

Schedule 3 Savings and Transitional Rules

Part 1 Transitional Rules—NSW gas distributors

Division 1 Application and definitions

1 Application

During the transition period the Rules apply to, and in relation to, a NSW gas distributor, subject to the exclusions, qualifications and modification in this Part.

2 Definitions

In this Part:

access arrangement has the same meaning as in the NGL.

current access arrangement means an access arrangement that:

- (a) applies to a NSW gas distributor with respect to pipelines located in NSW; and
- (b) is in force on the start date.

expiry date means the date when the current access arrangement no longer applies.

interim deemed standard connection contract means a deemed standard connection contract prepared by a NSW gas distributor in accordance with Division 2 of this Part.

interim NSW connection contract rules means the rules prescribed in this Part.

model deemed standard connection contract means the model terms and conditions for a deemed standard connection contract set out in Schedule 2.

NSW gas distributor means a service provider within the meaning of the NGL that holds a reticulator's authorisation under the *Gas Supply Act 1996* of New South Wales in respect of a pipeline located in NSW, excluding ActewAGL Distribution (partnership of ACTEW Distribution Ltd ACN 073 025 224 and Jemena Networks (ACT) Pty Ltd ACN 008 552 663).

reference services agreement means a contract between a user and a NSW gas distributor, whether described in the relevant current access arrangement as:

- (a) a reference service agreement;
- (b) a standard user agreement;
- (c) a service agreement; or

- (d) a gas transportation agreement.

start date means the date when these interim NSW connection contract rules come into operation.

transition period means the period from the start date to the expiry date.

Division 2 Interim deemed standard connection contract

3 Required Alterations

- (1) During the transition period, a NSW gas distributor must adopt a form of deemed standard connection contract under section 69 of *the Law* in accordance with Schedule 2 of the Rules and subject to this Division (an **interim deemed standard connection contract**).
- (2) The amendments made to an interim deemed standard connection contract under this Division are required alterations as contemplated by section 69(5) of *the Law*.

4 Inconsistency with access arrangements and reference services agreements

- (1) This rule applies where there is an inconsistency between rights and obligations of a NSW gas distributor in relation to:
 - (a) a customer under the model deemed standard connection contract; and
 - (b) the customer's retailer under the distributor's current access arrangement and/or reference services agreement with that retailer.
- (2) Subject to subrule (3), the terms and conditions of the current access arrangement or reference services agreement prevail over the terms and conditions of the model deemed standard connection contract to the extent of the inconsistency.
- (3) If the application of the inconsistent term or condition of the distributor's current access arrangement or reference services agreement would result, or is likely to result, in less favourable terms and conditions for the customer, the terms and conditions of the model deemed standard connection contract prevail over the current access arrangement or reference services agreement (as the case may be) to the extent of the inconsistency.
- (4) During the transition period, a NSW gas distributor must ensure that at all times, its interim deemed standard connection contract complies with subrule (3) including making an amendment to address an inconsistency and must ensure that the effect of the amendment does not result in less favourable terms and conditions for customers.

5 Retailer interface

- (1) This rule applies where the terms and conditions of a current access arrangement or reference services agreement make it necessary for the rights and obligations of a customer under the model deemed standard connection contract to be exercised and discharged for and on behalf of the customer by customer's retailer for the premises.
- (2) The rights and obligations of a customer under the NSW gas distributor's interim deemed standard connection contract must be exercised and discharged for and on behalf of the customer by the customer's retailer.
- (3) A NSW gas distributor must deal with the financially responsible retailer in relation to any matter where the retailer is acting for or on behalf of the customer under subrule (1).
- (4) A retailer will not be liable for any act or omission of the customer when acting in accordance with subrules (2) and (3).
- (5) A retailer will not be liable for any act or omission of a NSW gas distributor when acting in accordance with subrule (2).
- (6) A NSW gas distributor must amend its interim deemed standard connection contract to address the matters referred to in this rule 5.

Division 3 Deemed and existing contractual arrangements with customers and NSW gas distributors

6 Formation of interim deemed standard connection connect contracts on start date

Subject to rule 7 of this Part, if the premises of a customer in NSW are being supplied with gas immediately before the start date without the customer being a party to a contract with a NSW gas distributor in relation to that supply, an interim deemed standard connection contract between the customer and the NSW gas distributor is taken to exist between the customer and the NSW gas distributor from the start date.

