pipeline operators can recover costs associated with "aggregate and information services costs" relating to the Bulletin Board. This means the services provided by a pipeline operator in aggregating and providing information to AEMO, in compliance with rules 173 ("obligation on pipeline operators to provide nominated and forecast delivery information") and 196 ("information requirements for cost recovery").

The current rule change request proposed by AEMO would amend rules other than 173 and 196 of the NGR. Therefore, costs associated with providing the information considered in this rule change (i.e. short-term and medium-term capacity outlooks) could not be recovered through Division 10 of Part 18 of the NGR.

The Commission considers that this rule change, as proposed, would not impose significant costs on market participants in providing information. This conclusion has been reached by taking into consideration the cost estimate information that facility operators provided to AEMO in relation to the cost imposition of this rule change request:³³

- in order to meet the expanded short-term capacity outlook reporting requirements there would be:
 - one-off costs, on average of \$5,750 per facility operator, with no on-going costs;
- in order to meet the new medium-term capacity outlook reporting requirements there would be:
 - one-off costs, on average, of \$1,625 per facility operator; and
 - on-going costs, on average, of \$900 per facility operator.

These cost estimates are relatively small in magnitude. No changes have been made to the existing cost recovery arrangements in the NGR for providing information to the Bulletin Board.

³² This was reaffirmed through AEMO's response to our request for information. See: AEMO, Response to request for information, pp. 1-2.

³³ For further detail, please refer to pages 5 to 6 of AEMO's rule change request.

The Commission notes that implementation of AEMO's rule change request and associated Bulletin Board Procedure changes, as proposed, are likely to be relatively low cost. However, the final impact of this rule change will be dependent on the final AEMO Bulletin Board Procedures and associated IT system build pack.

The Commission recognises that if AEMO were to impose standardised medium-term information requirements via Bulletin Board Procedures, on participants, then such a requirement on participants may not be as low cost. However, section 135EB of the NGL states that AEMO may only make Procedures (including Bulletin Board Procedures) if AEMO is satisfied that the Procedures are:

- consistent with the NGL and the NGR; and
- are appropriate having regard to:
 - the NGO;
 - any compliance costs likely to be incurred by AEMO, Registered Participants or BB participants in consequences of the Procedures; and
 - any principles stated in the NGR that are applicable to the relevant Procedures.

AEMO is also required to make Procedures in accordance with a set process, that includes stakeholder consultation, as set out in Part 15B of the NGR. These regulatory requirements should act to mitigate any stakeholder concerns that the final impact (or costs) of this rule change may outweigh the benefits.³⁴

3.4.3 Confidentiality issues

The Commission agrees with Santos' view that there may be some confidentiality issues relating to information that may be provided in the medium-term capacity outlook. This is since certain information may be commercially sensitive and disclosure may have an adverse commercial impact on market participants.

However, with respect to concerns regarding the public release of data that could reasonably be considered as confidential or commercially-sensitive to third parties, facility operators are in the best position to manage issues relating to confidentiality. This is because facility operators have visibility of the contractual relationships with these third parties, which may include data confidentiality obligations. To publically disclose such data may allow competing customers to decipher commercially-sensitive information, such as production volumes.

³⁴ Further, the rule as made restricts the timing of the provision of the medium-term capacity outlook to AEMO as on “the date which that information is provided to [Bulletin Board] shippers”. This should also mitigate stakeholder concerns that the information may be required to be produced more frequently.

In its rule change request, AEMO indicated its intention for a draft clause to be included in the Bulletin Board Procedures that relates to confidentiality. This draft clause would allow facility operators to "remove any information that is confidential to an individual Bulletin Board shipper from the copy of a medium-term capacity outlook that it provides to AEMO".³⁵ Including such an obligation in the rules mitigates against the risk that confidential, or commercially-sensitive information may be exposed to third parties.

The Commission considers that it is more appropriate for such a clause to be included in the NGR, as opposed to the Bulletin Board Procedures. This is consistent with the principles that the AEMC has previously set out as to when obligations are more appropriately included in the NGR, as opposed to the Bulletin Board Procedures.³⁶

In summary, obligations are more appropriately included in the NGR, where (amongst others): they impose (or impact on the) substantive rights, obligations and duties on (of) participants; potentially have significant financial implications for trading participants; have effects that are likely to change relatively infrequently over time, and be subject to limited exceptions; and have industry wide application or impact. The confidentiality provision discussed here meets these criteria, and so is more appropriately contained in the NGR.

3.5 Commission's analysis of the proposed rule and conclusion

The proposed rule by AEMO largely resolves the problem identified. It provides for an increased level of information to be provided to the market, and addresses information asymmetry concerns. The Commission has, therefore, adopted all of AEMO's rule as it was proposed.

