



## **National Gas Amendment (Pipeline operator cost recovery) Rule 2013 No. 5**

under the National Gas Law to the extent applied by:

- (a) the National Gas (South Australia) Act 2008 of South Australia;
- (b) the National Gas (ACT) Act 2008 of the Australian Capital Territory;
- (c) the National Gas (New South Wales) Act 2000 of New South Wales;
- (d) the National Gas (Queensland) Act 2008 of Queensland;
- (e) the National Gas (Tasmania) Act 2008 of Tasmania;
- (f) the National Gas (Victoria) Act 2008 of Victoria; and
- (g) the National Gas (Northern Territory) Act 2008 of Northern Territory;
- (h) the Australian Energy Market Act 2004 of the Commonwealth.

The Australian Energy Market Commission makes the following Rule under the National Gas Law.

John Pierce  
Chairman  
Australian Energy Market Commission

## **National Gas Amendment (Pipeline operator cost recovery) Rule 2013 No. 5**

### **1 Title of Rule**

This Rule is the *National Gas Amendment (Pipeline operator cost recovery) Rule 2013 No. 5*.

### **2 Commencement**

This Rule commences operation on 1 July 2013.

### **3 Amendment of the National Gas Rules**

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

## **Schedule 1            Amendments of the National Gas Rules**

(Clause 3)

### **[1] Rule 141            Interpretation**

In rule 141 substitute the following definition:

**actual BB costs** in relation to an invoice period means the sum of:

- (a) AEMO's actual costs of operating and maintaining the Bulletin Board in accordance with this Part during the invoice period, including the amounts paid or payable by AEMO under Division 10 for aggregation and information services provided during that invoice period; and
- (b) AEMO's actual costs incurred during the invoice period in providing information under rule 186,

less the sum of any information retrieval fees paid to AEMO under rule 186 during the invoice period.

### **[2] Rule 141            Interpretation**

In rule 141 insert the following definition in alphabetical order:

**aggregation and information services costs** means the costs incurred by a pipeline operator in providing aggregation and information services.

### **[3] Rule 197            Pipeline operator to provide costs of aggregation and information services**

Omit the heading of rule 197 and substitute:

#### **197            Pipeline operator to provide aggregation and information services costs**

### **[4] Rule 197            Pipeline operator to provide costs of aggregation and information services**

Omit rule 197(1) and substitute:

- (1) No later than 20 business days after the start of an invoice period, each pipeline operator that wishes to recover its aggregation and information services costs must provide to AEMO:
  - (a) an estimate of its aggregation and information services costs during that invoice period; and
  - (b) a tax invoice in relation to its aggregation and information services costs during the previous invoice period.

**[5] Rule 197 Pipeline operator to provide costs of aggregation and information services**

After rule 197(2) insert the following:

- (2A) AEMO must, within 5 business days after receipt of any estimate and evidence received under subrules (1)(a) and (2)(a), publish the estimate and evidence on its website.
- (2B) If at any time a pipeline operator expects that its actual aggregation and information services costs in any period will vary materially from the costs specified in its estimate for that period under subrule (1), the pipeline operator must give AEMO a revised estimate and a statement of reasons for the variation as soon as practicable, and AEMO must publish that revised estimate and statement on its website.

**[6] Rule 198 AEMO to pay pipeline operator for provision of aggregation and information services**

Omit rule 198, including the heading, and substitute:

**198 Payment of aggregation and information services costs**

- (1) AEMO must, within 5 business days after receipt of a tax invoice and evidence received under rule 197(1)(b) and (2)(b):
  - (a) publish on its website the invoice and evidence, subject to the provisions of the *Law* about the disclosure of protected information; and
  - (b) specify a period of at least 10 business days during which any person may provide AEMO with comments on the invoice, including any objection to the payment of that invoice.

**Note**

Information identified as confidential and given to AEMO is protected information: See section 91G of the *NGL*. Under section 91GE of the *NGL* AEMO is authorised to disclose documents with the omission of protected information.

- (2) AEMO must, within 5 business days after the end of the period referred to in subrule (1)(b), give the AER:
  - (a) a copy of the tax invoice and evidence provided to it under rule 197(1)(b) and (1A)(b);
  - (b) a copy of any comments received under subrule (1); and
  - (c) any comment by AEMO on either the invoice or evidence received under subrule (1).

- (3) The AER must, within 30 business days after receipt of documents under subrule (2), determine the amount payable to a pipeline operator in respect of the tax invoice received under rule 197(2) by reviewing whether the costs specified in that invoice:
- (a) have been incurred; and
  - (b) are reasonable
- having regard to:
- (c) the evidence provided under rule 197(2);
  - (d) any comments received by AEMO, including objections to the payment of the invoice, under subrule (1);
  - (e) any comments from AEMO;
  - (f) any information received in accordance with a request or relevant notice issued by the AER;
  - (g) any other relevant information; and
  - (h) whether the likely costs of undertaking an assessment of the costs specified in the invoice outweigh the public benefit resulting from such an assessment.
- (3A) In making a determination under subrule (3), the AER must:
- (a) either approve or reject the amount specified in the invoice; and
  - (b) if it rejects the amount specified in the tax invoice, undertake an assessment to determine an amount payable that, in the AER's opinion, is reasonable for the aggregation and information services in respect of that invoice.
- (3B) The AER must publish the reasons for its determination under subrule (3) on its website.
- (3C) In relation to the time limits fixed in subrule (3), any period taken by a person to provide information to the AER pursuant to a notice or request issued under subrule (3)(f) is to be disregarded for the purposes of calculating elapsed time.
- (4) AEMO must pay the pipeline operator:
- (a) if the AER has approved the amount specified in the invoice, that amount; or
  - (b) otherwise, the amount assessed by the AER in lieu of the invoice amount,

as determined under subrule (3), within 10 business days of the AER publishing its determination on its website.