7 Existing contracts with large customers

- (1) An interim deemed standard connection contract in existence on or after the start date does not apply to a large customer who immediately before the start date, has a contract in place between that customer and a NSW gas distributor for provision of customer connection services.
- (2) A deemed AER approved standard connection contract in existence immediately after the start date does not apply to a large customer who immediately before the transition date, has a contract in place between that customer and a NSW gas distributor for provision of customer connection services.

- (3) A deemed standard connection contract in existence on or after the expiry date does not apply to a large customer who immediately before the start date has a contract in place between the customer and a NSW gas distributor for provision of customer connection services.

Division 4 Transitional arrangements after the expiry date

8 Deemed standard connection contract to replace interim contract

- (1) Before the expiry date, a NSW gas distributor must prepare a form of deemed standard connection contract in accordance with *the Law* and these Rules to replace the interim deemed standard connection contract after the expiry date.
- (2) Immediately after the expiry date, the terms and conditions of the NSW gas distributor's interim deemed connection contract are taken to be replaced by the terms and conditions of the NSW gas distributor's deemed standard connection contract prepared under subrule 1.

Part 2 Transitional Rules —ACT gas distributor

Division 1 Application and definitions

1 Application

During the transition period the Rules apply to, and in relation to, the ACT gas distributor, subject to the exclusions, qualifications and modification in this Part.

2 Definitions

In this Part:

access arrangement has the same meaning as in the NGL.

ACT gas distributor means ActewAGL Distribution, a partnership of ACTEW Distribution Ltd (ACN 073 025 224) and Jemena Networks (ACT) Pty Ltd (ACN 008 552 663).

current access arrangement means an access arrangement that:

- (a) applies to the ACT gas distributor; and
- (b) is in force on the start date.

expiry date means the date when the current access arrangement no longer applies.

interim deemed standard connection contract means a deemed standard connection contract prepared by an ACT gas distributor in accordance with Division 2 of this Part.

interim ACT connection contract rules means the rules prescribed in this Part.

start date means the date when these interim ACT connection contract rules come into operation.

transition period means the period from the start date to the expiry date.

Transport Services Agreement has the same meaning as in the current access arrangement.

Division 2 Interim deemed standard connection contract

3 Required Alterations

- (1) During the transition period, the ACT gas distributor must adopt a form of deemed standard connection contract under section 69 of *the Law* in accordance with Schedule 2 of the Rules and subject to this Division (an **interim deemed standard connection contract**).
- (2) The amendments made to an interim deemed standard connection contract under this Division are required alterations as contemplated by section 69(5) of *the Law*.

4 Retailer interface

- (1) This rule applies where the terms and conditions of a current access arrangement or reference services agreement make it necessary for the rights and obligations of a customer under the interim deemed standard connection contract to be exercised and discharged for and on behalf of the customer by customer's retailer for the premises.
- (2) The rights and obligations of a customer under the ACT gas distributor's interim deemed standard connection contract must be exercised and discharged for and on behalf of the customer by the customer's retailer.
- (3) The ACT gas distributor must deal with the financially responsible retailer in relation to any matter where the retailer is acting for or on behalf of the customer under subrule (1).
- (4) A retailer will not be liable for any act or omission of the customer when acting in accordance with subrules (2) and (3).
- (5) A retailer will not be liable for any act or omission of the ACT gas distributor when acting in accordance with subrule (2).
- (6) The ACT gas distributor must amend its interim deemed standard connection contract to address the matters referred to in this rule 4.

Division 3 Deemed and existing contractual arrangements with customers and ACT gas distributors

5 Formation of interim deemed standard connection connect contracts on start date

Subject to rule 6 of this Part, if the premises of a customer are being supplied with gas immediately before the start date without the customer being a party to a contract with an ACT gas distributor in relation to that supply, an interim deemed standard connection contract between the customer and the ACT gas distributor is taken to exist between the customer and the ACT gas distributor from the start date.