However, the proposed rule does not provide for a clear principle relating to the provision of confidential information by facility operators to the Bulletin Board. Rather, it leaves such confidentiality concerns to be addressed in the Bulletin Board Procedures.

The Commission considers that a rule which includes a clear approach to dealing with confidentiality concerns is preferable, since it would:

- acknowledge that some of the information that may be provided in medium-term capacity updates may be confidential or commercially-sensitive to market participants; and
- explicitly states that facility operators are not required to provide information to the Bulletin Board if that information is confidential to an individual Bulletin

³⁵ See p. 14 of AEMO's rule change request.

³⁶ These were set out in: AEMC, STTM Deviations and the Settlement Surplus and Shortfall, Final Determination, 20 June 2013, p. 32.

Board shipper, unless that information is aggregated with information from other Bulletin Board shippers.³⁷

The Commission considers that, based on its assessment of the rule change proposed and stakeholder submissions, the costs associated with implementing such a rule to the market as a whole are likely to be relatively low, and so the Commission has not proposed any amendments in relation to cost recovery.

³⁷ This is consistent with section 224 of the NGL, which states that a person must not refuse to comply with the requirement in section 223(1) (which refers to a service provider providing information to AEMO for the Bulletin Board if it's required to do so under the NGR) on the ground of any duty of confidence. Bulletin Board facility operators would not be required to provide information to the Bulletin Board that was confidential to individual shippers.

Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
MCE	Ministerial Council on Energy
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules

A Summary of issues raised in submissions

Stakeholder	Issue	AEMC response
Overall opinion of the rule change		
AGL Retail (AGL)	<p>Supports the proposed rule change to increase the level of information that is required to be published on the Bulletin Board. (p. 1)</p> <p>The proposed rule change represents a major step forward in improving information transparency in the gas industry, but at a cost that is manageable to industry. (p. 1)</p>	<p>Given the current limitations in the information that is publicly available to market participants, the Commission considers that an extension of the existing short-term capacity outlook, as well as the introduction of a new medium-term capacity outlook, is a practical and low-cost way of increasing information in the gas market.</p> <p>Such information has the potential to assist energy market participants in making more efficient operational and investment decisions that maximise the value of trade across their gas and electricity portfolios.</p> <p>Therefore, the Commission has determined to make a rule to improve short-term and medium-term information in gas markets.</p> <p>This is discussed further in chapter 3.</p>
APA Group (APA)	Supports this proposed rule change. (p. 1)	
Stanwell	Supports this proposed rule change since it improves the transparency and availability of market information at low cost.	
Australian Pipeline Industry Association (APIA)	Comfortable that the information obligations proposed are low in incremental complexity and cost and will provide additional information to gas market participants. (p. 1)	
Alinta Energy (Alinta)	Supports this proposed rule change. (p. 1)	
Lumo Energy	Support the proposed rule change since it will deliver improved information for the market. (p. 2)	
GDF Suez Australian Energy (GDFSAE)	Supports the proposed rule change since it represents a positive step forward for the gas	

Stakeholder	Issue	AEMC response
	markets by increasing information transparency. (p. 1)	
Santos	Does not support the proposed rule change to increase the level of information that is required to be published on the Bulletin Board. (p. 1)	
Information provision and transparency		
Santos	Santos generally have contractual mechanisms in place in their gas sales agreement that ensure that their customers have access to all the relevant and material information. Therefore, the proposed rule change would not increase the availability of supply information to customers. (p. 1)	While Santos' contracted market customers may have access to this information, the broader market (including participants who may not be party to a gas sales agreement with Santos) does not. It is this information asymmetry that the rule as made seeks to address.
APA	<p>Information provided for a longer time horizon will be more uncertain and subject to change compared to information provided closer to the time. Care must therefore be taken by market participants before relying on this information. (p. 1)</p> <p>Compliance risks for APA will also increase from extending the capacity outlook information. (p. 1)</p>	<p>The Commission considers that there are sufficient existing regulatory provisions to mitigate against such concerns.</p> <p>Section 226 of the National Gas Law (NGL) deals with the immunity of persons supplying the Bulletin Board information to AEMO. Further, each and every time a person accesses the Bulletin Board, they agree to the Bulletin Board terms of use, and user agreement. Specifically, these arrangements provide for limitations on the use of material appearing on the Bulletin Board, and an indemnity against the consequences of any use made of that material.</p> <p>This should reassure participants that any information they supply to the Bulletin Board cannot be relied upon by persons accessing and</p>