## **[7] Rule 364 Definitions**

In rule 364 insert the following definitions in alphabetical order:

**invoice period** means each subsequent period commencing on 1 July in a year and ending on 30 June in the next year (both dates inclusive).

**MOS allocation service** means the allocation of pipeline deviations as MOS or overrun MOS in accordance with rule 421, but excludes any other part of the process for determining STTM facility allocations.

**publish** by AEMO or AER, means, except where otherwise specified in a Rule, to make publicly available on their respective website.

## **[8] Rule 364 Definitions**

In rule 364 substitute the following definition:

**MOS allocation service costs** means the costs reasonably incurred by an STTM pipeline operator (including fees and expenses payable to an allocation agent) in providing a MOS allocation service to the extent that those costs:

- (a) are either:
  - (i) incremental costs incurred exclusively for the provision of the MOS allocation service; or
  - (ii) a proportionate share of any incremental costs reasonably attributable to the provision of the MOS allocation service; and
- (b) would not have been incurred but for the requirement to provide the MOS allocation service; and
- (c) are not offset by benefits reasonably available to the STTM pipeline operator in relation to its other activities.

## **[9] Rule 424 MOS allocation service costs**

Omit rule 424 and substitute:

### **424 MOS allocation service costs**

- (1) An STTM pipeline operator that wishes to recover its MOS allocation service costs must give AEMO:

- (a) an estimate of those costs, no later than 31 January prior to the invoice period; and
  - (b) a tax invoice in respect of its MOS allocation service costs during the previous invoice period, no later than 20 business days after the start of the invoice period.
- (1A) An STTM pipeline operator must, in accordance with the STTM Procedures, provide AEMO with reasonable evidence to demonstrate that:
- (a) the estimate referred to in subrule (1)(a) is reasonable; and
  - (b) it has incurred the costs specified in its tax invoice issued under subrule (1)(b).
- (2) AEMO must, within 5 business days after receipt of any estimate and evidence received under subrule (1), publish the estimate and evidence.
- (3) If at any time an STTM pipeline operator expects that its actual MOS allocation service costs in any period will vary materially from the costs specified in its estimate for that period under subrule (1), the STTM pipeline operator must give AEMO a revised estimate and a statement of reasons for the variation as soon as practicable, and AEMO must publish that revised estimate and statement.
- (4) [Deleted]
- (5) [Deleted]
- (6) An STTM pipeline operator must not give AEMO a tax invoice under subrule (1)(b) which includes an amount that the STTM pipeline operator has recovered, or is entitled to recover, from an STTM Shipper or any other person either at law (other than under this Part or the NGL) or under any contract, arrangement or understanding, or pursuant to an access arrangement.

**[10] Rule 425                      AEMO to pay MOS allocation service costs**

Omit rule 425, including the heading, and substitute:

**425                      Payment of MOS allocation service costs**

- (1) AEMO must, within 5 business days after receipt of a tax invoice and evidence received under rule 424(1)(b) and (1A)(b):
  - (a) publish the invoice and evidence subject, to the provisions of the *Law* about the disclosure of protected information; and

- (b) specify a period of at least 10 business days during which any person may provide AEMO with comments on the invoice, including any objection to the payment of that invoice.

**Note**

Information identified as confidential and given to AEMO is protected information: See section 91G of the *NGL*. Under section 91GE of the *NGL* AEMO is authorised to disclose documents with the omission of protected information.

- (2) AEMO must, within 5 business days after the end of the period referred to in subrule (1)(b), give the AER:
  - (a) a copy of the tax invoice and evidence provided to it under rule 424(1)(b) and (1A)(b);
  - (b) a copy of any comments received under subrule (1); and
  - (c) any comment by AEMO on either the invoice or evidence received under subrule (1).
- (3) The AER must, within 30 business days after receipt of documents under subrule (2), determine the amount payable to a STTM pipeline operator in respect of the tax invoice received under rule 424(4) by reviewing whether the costs specified in that invoice:
  - (a) have been incurred; and
  - (b) are reasonable,having regard to:
  - (c) any comments received by AEMO, including objections to the payment of the invoice, under subrule (1);
  - (d) any comments from AEMO;
  - (e) any information received in accordance with a request or relevant notice issued by the AER;
  - (f) any other relevant information; and
  - (g) whether the likely costs of undertaking an assessment of the costs specified in the invoice outweigh the public benefit resulting from such assessment.
- (3A) In making a determination under subrule (3), the AER must:
  - (a) either approve or reject the amount specified in the invoice; and
  - (b) if it rejects the amount specified in the tax invoice, undertake an assessment to determine an amount payable that, in the AER's

opinion, is reasonable for the MOS allocation services in respect of that invoice.

- (3B) The AER must publish the reasons for its determination under subrule (3).
- (3C) In relation to the time limits fixed in subrule (3), any period taken by a person to provide information to the AER pursuant to a notice or request issued under subrule (3)(f) is to be disregarded for the purposes of calculating elapsed time.
- (4) AEMO must pay the STTM pipeline operator:
- (a) if the AER has approved the amount specified in the invoice, that amount; or
  - (b) otherwise, the amount assessed by the AER in lieu of the invoice amount,
- as determined under subrule (3), within 10 business days of the AER publishing its determination.
- (5) [Deleted]

[END OF RULE AS MADE]

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