6 Existing contracts with large customers

- (1) An interim deemed standard connection contract in existence on or after the start date does not apply to a large customer who immediately before the start date, has a contract in place between that customer and the ACT gas distributor for provision of customer connection services.
- (2) A deemed AER approved standard connection contract in existence immediately after the start date does not apply to a large customer who immediately before the transition date, has a contract in place between that customer and the ACT gas distributor for provision of customer connection services.
- (3) A deemed standard connection contract in existence on or after the expiry date does not apply to a large customer who immediately before the start date has a contract in place between the customer and the ACT gas distributor for provision of customer connection services.

Division 4 Transitional arrangements after the expiry date

7 Deemed standard connection contract to replace interim contract

- (1) Before the expiry date, the ACT gas distributor must prepare a form of deemed standard connection contract in accordance with *the Law* and these Rules to replace the interim deemed standard connection contract after the expiry date.
- (2) Immediately after the expiry date, the terms and conditions of the ACT gas distributor's interim deemed connection contract are taken to be replaced by the terms and conditions of the ACT gas distributor's deemed standard connection contract prepared under subrule 1.

Part 3 Billing-related transitional rules

1 Definitions

In this Part:

billing-related transitional rules means the rules prescribed by this Part.

start date means the date when these billing-related transitional rules come into operation.

transitional liability means a liability incurred before, but continuing after, the start date.

2 Bill smoothing arrangement (Rule 23 NERR)

- (1) A bill smoothing arrangement that was in force immediately before the start date continues in force.
- (2) Rule 23 of the Rules applies to a transitional bill smoothing arrangement as if:
 - (a) the Rules had been in force when the bill smoothing arrangement was made; and
 - (b) the bill smoothing arrangement had then been made with the explicit informed consent of the small customer.
- (3) This rule applies in relation to standard retail contracts but not in relation to market retail contracts.

3 Bill frequency (Rule 24)

- (1) A bill issued to a small customer within 3 months after the start date is taken to have been issued in accordance with rule 24 of the Rules although it may relate to a period of more than 3 months.
- (2) This rule applies in relation to standard retail contracts but not in relation to market retail contracts.

4 Undercharging (Rule 30)

- (1) The provisions of the Rules for recovery by a retailer of amounts the retailer has undercharged a small customer (Rule 30) extend to undercharging occurring before the start date if:
 - (a) the undercharging began before but continued after the start date; or
 - (b) the undercharging occurred wholly before the start date but, as of that date, the retailer had given the small customer no notice of the undercharge, nor had the retailer taken any other action to recover the amount of the undercharge.
- (2) The provision of the Rules limiting recovery to undercharging occurring within 9 months before the date the retailer notifies the customer of the undercharge (rule 30(2)(a)) applies to transitional liabilities as well as liabilities arising after the start date.

- (3) This rule applies in relation to standard retail contracts and also in relation to market retail contracts (other than prepayment meter market retail contracts).

5 Overcharging (Rule 31 NERR)

- (1) The provisions of the Rules requiring a retailer to reimburse amounts the retailer has overcharged a small customer (rule 31) extend to overcharging occurring before the start date if:
 - (a) the overcharging began before but continued after the start date; or
 - (b) the overcharging occurred wholly before the start date but, as of that date:
 - (i) the retailer had not given the small customer notice of the overcharge, nor had the retailer taken any other action to reimburse the amount overcharged; and
 - (ii) the small customer had taken no formal action to recover the amount overcharged.
- (2) It follows that, if overcharging occurred before and after the start date, the references in rule 31 to the amount overcharged is a reference to the aggregate of the amounts overcharged before and after the start date.
- (3) This rule applies in relation to standard retail contracts and also in relation to market retail contracts (other than prepayment meter market retail contracts).

6 Payment methods (Rule 32 NERR)

- (1) If a small customer was using Centrepay as a payment option immediately before the start date, the retailer will be taken to have elected, on the start date, to permit the small customer to use Centrepay as a payment option under rule 32(2) of the Rules.
- (2) This rule applies in relation to standard retail contracts and also in relation to market retail contracts (other than prepayment meter market retail contracts).