Stakeholder	Issue	AEMC response
		using the Bulletin Board.
APA	<p>There may be existing information asymmetries for non-shippers in relation to expected medium-term pipeline capacity. (p. 2)</p> <p>There will be no benefits from the rule change arising from the maintenance coordination. APA already coordinates its maintenance program with other market participants to the extent possible. (p. 2)</p>	<p>The Bulletin Board was first introduced in 2008, and provided all the participants in the market with a variety of information, including a three day outlook of capacity. This level of information provision was considered adequate at that time.</p> <p>Recent gas market developments, including further integration of the east coast market and the introduction of short-term trading markets, have strengthened the case for greater information provision. Given this, improvements can be made with respect to the level of information provision that is available to the market.</p>
Stanwell	<p>There are inconsistencies in the amount of data provided in different parts of the network. Ideally, the Bulletin Board should be able to inform participants of gas flows in any part of the network. (p. 1)</p>	<p>The Commission considers this further in section 3.4.1.</p>
APIA	<p>The lack of availability of public information on maintenance is not a material issue for pipeline operators. (p. 2)</p> <p>Consider that there is no evidence that maintenance coordination issues are occurring, and Bulletin Board facility operators have not raised maintenance coordination as an issue that needs addressing. (p. 4)</p> <p>Short-term information will be provided daily. Maintenance notices will be provided when maintenance is scheduled to occur. This provides short term information to the market on a regular basis, and maintenance information on the same time frame as it is provided to shippers on the</p>	

Stakeholder	Issue	AEMC response
	pipeline. This addresses any information asymmetry concerns between shippers and non-shippers on pipelines. (p. 3)	
Alinta	Extending the capacity outlook to seven days, as well as incorporating facility operator reports will improve information participants can draw upon in making commercial decisions. This would also help alleviate concerns associated with information asymmetry. (p. 2)	
Stanwell	<p>In order to increase market transparency, suggest that AEMO play a more active role in collecting and publishing gas market data similar to AEMO's SCADA collection abilities in the electricity market. (p. 2)</p> <p>Standardised formats are a central requirement of data provision to enable participant use. AEMO must also consider the best data publishing methodologies for both small and large participants. (p. 2)</p> <p>Regular, or at least consistent and predictable, delivery is a central requirement of data provision to enable participant use. As a minimum, Stanwell expects daily updates to the Bulletin Board. (p. 2)</p>	<p>The Commission considers that such detail (e.g. standardisation of format, timing for updates of information to the Bulletin Board) are best addressed by AEMO, in its specification of the Bulletin Board Procedures.</p> <p>AEMO is required to make Procedures in accordance with a set process, that includes stakeholder consultation, as set out in Part 15B of the NGR. These regulatory requirements should act to mitigate any stakeholder concerns that the final impact (or costs) of this rule change may outweigh the benefits. This is discussed further in section 3.4.2.</p>
Alinta	Suggests it would be beneficial if any additional data sets were published in a standardised spreadsheet format consistent with existing practice. (p. 2)	

Stakeholder	Issue	AEMC response
GDFSAE	<p>Would prefer a better alignment with the National Electricity Market Projected Assessment of System Adequacy (PASA) model, in particularly where information is provided by a set time on a set day. The proposed Rule change for the Gas Bulletin Board has a less onerous obligation for participants with the information only updated when there is a change in the underlying availability of a pipeline or facility. Strengthening this data provision regime should make this Rule change an even more efficient and reliable capacity outlook. (p. 1)</p>	
Efficient allocation of costs		
Santos	<p>This proposed rule change would require significant changes to Santo's IT systems. (p. 1)</p> <p>Further, Santos would require increased resources to:</p> <ul style="list-style-type: none"> • review maintenance forecasts in order to determine what are "appropriate" external numbers to be released; and • deal with increased queries related to information that is published on the Bulletin Board. (p. 1) 	<p>The Commission considers, based on AEMO's proposed Procedure changes that would give effect to this rule, that significant costs would not be imposed on market participants in providing information. This also takes into consideration the cost estimate information that facility operators provided to AEMO in relation to the cost imposition of this rule change request..</p> <p>On that basis, cost recovery arrangements are not a material concern for this rule change. Accordingly, no changes have been made to the existing cost recovery arrangements in the National Gas Rules (NGR) for providing information to the Bulletin Board.</p>
APA	<p>The final impact of this proposal is dependent on the final AEMO Procedures and build pack. Depending on their form, these do have the potential to materially increase the cost of this rule</p>	<p>This is discussed further in section 3.4.2.</p>