7 Shortened collection cycles (Rule 34 NERR)

- (1) If, before the start date, a small customer was placed on a shortened collection cycle and the arrangement was in force immediately before the start date, the arrangement will continue as if made under rule 34 of the Rules.
- (2) In deciding, for the purposes of rule 34(4) whether the customer has paid 3 consecutive bills, payments made before, as well as after, the start date must be taken into consideration.
- (3) This rule applies in relation to standard retail contracts and also in relation to market retail contracts (other than prepayment meter market retail contracts).

8 Enforcement of payment

- (1) The procedures laid down by the Rules for billing and collection of debts owed by a small customer to a retailer extend to transitional liabilities.
- (2) If:
 - (a) the retailer had, before the start date, commenced an action or process to recover the amount of a transitional liability under provisions then in force for the billing and collection of debts; and
 - (b) as at the start date, the action or process remained incomplete,the retailer may continue and complete the action or process under the Rules.
- (3) For the purposes of subrule (2), an action or process for the billing or collection of debts, prescribed by provisions in force before the start date, will be taken to be an action or process under analogous provisions of the Rules.
- (4) This rule does not derogate from other provisions for the recovery of transitional liabilities.
- (5) This rule applies in relation to standard retail contracts and also in relation to market retail contracts (other than prepayment meter market retail contracts).

Part 4 Miscellaneous transitional rules—initial NERR

1 Definitions

In this Part:

miscellaneous transitional rules means the rules prescribed by this Part 4.

start date means the date when these miscellaneous transitional rules come into operation.

2 Life support arrangements

- (1) Any *life support equipment* registered or otherwise identified or notified under jurisdictional energy legislation, or a jurisdictional administrative arrangement, immediately before the start date will be taken to have been the subject of a confirmation provided to the relevant retailer or distributor (or both) under Part 7 of the Rules.
- (2) The premises at which any *life support equipment* is located (as advised in connection with a registration, identification or notification referred to in subrule (1)) will be taken to be the premises to which the arrangements apply for the purposes of Part 7 of the Rules.

3 Classification of customers

A retailer or distributor of gas is not required to comply with the requirements of Division 3 of Part 1 of the Rules relating to the classification of customers until 1 August 2012.

4 Existing aggregation arrangements (Rule 5 NERR)

- (1) This rule applies where, before the start date, a retailer has an agreement with a customer for 2 or more premises to be aggregated so as to be treated as a large customer (an **existing aggregation arrangement**).
- (2) An existing aggregation arrangement continues in force according to its terms, and rule 5 applies to a transitional aggregation arrangement as if:
 - (a) the Rules had been in force when the existing aggregation arrangement was made; and
 - (b) the existing aggregation arrangement had then been made with the explicit informed consent of the customer.

5 Energy consumption benchmarks

A retailer is not required to comply with subrule 25(1)(o) and rule 170 of the Rules until 1 October 2012.

6 Electricity consumption benchmarks not to apply in NSW

In NSW, a retailer is not required to comply with subrule 25(1)(o) and rule 170 of the Rules until 28 February 2014, but is not prevented from doing so before that date.

7 Interim bill benchmarks where legacy billing arrangements

- (1) In this rule:

transition period means the period starting from the start date to 28 February 2014.

interim bill benchmark customer means a residential electricity customer located in Queensland, Victoria, South Australia and the ACT, whose bills are issued under legacy billing arrangements at the start date.

legacy billing arrangements means an agreement between a retailer and a legacy billing service provider under which the billing system is not enabled to include electricity bill benchmarking information on the bill itself.

legacy billing service provider means Essential Energy (established under the *Energy Services Corporation Act 1995* (NSW)).

retailer means the financially responsible retailer for an interim bill benchmark customer.

- (2) During the transition period, an affected retailer is taken to satisfy the requirements of rule 170 and subrule 25(1)(o) of the Rules in relation to an interim bill benchmark customer if the particulars required to be in a bill for those customers are included with their bill.

8 Application of start and end meter reads on small customer bills

- (1) In this rule:

interval meter is a *meter* that measures and records consumption of electricity derived from interval *metering data* (within the meaning of the NER).

- (2) Subrule 25(1)(j) applies without modification if a small customer's *meter* measures and records consumption of energy only on an accumulation basis.
- (3) If a small customer has an interval *meter*, the requirements of subrule 25(1)(j) do not apply unless the required *metering data* is reasonably available.