Stakeholder	Issue	AEMC response
	<p>change. (p. 2)</p> <p>As a matter of principle, it is not acceptable to adopt rule changes that lead to additional costs on the basis that one market participant will disproportionately bear those costs, to the benefit of other market participants, due to a lack of a cost recovery mechanism. (p. 2)</p>	
APIA	The proposed rule change does not adequately address cost recovery implications for Bulletin Board facility operators for potential costs associated with the proposed information obligations. (p. 1)	
Alinta	The proposed rule change has been designed as a low cost method of improving the provision of information on the gas bulletin board. (p. 2)	
Confidentiality issues		
AGL	Do not consider that there are any confidentiality issues created by the proposal, or at least, any more than is currently the case with information disclosure to the Bulletin Board. (p. 1)	<p>The Commission agrees that there may be some confidentiality issues relating to information that may be provided in the medium-term capacity outlook.</p> <p>Further, facility operators are in the best position to manage issues relating to confidentiality, since they have visibility of the contractual relationships with these third parties that may include data confidentiality obligations.</p> <p>Therefore, the Commission considers it</p>
Santos	Certain information may be confidential, or commercially sensitive, and so disclosure may have an adverse commercial impact on market participants. Further, that there is a risk that using the Bulletin Board information may lead to misunderstanding of the actual gas supply situation. (p. 1)	

Stakeholder	Issue	AEMC response
Stanwell	Not aware of any confidentiality issues. The provision of this data is consistent with the obligations to provide similar data in the NEM. (p. 3)	<p>appropriate for a clause relating to confidentiality to be included in the NGR (as opposed to the Bulletin Board Procedures, as proposed by AEMO in their rule change request). Including such an obligation in the rules mitigates against the risk that confidential, or commercially-sensitive, information may be exposed to third parties.</p> <p>This is discussed further in section 3.4.3.</p>
APIA	Unlikely that any confidentiality issues should arise from publication of information. If they do arise, facility operators are best placed to manage any issues that may arise. (p. 4)	
Alinta Energy	Suggest that AEMO in its role as gas bulletin board operator should be able to draw a line between what information which is vital to market operations and that which is market sensitive. This would not largely diverge from AEMO's existing practises in operating the bulletin board's short term capacity outlooks. (p. 3)	
Rule drafting		
APIA	The title of proposed rule 165 and 171 refers to 'production facility operators' and 'pipeline facility operators' respectively, yet proposed rule 168 refers to 'BB storage providers'. The use of the acronym 'BB' should be consistent across all references to these three types of facility operators. (p. 2)	<p>The difference in drafting style is justified.</p> <p>The term "storage provider" is defined in the NGL as "means any person who owns, operators or controls a facility for storing natural gas or processable gas for injection into a pipeline". Therefore, there was a need to distinguish a storage provider who operates a Bulletin Board storage facility as a "BB storage provider".</p> <p>However, the terms "production facility" and "production facility operator", and "pipeline operator" are not defined terms in the NGL, or</p>

Stakeholder	Issue	AEMC response
		<p>elsewhere in the NGR. They were therefore inserted as new definitions in Part 18 of the NGR and in those definitions, connected to Bulletin Board facilities (e.g. the definition of "production facility operator" is a "producer, user or non-scheme pipeline user who operates a BB production facility"). Therefore, when the terms "production facility", "production facility operator", and "pipeline operator" are used in Part 18 of the NGR, they are related to Bulletin Board facilities".</p>

B Background to the Bulletin Board

The Bulletin Board takes the form of a website that covers all major gas production fields, major demand centers and natural gas pipeline systems. The website is operated and maintained by the Australian Energy Market Operator (AEMO).³⁸

The objective of the Bulletin Board is to facilitate trade in gas and capacity over the relevant pipeline systems through providing system and market information to all interested parties, including the general public.

The regulatory arrangements applying to the Bulletin Board are set out in Chapter 7 of the National Gas Law (NGL), and Part 18 of the National Gas Rules (NGR). These provisions apply to a broad group of transmission pipelines, production and storage facilities in eastern Australia.

In short, the Bulletin Board provisions set out in the NGL and NGR require:

- AEMO to operate and maintain the Bulletin Board, develop procedures and notify the Australian Energy Regulator (AER) of any breaches, or possible breaches, of this part of the NGR;
- operators of pipelines, production and storage facilities that are deemed to be Bulletin Board facility operators, to provide AEMO, at the start of each gas day, with information on the facility's name plate rating, a three day capacity outlook and actual utilisation data; and
- pipeline operators are also required to provide aggregated information on nominations, forecast and actual deliveries.

This information is published on the Bulletin Board by AEMO in a standardised reporting format.

Provisions in Part 18 of the NGR also allow Bulletin Board participants to notify other users if they have spare pipeline capacity or gas available for purchase, or if they wish to purchase additional gas or spare capacity. However, this part of the Bulletin Board has not been used to date.

No medium-term capacity outlook information is currently published on the Bulletin Board. However, under bilateral contracts, parties (e.g. pipeline operators) may provide maintenance notices to contracted parties (e.g. shippers). This information is not, however, provided to all parties.

³⁸ See: www.gasbb.com.au.